

FURTHER JRPP PLANNING REPORT (Sydney West Region)

JRPP No	2014SYW023 DA
DA Number	579/2014/JP
Local Government Area	THE HILLS SHIRE COUNCIL
Proposed Development	CONSTRUCTION OF SEVEN (7) RESIDENTIAL FLAT BUILDINGS CONTAINING ONE HUNDRED AND NINETY EIGHT DWELLINGS AND ASSOCIATED WORKS
Street Address	LOT 39 DP 10702 BALMORAL ROAD, KELLYVILLE
Applicant/Owner	MERFAD GROUP HOLDINGS
Number of Submissions	NIL
Regional Development Criteria (Schedule 4A of the Act)	GENERAL DEVELOPMENT WITH A CIV OF OVER \$20 MILLION
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • The Hills LEP 2012 • The Hills DCP 2012 • SEPP No. 65 – Design Quality of Residential Flat Development • Residential Flat Design Code
List all documents submitted with this report for the panel's consideration	NIL
Recommendation	APPROVAL
Report by	DEVELOPMENT ASSESSMENT COORDINATOR ROBERT BUCKHAM

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Mr R. P. H. and Mrs K. Y. Chu	1.	<u>Section 79C (EP&A Act)</u> - Satisfactory
Zoning:	R4 – Residential , SP2 – Infrastructure and RE1 Public Recreation	2.	<u>The Hills LEP 2012</u> – Clause 4.6 Variation to LEP 16m Height Limit (9.3%).
Area:	2.84Ha	3.	<u>SEPP 65 – Design Quality of Residential Flat Development</u> – Satisfactory
Existing Development:	Dwelling	4.	<u>DCP Part D Section 7 – Balmoral Road Release Area</u> – Variation, see report
		5.	<u>DCP Part B Section 5 – Residential Flat Buildings</u> – Variation, see report
		6.	<u>DCP Part C Section 1 – Parking</u> – Satisfactory

		7.	Section 94 Contribution: \$5,944,408.22
		8.	Capital Investment Value: \$49,976,832

SUBMISSIONS

REASONS FOR REFERRAL TO JRPP

1. Exhibition:	Yes, 31 days	1.	Capital Investment Value in excess of \$20 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	Yes, 31 days		
3. Number Advised:	14		
4. Submissions Received:	Nil		

EXECUTIVE SUMMARY

The Development Application is for the construction of seven (7) residential flat buildings containing a total of 198 dwellings, dwellings with on-site basement parking for 434 vehicles, including 351 resident and 83 visitor spaces. The proposal incorporates 51 x 1 bedroom units, and 147 x 2 bedroom units. The Capital Investment Value is \$49,976,832.

The Development Application, originally submitted for 210 dwellings was subject to a report to the JRPP on 7 August 2014 where it was indicated that the applicant intended to amend the development to comply with density and building separation controls. It was resolved that the matter be deferred pending finalised plans and further notification.

The proposal includes a variation to the LEP Height Control Map. The site has a 16 metre height limit, a maximum of 17.5 metres is proposed. The variation is 1.5 metres or 9.3%. The height variation relates to lift over runs to three of the seven buildings and portions of the upper storey of building F located adjacent to an existing natural depression on the site. Buildings A, B and G have been reduced to four storeys.

The proposed development includes variations to The Hills DCP Part B Section 5 – Residential Flat Buildings in respect to building setbacks, building height, unit mix and maximum site area.

As addressed in the previous report to the JRPP, an assessment of the proposal against the then draft controls found that 6 of the 210 units (3%) were the type 1 apartment size category, 185 of the 210 units (88%) type 2 apartment size category and 19 of the 210 units (9%) were the type 3 apartment size category. None of the units comprised three or more bedrooms and 24% of units were one bedroom.

An assessment of the modified proposal against the recently adopted DCP controls finds that there are now no type 1 units, 59.09% type 2 units and 40.91% type 3 units which meets the typology mix. In addition, 25.75% of the units comprise one bedroom with the remaining units being two bedroom. The mix of one bedroom units marginally exceeds the 25% mix control. The lack of three bedroom units is considered supportable in this instance given the site's location close to the North West rail corridor and other housing choice within close proximity to the site and within the Balmoral Road Release Area. It is noted given that there are large amount of townhouse style developments already available within the adjoining R3 zones which are generally three or more bedrooms in size. The proposed development will provide a greater range of one and two bedroom choice for future residents. It is considered that the level of compliance is satisfactory when considered on merit and given the application was lodged before the controls were exhibited or adopted.

The development was previously considered acceptable with the exception of density and building separation. The reduction of 12 units and modification to the building design now provide a development that can be supported. The application was advertised and notified and no submissions were received.

The proposal is now recommended for approval.

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

HISTORY

06/11/2013	Subject Development Application lodged.
31/01/2014	Amended Concept Plans submitted identifying the land zone RE1 Public Recreation as part of the site. A nil setback was provided to this land.
06/02/2014	Briefing to JRPP Panel members.
14/02/2014	Letter sent to applicant requesting additional information in relation to Impact on RE1 zoned land; <ul style="list-style-type: none">• Setbacks;• Building Separation;• Unit size;• Density;• Parking;• Site stormwater management and site drainage.• Road Details• Waste Management
03/04/2014	Fourteen day letter sent to applicant.
11/06/2014	Additional information submitted.
03/07/2014	Meeting with applicant. It was identified that the proposal could not be supported based primarily on the density and building separation variations proposed.
08/07/2014	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. It was resolved that: <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>
09/07/2014	Applicant's consultant advised the amended plans are being prepared.
07/08/2014	Joint Regional Planning Panel meeting held. The Panel unanimously decided that the matter be deferred pending finalised plans and further notification.

27/08/2014	Amended Plans received.
05/09/2014	Application advertised and notified for 31 days.
09/09/2014	New DCP controls for Residential Flat Buildings adopted by Council.
13/10/2013	Request received from applicant to stage Section 94 contributions.
23/10/2014	Correspondence received from applicant's consultant providing further justification in relation to bedroom mix specifically that no three bedroom units are provided.

PROPOSAL

The Development Application now proposes the construction of seven (7) residential flat buildings containing a total of 198 dwellings, reduced from 210 dwellings with on-site basement parking for 434 vehicles, including 351 resident and 83 visitor spaces. The proposal incorporates 51 x 1 bedroom units, and 147 x 2 bedroom units. The Capital Investment Value is \$49,976,832.

The proposal also includes the construction and dedication of a new collector road (Free Settlers Drive) that connects Balmoral Road with the existing portion of Hodges Street to the north of the site.

The proposal includes a variation to the LEP Height Control Map. The site has a 16 metre height limit, a maximum of 17.5 metres is proposed. The variation is 1.5 metres or 9.3%. The height variation relates to lift over runs and portions of the upper storeys building F located adjacent to an existing natural depression on the site. Buildings A, B and G have been reduced to four storeys.

1. Amendments to the Proposal

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 amended plans and to allow for notification of the application.

The applicant has provided additional information on 27 August 2014 and Council staff have reviewed the information.

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 however now complies with density and the DCP separation control. The building separation of the fifth storey does not meet the 18m separation control of the RFDC however the applicant has made design amendments that provide screening or solid walls to where units encroach within the 18m to ensure the intent of the control is met.

2. 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 \$49,976,832 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

3. Compliance with The Hills Local Environmental Plan 2012

(i) Permissibility

The proposal is defined as a residential flat building:

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

A residential flat building is permitted within the R4 High Density Residential zone.

(ii) The Hills LEP 2012 - Development Standards

The following addresses the principal development standards of the LEP relevant to the subject proposal:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height of buildings	16 metres	Components of the buildings exceed 16 metres to a maximum of 17.5 metres	No – see comments below.

The variation to height is addressed below:

(ii) Variation to Height

The LEP limits the height of the development to 16 metres. The proposal has a maximum height of 17.5 metres a variation of 1.5 metres or 9.3%.

Clause 4.6 Exceptions to Development Standards states as follows:

(1) The objectives of this clause are:

- a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

- (4) Consent must not be granted for development that contravenes a development standard unless:
- a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - b) the public benefit of maintaining the development standard, and
 - c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Consent must not be granted under this clause for a subdivision of land within Zone E4 Environmental Living if:
- a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- a) a development standard for complying development,
 - b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated listed in the table to this clause,
 - c) clauses 4.1A, 4.1B, 5.4, 6.2 and 6.4 of this Precinct Plan.

The applicant has reviewed this matter and has concluded that:

- The proposal is in close proximity to the Kellyville Railway Station and the extent of non-compliance does not permit any additional yield on the site as the extent of variation relates to less than 10% of the standard and the proposal retains the desired 4-5 storey built form on the site.
- The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are manageable within the site, and have no significant impact on adjoining properties or open space areas.
- The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality generally.
- The proposal has no impact on heritage or other views; and
- The proposal is not located within a low density residential area and the proposed building height is compatible with that of adjoining development sites.

Comment:

The height objectives of the LEP are:

- a) to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
- b) to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

The height variation relates to lift over runs and portions of the upper storeys of building F located adjacent to an existing natural depression on the site.

The proposed height of the buildings is considered satisfactory given the variation is minor. The urban form is considered to be appropriate for the area and the development of a modern development.

The design of the proposed development, particularly in terms of the materials, colours, and articulation as well as the building configuration provide appropriate articulation and modulation of the building mass. The proposal presents as a compatible element within the existing the streetscape and the future desired character of the locality

There will be no unreasonable loss of privacy or amenity as a result of the variation. Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

It is also noted that in accordance with the Departments Circular PS 08-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

4. Compliance with The Hills Development Control Plan

The proposal has been assessed against the provisions of The Hills Development Control Plan (THDCP) particularly:-

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

The proposed development achieves compliance with the relevant requirements of the above with the exception of the following:

DEVELOPMENT STANDARD	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 5 – Clause 3.3 (d) Setbacks	No balcony shall protrude into the setback area	Balconies protrude into all setback areas	No, however the protrusions are minor.
Part B Section 5 – Clause 3.4 (c) Building Heights	No building shall contain more than 4 storeys above natural ground level	The development incorporates a 5 storey element	No, the development exceeds the maximum storey control by 1 storey.
Part B Section 5 –	No more than 25%	25.75% of the	Unit mix does

DEVELOPMENT STANDARD	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Clause 3.11(a) and (b) – Unit Layout and Design	one bedroom No less than 10% three bedroom	units comprise one bedroom with the remaining units being two bedroom	not comply however it is considered supportable in this instance given the sites location close to the North West rail corridor and other housing choice within close proximity to the site and within the Balmoral Road Release Area. In addition it was lodged before this control was in place.
Part D Section 7 – Clause 3.2.2.2(c) – Minimum lot width and lot road frontage	The maximum lot size for residential flat buildings is 5,000m ² .	The development site has an area of 14,510m ² , plus 6,486m ² for local roads.	No, however the site area is considered reasonable.

a) Setbacks

Clause 3.3(d) of THDCP Part B Section 5 requires that;

"No balcony shall protrude into the setback area"

The proposed development has numerous balconies encroaching within setback areas.

The relevant objectives of this clause of the DCP are:

- i. *To provide setbacks that complement the setting and contributes 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.*

The applicant in justifying the proposed variation to the Development Standards states that:-

"The minor encroachment of balconies is considered acceptable as it provided for additional articulation of the building and will not generate unreasonable privacy impacts given the likely forms of development to the north and the fact the land to the south is a drainage channel which means the development will continue to be viewed within a landscape setting."

Comment:

The encroachment of balconies with the setback areas is considered acceptable in this instance as they primarily adjoin public land. The eastern setback adjoins private property and a proposal of similar scale is currently under assessment. The proposed setbacks will still allow for the development to meet the 12m building separation requirement

Accordingly the proposal is considered to be satisfactory in regard to the provisions of the DCP.

b) Building Height

Clause 3.4(d) of BHDCP Part B Section 5 requires that;

"No building shall contain more than 4 storeys above natural ground level"

The development includes a number of buildings all 5 storey.

The relevant objectives of this clause of the DCP are:

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

The applicant in justifying the proposed variation to the Development Standards states that:-

"The proposal is generally consistent with the maximum height requirements under The Hills LEP control 2012, noting the minor variation to lift overruns and a small portion of the upper level roof forms to Building A, E and G. The non-compliance with the 4 storey height control is considered acceptable given the majority of the proposal complies with the 16m height control contained within the LEP that enables 5 storey residential flat buildings and noting that the LEP prevails over the DCP to the extent of the inconsistency between the controls. It is further noted that the site to the north accommodates a five (5) storey residential flat buildings. (Seniors Living Development)"

Comment:

The proposed variation is relevant to the LEP height variation addressed in Section 3 of this report. The proposal is considered consistent with the relevant objectives of the DCP in that adequate area remains for landscaping and screen planting.

In this regard, the variation to the height control is considered satisfactory.

c) Unit Mix

Clause 3.11(a) and (b) of THDCP Part B Section 5 requires that;

- No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments; and
- No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.

The proposal involves variations to the mix controls noting that the dwelling sizes align with the amended DCP and no Type 1 unit sizes are provided.

The applicant in justifying the proposed variation to the Development Standards states that:-

The amendment came into to the DCP force in September 2014, noting that the original development application was submitted in November 2013 and the issues raised by Council and the JRPP addressed and resolved by August 2014.

Therefore the amendment has arisen after the detailed assessment of the application and the strict application of the DCP amendment is considered unreasonable based on the fact the development application was effectively resolved in a form found acceptable to Council and the JRPP.

Notwithstanding the above discussion is provided regarding the merit of the current dwelling mix of:

- 51 x 1 Bedroom Units;
- 147 x 2 Bedroom Units

The DCP requires no more than 25% 1 bedroom units, and no less than 10% 3 bedroom units. The current proposal provides 25.75% one bedroom units and 0% 3 bedroom units which does not meet the strict numerical control.

The revised DCP provides the following underlying objectives associated with the housing mix controls:

OBJECTIVES

- (i) *To ensure that individual units are of a size suitable to meet the needs of residents.*
- (ii) *To ensure the layout of units is efficient and units achieve a high level of residential amenity.*
- (iii) *To provide a mix of residential flat types and sizes to accommodate a range of household types and to facilitate housing diversity.*
- (iv) *Address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*
- (v) *To ensure designs utilise passive solar efficient layouts and maximise natural ventilation*

It is noted that the unit sizes and layouts are consistent with the recent DCP amendment in terms of the relative size of units. The identification of the need to provide for a variety of housing types to provide housing diversity is noted, however the current proposal is considered appropriate given:

- *The site is located within close proximity to the Balmoral Railway Station and is conducive to smaller households noting the predilection for apartment development in proximity to transport nodes to feature singles and couples without children.*
- *The site is located within a significant release area that is to deliver a variety of housing types including detached dwellings, small lot housing, townhouse development, and apartments. The lower and medium density housing types are more conducive to meeting the needs of households who require 3 bedrooms (or more)-being families and larger households. Given the housing diversity to be delivered across the release area the application of the control to deliver 10% 3 bedroom units is not as relevant as would apply across other areas within the LGA.*

- *The proposed unit sizes feature no Type 1 apartment types, meaning that all units achieve either the mid-point or The Hills DCP 2012 apartment sizes. This ensures that there is a variety of unit sizes that provide dwelling diversity, particularly in terms of size noting that the range in 1 bedroom units is 73.61m² – 101.15m² and 2 bedroom units being 95.69m² – 114.03m².*
- *The proposal responds to market demand for 1 and 2 bedroom units in this location.*
- *Review of demographic forecasts for The Hills Shire (Forecast ID) indicates that household sizes are predicted to continue to shrink, from 3.09 to 2.96 by 2026. Further Lone person households are predicted to increase from 10% of the population to 12.3% of the population, with couple families with dependents predicted to fall from 48.2% to 44.9%. Therefore there will be an increasing need for 1 and 2 bedroom units.*
- *The proportion of 1 bedroom units within The Hills Shire in 2011 was 1.3% of total housing stock, as compared to 7.3% associated with Greater Sydney. Further the number of 2 bedroom units within The Hills Shire in 2011 was 7.1% of total housing stock, as compared to 23.9% associated with Greater Sydney. Given this significant imbalance the delivery of additional 1 and 2 bedroom units are entirely appropriate as compared to continuing to contribute to the disproportionate distribution of dwelling types within The Hills Shire.*

Based on the above, and the timing of the introduction of the DCP amendment, the variation to the 10% 3 bedroom unit and 25% 1 bedroom unit requirement is appropriate

Comment:

An assessment of the modified proposal against the recently adopted DCP controls finds that there are now no type 1 units, 59.09% type 2 units and 40.91% type 3 units which meets the typology mix. In addition, 25.75% of the units comprise one bedroom with the remaining units being two bedroom. The mix of one bedroom units marginally exceeds the 25% mix control. The lack of three bedroom units is considered supportable in this instance given the site's location close to the North West rail corridor and other housing choice within close proximity to the site and within the Balmoral Road Release Area. It is noted given that there are large amount of townhouse style developments already available within the adjoining R3 zones which are generally three of more bedrooms in size. The proposed development will provide a greater range of one and two bedroom choice for future residents. It is considered that the level of compliance is satisfactory when considered on merit and having regard that the application was lodged before the controls were in place.

d) Maximum Site Area

Clause 3.2.2.2(c) of THDCP Part D Section 7 requires that;

"The maximum lot size for residential flat buildings is 5,000m²."

The proposed development site has an area of 14,510m².

The relevant objectives of this clause of the DCP are:

- i. *To ensure that development lots have sufficient areas to provide adequate access, parking, landscaping and building separation.*

The applicant in justifying the proposed variation to the Development Standards states that:-

"The 'maximum' lot size exceeds 5000m² however the proposal involves a series of residential flat buildings across the site that aligns with the objectives of the control."

Comment:

The development of a site in excess of 5000m² is considered reasonable as it does not result in any orderly development issues in the Balmoral Road Release Area. Accordingly the proposal is considered to be satisfactory in regard to the provisions of the DCP.

5. Compliance with State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Buildings

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 in the Balmoral Road Release Area. The development conforms to the future desired character of the area. 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 however concern has been raised in relation to density which results in an overdevelopment.

The setbacks allow for landscape areas, entrances and deep-soil zones. The proposed setbacks have been developed to provide a satisfactory distance from surrounding boundaries, to form active street frontages and adequate open space areas for communal recreation spaces. The proposal addresses matters such as privacy and open space matters.

(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 proposal as amended is now considered to provide an appropriate built form outcome.

(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. The common open spaces are within direct view of occupants to allow 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.

(x) Aesthetics

The building mass is articulated to provide smaller scale forms, with variable setbacks, using natural material colours, and a diversity of material textures to provide visual relief and strengthen the rural character of the architectural language.

The choice of materials will be from a limited thematic palette for the entire site. Each building and pavilion, has been designed with its own distinctive character reflecting the function of that building.

The relevant provisions of the Residential Flat Design Code are addressed below:

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	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.	No FSR control	NA.
	Test heights against the proposed number of storeys and the minimum ceiling heights for the desired building use.	The proposed ceiling heights for each residential storey are 3m.	
Building Depth	In general, apartment building depth of 10-18 metres is appropriate. Developments that propose	The proposed building depth is between 10m and 20m. Appropriate	No, however the variation is minor.

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	depth greater than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.	solar access is provided to all units.	
Building Separation	<p><u>Up to 4 storeys</u></p> <p>12 m between habitable rooms/balconies</p> <p>9m between habitable rooms/balconies and non-habitable rooms; 6m between non-habitable rooms.</p> <p><u>Five to eight storeys/up to 25 metres</u></p> <p>18m between habitable rooms/balconies</p> <p>13m between habitable rooms/balconies and non-habitable rooms</p> <p>9 metres between non-habitable rooms</p> <p>Design and test building separation controls in plan and section.</p> <ul style="list-style-type: none"> - Test building separation controls for daylight access to buildings and open spaces. - Building separation controls may be varied in response to site and context constraints. - Developments that propose less than the recommended distances apart must demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved (see Daylight Access, Visual Privacy and Acoustic Privacy). 	<p>12m minimum provided.</p> <p>Encroachments within 18m.</p>	<p>Yes.</p> <p>No, The building separation of the fifth storey does not meet the 18m separation control however the applicant has made design amendments that provide screening or solid walls to where units encroach within the 18m to ensure the intent of the control is met.</p>
Street Setback	Identify the desired streetscape character, the common setback of	The development is located in a new release area. The	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	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.	street setback is considered acceptable.	
Side and rear setback	Relate side setback to existing streetscape patterns. Test side and rear setback with building separation, open space and deep soil zone requirements (see Building Separation, Open Space and Deep Soil Zones). Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.	Side setbacks are either provided by generous landscaped setback areas or access driveways.	Yes.
Floor Space Ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with: <ul style="list-style-type: none"> - Building height - Building footprint - The three dimensional building envelope - Open space requirements 	NA, no FSR control.	NA.
Part 2: Site Design			
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone.	The majority open space is provided around the buildings. Deep soil zones equate to 35%.	Yes
Open Space	The area of communal open space required should generally be at least 25-30% of the site area. 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 ² .	The development provides for a range of open space areas. Each unit is provided with a balcony or terrace area of at least 20m ² .	Yes Yes
Pedestrian Access	Identify the access requirement from the street	Pedestrian access is provided from the	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	<p>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>street or car parking area to the apartment entrance. Entrance and access to the basement parking is achieved via the internal stairs and elevators.</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 maximum width of the driveway is 6 metres.</p> <p>Vehicular access is from Free Settlers Drive and is suitably separated from the pedestrian access.</p>	<p>Yes</p> <p>Yes</p>
Part 3: Building Design			
Apartment Layout	Single aspect apartments should be limited to 8 metres from a window.	Areas over 8m from a window are kitchens, laundries, bathrooms and study areas. These are not the primary habitable rooms and the wet areas and kitchen can be ventilated using the required BASIX ducted fans.	Yes
Apartment Mix	Provide a diversity of apartment types to cater for different household requirements.	The proposal provides for 48 x 1 bedroom units and 178 x 2 bedroom units.	Yes
Balconies	Provide primary balconies for all apartments with a minimum depth of 2 metres	All balconies provide useable areas with a depth of 2.5 metres.	Yes
Ceiling heights	Minimum floor to ceiling height for habitable rooms is 2.7m and 2.4m for non-habitable.	Minimum 2.7 metres.	Yes
Ground floor apartments	<p>Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units.</p> <p>Provide ground floor apartments with access to</p>	Ground floor apartments are proposed.	N/A

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	private open space (i.e. terrace, garden).		
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.	There are a maximum of 7 units per floor.	Yes
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> - Studio – 6m³ - 1 bed – 6m³ - 2 bed – 8m³ - 3 bed+ - 10m³ 	Separate storage closets are provided in each unit in addition to storage areas in the basement car park exceeding 10m ³ .	Yes
Daylight Access	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.	82% of the units receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.	Yes
Natural Ventilation	60% of residential units should achieve natural cross flow ventilation.	63% of units achieve cross flow ventilation. The remaining units are single aspect. Mechanical ventilation is used in all units allowing ventilation to be achieved.	Yes
Waste Management	Supply waste management plans as part of the DA as per the NSW Waste Board.	A satisfactory waste management plan was submitted with the application.	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.	The development will be connected to recycled water to be used for landscape irrigation and car washing.	Yes

SUBDIVISION ENGINEERING COMMENTS

It is imperative that the design surface level of the road remains higher than the flood level of the creek. The amended design ensures that flood waters will not enter the road. On this basis the proposal can be supported.

TREE MANAGEMENT COMMENTS

No objection raised to the proposal. Relevant conditions can be recommended.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection raised to the proposal. Relevant conditions can be recommended.

WASTE MANAGEMENT COMMENTS

No objection raised to the proposal. Relevant conditions can be recommended.

SECTION 94 COMMENTS

The applicant has requested that a concession is granted (given the scale of the project) to allow for staging of Section 94 payments based on the anticipated staging of Construction Certificate (although the development consent would not be staged).

Clause 3.4 of Contributions Plan No. 12 – Balmoral Road Release Area allows for the staging of Section 94 Contributions where the conditions of a development consent clearly document each stage:

"Council will only permit deferred or periodic payment where development is staged. The stages of development and relevant contribution payment for each stage must be clearly documented in the conditions of consent. In this regard Section 96 modification of consent is required if proposed staging of development is not reflected in the original consent."

While the applicant has submitted that the issue of Construction Certificates is intended to be staged, the development consent is not actually for a staged development and as such would not meet the requirements of Clause 3.4 above.

While the applicant does note that a previous consent for another property (DA 1137/2007/HC/B) did allow for the staging of Section 94 payments based on the issue of Construction Certificates, this is not considered to be adequate justification for a similar application in this circumstance for the following reasons:

- Consent 1137/2007/HC/B does not represent Council's policy or any precedent on the staging of Section 94 Contributions;
- The previous Section 94 Condition was imposed under Contributions Plan No. 7 – Southern Precincts and not Contributions Plan No. 12 – Balmoral Road Release Area;
- Clause 3.4 of Contributions Plan No. 12 clearly limits the staging of Section 94 payments to staged Development Applications/Consents only. The Contributions Plan takes precedence over any previous examples of conditions of consent issued; and
- The previous concession related to only two (2) stages of Construction Certificates, one (1) for civil works and one (1) for the construction of the built form. This is substantially different to the applicant's current request for staging based on five (5) staged Construction Certificate which would not be reflected in, or enforced by any future Development Consent issued.

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 addressing issues raised with the application. The amended plans were notified to adjoining owners. No submissions were received.

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, 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

REFERENCED PLANS

DRAWING NO	DESCRIPTION	REVISION	DATE
DA101	Site Analysis Plan	D	25/08/2014
DA102	Basement Plans	D	25/08/2014
DA103	Ground Floor: Buildings A - D	D	25/08/2014
DA104	Ground Floor: Buildings E - G	D	25/08/2014
DA105	Typical Floor: Buildings A - D	D	25/08/2014
DA106	Typical Floor: Buildings E - G	D	25/08/2014
DA107	Fourth Floor: Buildings A - D	D	25/08/2014
DA108	Fourth Floor: Buildings E - G	D	25/08/2014
DA201	Sections Sheet 1	D	25/08/2014
DA301	Group Elevations	D	25/08/2014
DA302	Elevations Building A	D	25/08/2014
DA303	Elevations Building B	D	25/08/2014
DA304	Elevations Building C	D	25/08/2014
DA305	Elevations Building D	D	25/08/2014
DA306	Elevations Building E	D	25/08/2014
DA307	Elevations Building F	D	25/08/2014
DA308	Elevations Building G	D	25/08/2014
DA405	Schedules External Finishes and BASIX	D	25/08/2014
DA406	Refuse Rooms	D	25/08/2014

2. External Finishes

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

3. Compliance with Office of Water Requirements

Compliance with the requirements of the Office of Water attached as Appendix A to this consent and dated 28 November 2013.

4. Compliance with NSW Police Force Requirements

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

- i. Fencing must be vertical style to stop unauthorised access to ground floor units;
- ii. Materials chosen must have regard to the potential for graffiti.

Advice

- i. 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.

It is recommended that during the construction phase security sensor lights be used and security guards monitor the site.

5. Planting Requirements

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

6. Australia Post Mail Box Requirements

Australia post requires there be one (1) single group of cluster mail boxes. Should more than one (1) cluster be required, contact Australia Post for their approval. The number of mail boxes be provided is to be equal to the number of flats/units/townhouses/villas etc. plus 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.

7. Street Trees (Balmoral Road)

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

Street tree planting adjacent to the golf course must consider Clause 9.4(b) from DCP Part D Section 7.

8. 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.

9. 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.

10. Property Numbering

The responsibility for property numbering is vested solely in Council.

The property address for this development is:

Units 1-198/10-22 Free Settlers Drive Kellyville NSW 2155

Preliminary numbering has been allocated. Final plans are to be resubmitted to Land Information Section for permanent allocation of both unit and street numbers.

These numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances.

Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors, lift 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.

Mailboxes located at each entry pavilion must also be clearly marked to indicate the range of unit numbers each bank includes.

11. Adherence to Waste Management Plan

All commitments of the Waste Management Plan submitted as part of the Development Application, prepared by Elephants Foot Recycling Solutions and dated 5 June 2014 must be implemented during construction and the ongoing management of the development.

12. Management of Construction and/ or Demolition Waste

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. Personal waste must not litter the site. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place. 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. The separation and recycling of the following waste materials is required: metals, timber, masonry products and clean waste plasterboard. This can be achieved by source separation onsite, 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 onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

13. 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.

14. 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 applicable to this development must be complied with at all times.

15. Construction of Basement Bin Rooms

All work involving construction of the basement bin rooms shall comply with the requirements of Council's Bin Storage Facility Design Specifications, and in addition to, the rooms shall be adequately ventilated (mechanically) and contain an artificial light source. Storage facility must be provided for a minimum of thirteen (13) 1100 bulk garbage bins and fifty-seven (57) 240 litre mobile recycling bins.

16. Provision of No Parking Signs

Provide 60 metres of No Parking 6:00am to 12:00pm Thursday at the garbage and recycling collection area. This is to ensure there is no conflict between on street vehicle parking and waste collection.

17. Construction of Garbage Collection Area

The garbage collection area must be constructed of concrete with a smooth level finish, bounded by kerb or an equivalent measure to prevent bin movement, and is to be sized to comfortably store a minimum of thirteen (13) 1100 litre bulk garbage bins. A second entry point to the area is to be provided which opens directly to the street, including a servicing path which leads to the street including kerb crossing. The width of the path is to be no less than 1.5m and shall not exceed a grade of 5% (1:20). The area must be screened as best as possible to ensure bins are not visible from the public road.

18. Recycled Water

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

19. Road Opening Permit

Should the subdivision/ development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a Construction Certificate issued by Council under this consent then a separate road opening permit must be applied for and the works inspected by Council's Maintenance Services team.

The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction Engineer if it is unclear whether a separate road opening permit is required.

20. 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.

21. Structures Adjacent to Piped Drainage Easements

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

22. 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.
- v. Shared zones adjacent to assessable car parking spaces as per AS 2890.6. Accessible spaces location is to be within reasonable distance to access lifts.

- vi. The proposed crest level in the access driveway which leads to the basement car parking areas is to be maintained via local landscaping in areas adjacent to the driveway crest. This crest level is to provide the basement car parking area with a minimum of 500mm freeboard to the flood levels shown on the engineering drawings provided by C & M Consulting Engineers.

23. 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.

24. 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.

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.

25. Environmental Site Assessment & Salinity Management Plan

The recommendations of the Site Assessment and Report prepared by Environmental Investigation Services, referenced as E27517KBrpt, dated 11 July 2014 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- An asbestos consultant is engaged to document the ACM encountered at the site (figure 3).
- A green wheat area shown on the attached figure 3 should be removed from the site.
- A salinity management plan outlined in section 14 below is implemented for the development.

26. Sound Level Output

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provision of the Protection of the Environment Operation Act 1997. The sound level output shall not exceed 5 dB(A) above the ambient background level at the closest neighbour's boundary.

27. Washing of Vehicles

Washing of vehicles/boats is to be conducted in a car wash bay, which is roofed and bunded to exclude rainwater. All wastewater from car washing is to be discharged to the sewer under a Trade Waste Agreement from Sydney Water.

28. Asbestos Removal

Asbestos and asbestos containing material shall be removed by licensed asbestos removalist and all work must be in accordance with the requirements of the NSW Workcover Authority. Asbestos and asbestos containing material is to be disposed of in accordance with the requirements of the Department of Environment & Conservation and all docketts and paper work for the disposal shall be retained and made available to the Council if requested.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

29. Dam Dewatering Plan

A dam dewatering report is to be submitted to the satisfaction of Council. This report is to address the following (but is not limited to):

- Size (water area) and volume;
- Surrounding land use and catchment size,
- Topography, drainage lines and proximity to waterways;
- Likely contamination issues;

- Method of dewatering and fate of water;
- Sediment and erosion control;
- Site remediation post decommissioning;
- Appropriate permit applications;
- Presence of fauna (terrestrial and aquatic) and action plan for any species detected.

30. Amended Landscape Plan

A Plan (to scale) for the landscaping of the site is to be prepared by a suitably qualified landscape architect or horticulturalist and submitted to Council's Sustainability Team for approval prior to Issue of a Construction Certificate. The plan must contain:

- Site boundaries and dimensions surveyed;
- North point, scale (1:200 desirable);
- Existing and proposed levels;
- All trees, grassed areas, landscape features and main structures on the site (buildings, car parking, driveways, walls, fences, paving, storage areas, elements contributing to the significance of a heritage item etc)
- A schedule of proposed planting, including botanical name, common name, quantities, pot size, expected mature height and staking requirements.
- At least 80% of all plants used in landscaping (excluding lawn) for this development must be grown from local provenance seed and cuttings of species found on the NSW Scientific Committee's Final Determination for Cumberland Plain Woodland.

31. Design Verification

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

32. 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 Growth 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

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

33. Notice of Requirements

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

Following an application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water / sewer extensions can be time consuming and may impact on other services and building, driveway and landscape design.

34. 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: Credit	No. of 1 Bedroom units: 48	No. of 2 Bedroom units: 178	Sum of Units	No. of Credits: 1	Total \$94
Open Space - Land	\$ 12,930.96	\$ 17,904.40	\$ 19,119.91	\$ 620,686.08	\$ 3,186,983.20	\$ 3,807,669.28	\$ 19,119.91	\$ 3,788,549.37
Open Space - Capital	\$ 3,431.83	\$ 4,751.77	\$ 5,074.36	\$ 164,727.84	\$ 845,815.06	\$ 1,010,542.90	\$ 5,074.36	\$ 1,005,468.54
Transport Facilities - Capital	\$ 2,443.64	\$ 3,383.50	\$ 3,613.20	\$ 117,294.72	\$ 602,263.00	\$ 719,557.72	\$ 3,613.20	\$ 715,944.52
Community Facilities - Land	\$ 255.72	\$ 354.08	\$ 378.11	\$ 12,274.56	\$ 63,026.24	\$ 75,300.80	\$ 378.11	\$ 74,922.69
Community Facilities - Capital	\$ 1,047.63	\$ 1,450.57	\$ 1,549.04	\$ 50,286.24	\$ 258,201.46	\$ 308,487.70	\$ 1,549.04	\$ 306,938.66
Administration	\$ 179.48	\$ 248.51	\$ 265.38	\$ 8,615.04	\$ 44,234.78	\$ 52,849.82	\$ 265.38	\$ 52,584.44
Total	\$ 20,289.26	\$ 28,092.83	\$ 30,000.00	\$ 973,884.48	\$ 5,000,523.74	\$ 5,974,408.22	\$ 30,000.00	\$ 5,944,408.22

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 or a copy may be inspected or purchased at Council's Administration Centre.

35. Waste Management Plan Required

Prior to a Construction Certificate being issued, a Waste Management Plan for demolition and construction of the development must be submitted to and approved by Council. The plan shall be prepared in accordance with The Hills Development Control Plan 2012 Appendix A. The plan is to comply with the waste minimisation requirements in the relevant Development Control Plan. All requirements of the approved plan shall be implemented during construction of the development. The plan shall address:

- (1) The type and estimated quantity of waste material to be removed from the site;
- (2) The location of waste disposal and recycling;
- (3) The name of the skip bin hire company or waste transport contractor/s; and
- (4) The proposed reuse or recycling methods for waste remaining on site.

36. Bank Guarantee Requirements

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

- a) Have no expiry date;
- b) Be sent to Council direct from the bank;
- c) Reference the development application, condition and matter to which it relates;
- d) The amount must match that required to be paid;
- e) 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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 \$121,125.00 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 to Hodges Road plus an additional 50m on either side (150m) multiplied by the width of the road (9.5m).

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.

42. 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)
Free Settlers Drive	Road Type: DCP Enhanced Collector Road 4.5m/ 12.0m/ 3.5m (20.0m Total) Pavement Design: DCP Sub-Arterial/ 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.

The pavement design is to be considerate of the future roundabout at the intersection of Free Settlers Drive and Hodges Street. The pavement design in these areas is to comply with Council's Design Guidelines Section 3.12.

The wider 4.5m verge must be located on the eastern side of Free Settlers Drive.

ii. Partial Width Road Reconstruction

Contrary to the limit of works shown in the engineering plans, 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)
Balmoral Road	Road Type: DCP Enhanced Collector Road 4.5m/ 12.0m/ 3.5m (20.0m Total) Pavement Design: DCP Sub-Arterial/ Enhanced Collector (Design Guidelines Section 3.12)

The extent of the partial width reconstruction will be from the boundary of the subject site and the neighbouring property to the west, Lot 1 DP 1107809, to the boundary of the subject site and the neighbouring property to the east, Lot 38 DP 10702.

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 pavement design is to be considerate of the future roundabout at the intersection of Free Settlers Drive and Balmoral Road. The pavement design in these areas is to comply with Council's Design Guidelines Section 3.12.

The wider 4.5m verge must be located on the southern side of Balmoral Road.

iii. 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.

iv. Footpath Verge Formation

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

v. Concrete Footpath

A 1.2m wide concrete footpath, including access ramps at all intersections, must be provided on the eastern side of Free Settlers Drive in accordance with the DCP and the above documents.

vi. Concrete Cycleway

A 2.5m wide concrete cycleway, including access ramps at all intersections, must be provided on the northern side of Balmoral Road, west of Free Settler Drive in accordance with the DCP and the above documents.

vii. Gutter Crossings

Gutter crossings to the proposed development are required.

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

x. Earthworks/ Site Regrading

Earthworks are limited to that shown on the approved plans. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed.

xi. Stormwater Drainage – Creek Outlets

Piped stormwater outlets/ connections to a natural watercourse must comply with the requirements of Council and the NSW Office of Water (as well as Sydney Water, in the case of stormwater management land).

xii. Water Sensitive Urban Design Elements

Water sensitive urban design elements, consisting of rain water tanks, are to be located generally in accordance with the plans and information submitted with the application.

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/>

PRIOR TO WORK COMMENCING ON THE SITE

43. Principal Certifying Authority

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

44. Builder and PCA Details Required

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

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

45. Management of Building Sites – Builder's Details

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

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

46. Consultation with Service Authorities

Applicants are 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.

47. 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.

48. 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).

49. 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.

50. Discontinuation of Domestic Waste Service

Prior to the commencement of any demolition works, and where the site ceases to be occupied during works, the property owner or site manager must notify Council to discontinue the domestic waste service and to collect any garbage and recycling bins from any dwelling/ building that is to be demolished. Construction and/ or demolition workers are not permitted to use Council's domestic waste service for the disposal of any waste. Please telephone Council on (02) 9843 0310 for the discontinuation of waste services.

51. 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.

52. Erection of Signage – Supervision of Work

In accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

- a) The name, address and telephone number of the Principal Certifying Authority;
- b) The name and telephone number (including after hours) of the person responsible for carrying out the works;
- c) That unauthorised entry to the work site is prohibited.

This signage must be maintained while the subdivision work is being carried out and must be removed upon completion.

53. Contractors Details

In accordance with Section 109E(3) of the Environmental Planning and Assessment Act 1979, the contractor carrying out the subdivision works must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. The policy must indemnify Council from all claims arising from the execution of the works. A copy of this insurance must be submitted to Council prior to works commencing.

54. 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.

55. 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.

56. Erosion and Sedimentation Controls

Erosion and sedimentation control devices are to be provided in accordance with Council's "Works Specification - Subdivisions/Developments" (August 1997). All devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six (6) months after the completion of all works. Periodic maintenance

of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.

On completion of works all land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

DURING CONSTRUCTION

57. 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.

58. 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. 508977M_03 be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

59. 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.

60. 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.

61. Critical Stage Inspections – Public Road Construction Works

The public road construction 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.

62. Aboriginal Archaeological Sites or Relics

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

63. National Parks and Wildlife Act 1974

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

64. European Sites or Relics

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

65. Contamination

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

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

66. 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.

67. 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).

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

68. Landscaping Prior to Issue of Occupation Certificate

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

69. Section 73 Certificate

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Development and Plumbing section of the web site www.sydneywater.com.au and then refer to Water Servicing Co-ordinator under "Developing Your Land" or telephone 13 20 92 for assistance.

70. Provision of Electricity Services

Submission of a compliance certificate from the relevant service provider confirming satisfactory arrangements have been made for the provision of electricity services. This includes undergrounding of existing and proposed services where directed by Council or the relevant service provider.

71. Provision of Telecommunications Services

The submission of a compliance certificate from the relevant telecommunications provider, authorised under the Telecommunications Act confirming satisfactory arrangements have been made for the provision of, or relocation of, telecommunication services including telecommunications cables and associated infrastructure. This includes undergrounding of aerial telecommunications lines and cables where required by the relevant telecommunications carrier.

72. Design Verification Certificate

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

73. Final Inspection of Waste Areas

Prior to an Occupation Certificate being issued, a final inspection of the waste storage areas and all other waste facilities 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.

74. Bin Tug and Trailer

Prior to an Occupation Certificate being issued, a mechanical bin tug suitable for 1100 litre bulk bins and a four or more bay wide trailer to suit 240 litre mobile bins must be provided at the site. The selected mechanical bin tug must be able to convey bins over all ramps and slopes between the bin rooms and collection point and also have sufficient towing capacity.

75. 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.

76. Public Road Dedication

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

This will require the lodgement of a subdivision development application, approval and subdivision certificate release of such. The purpose of this will be to subdivide the subject site into three (3) lots as per the zone boundaries. The lots will be comprised of: a lot for the subject development (zoned R4), a public open space lot (zoned RE1) and the trunk drainage land (zoned SP2). Free Settlers Drive should be shown as 'Public Road dedicated to Council at no cost', and not have an attributed lot number.

77. 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.

78. 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.

79. 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.

80. Public Asset Creation Summary

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

81. 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.

82. 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.

83. 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.

84. 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 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.

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.

THE USE OF THE SITE

85. Waste and Recycling Management

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

86. Offensive Noise - Acoustic Report

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

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

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning Plan and DCP Road Layout
4. Site Analysis Plan
5. Basement Plans
6. Part Ground Floor Plans
7. Part Level 1 to 3 Plans
8. Part Upper Floor Plans
9. Elevations and Sections
10. Shadow Diagrams
11. Office of Water General Terms of Approval
12. Previous Report to JRPP, 7 August 2014 & Statement of Reasons

ATTACHMENT 1 – LOCALITY PLAN



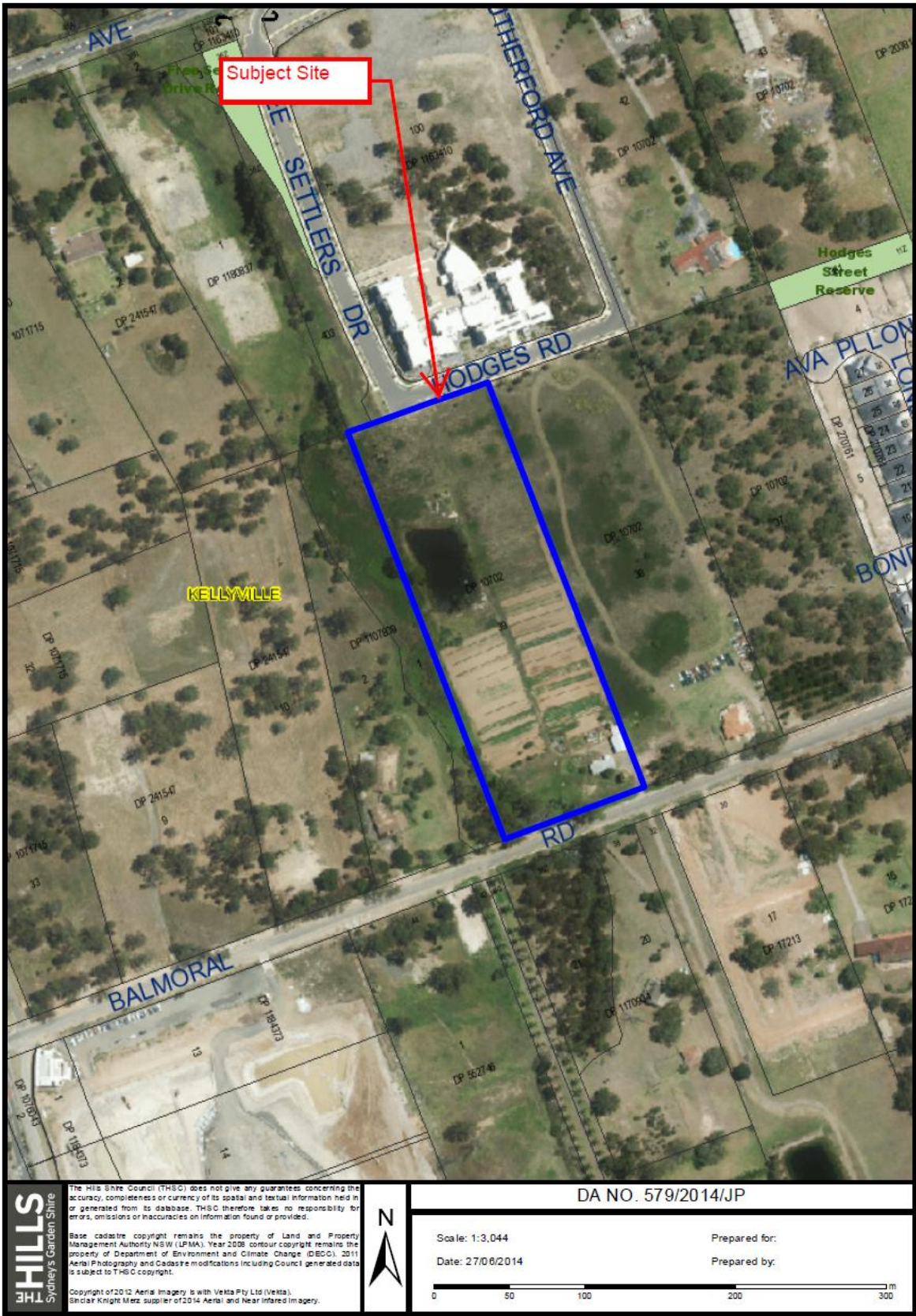
- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

THE HILLS
Sydney's Garden Shire

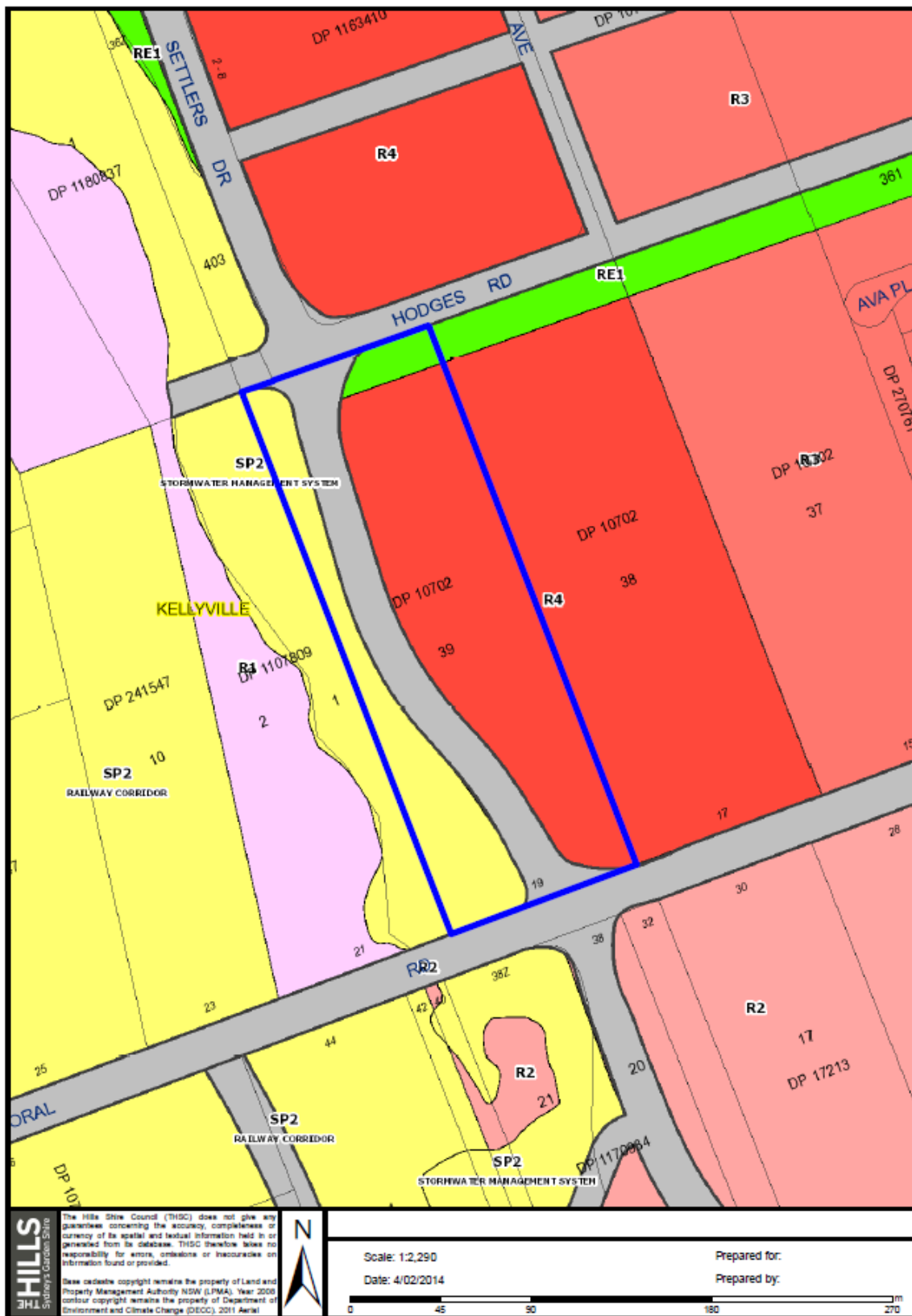
THE HILLS SHIRE COUNCIL

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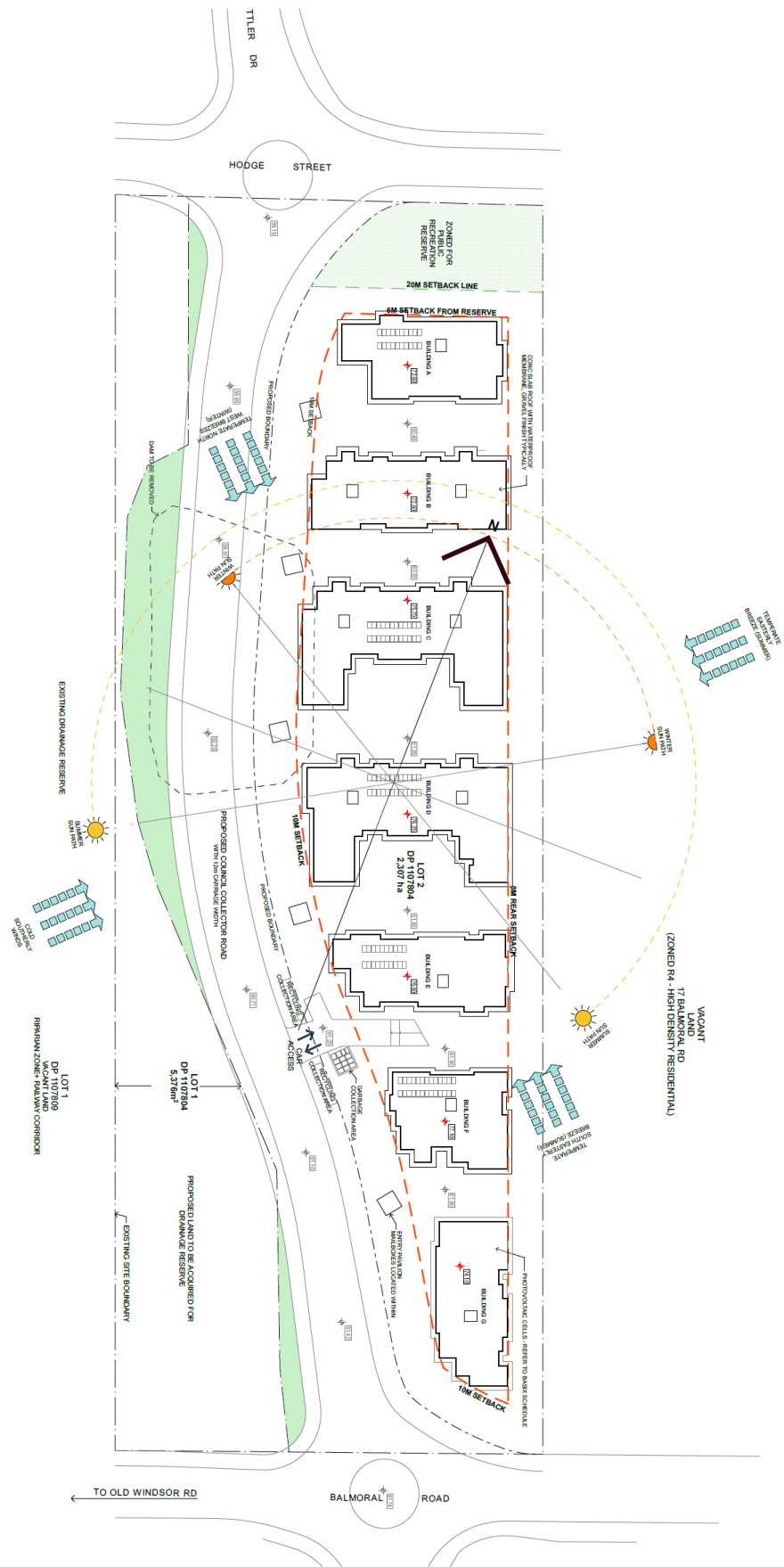
ATTACHMENT 2 – AERIAL PHOTOGRAPH



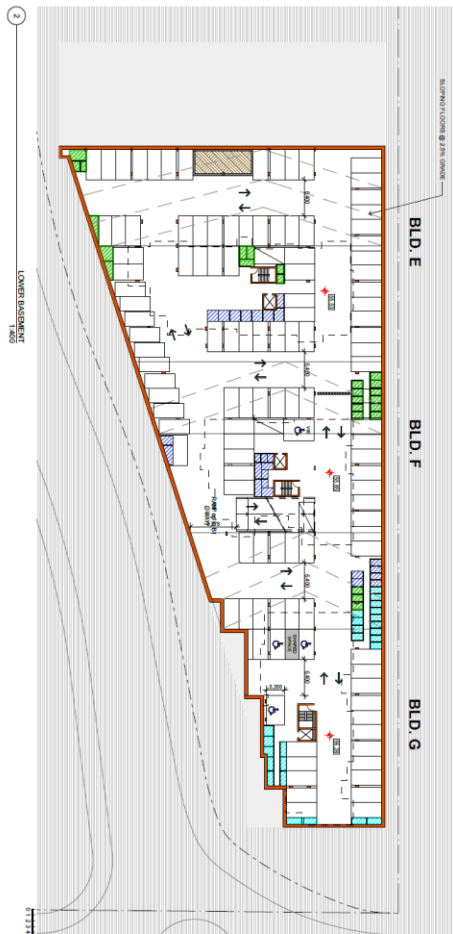
ATTACHMENT 3 – ZONING AND DCP ROAD LAYOUT



ATTACHMENT 4 – SITE ANALYSIS PLAN



ATTACHMENT 5 – BASEMENT PLANS



Page 42



Page 44



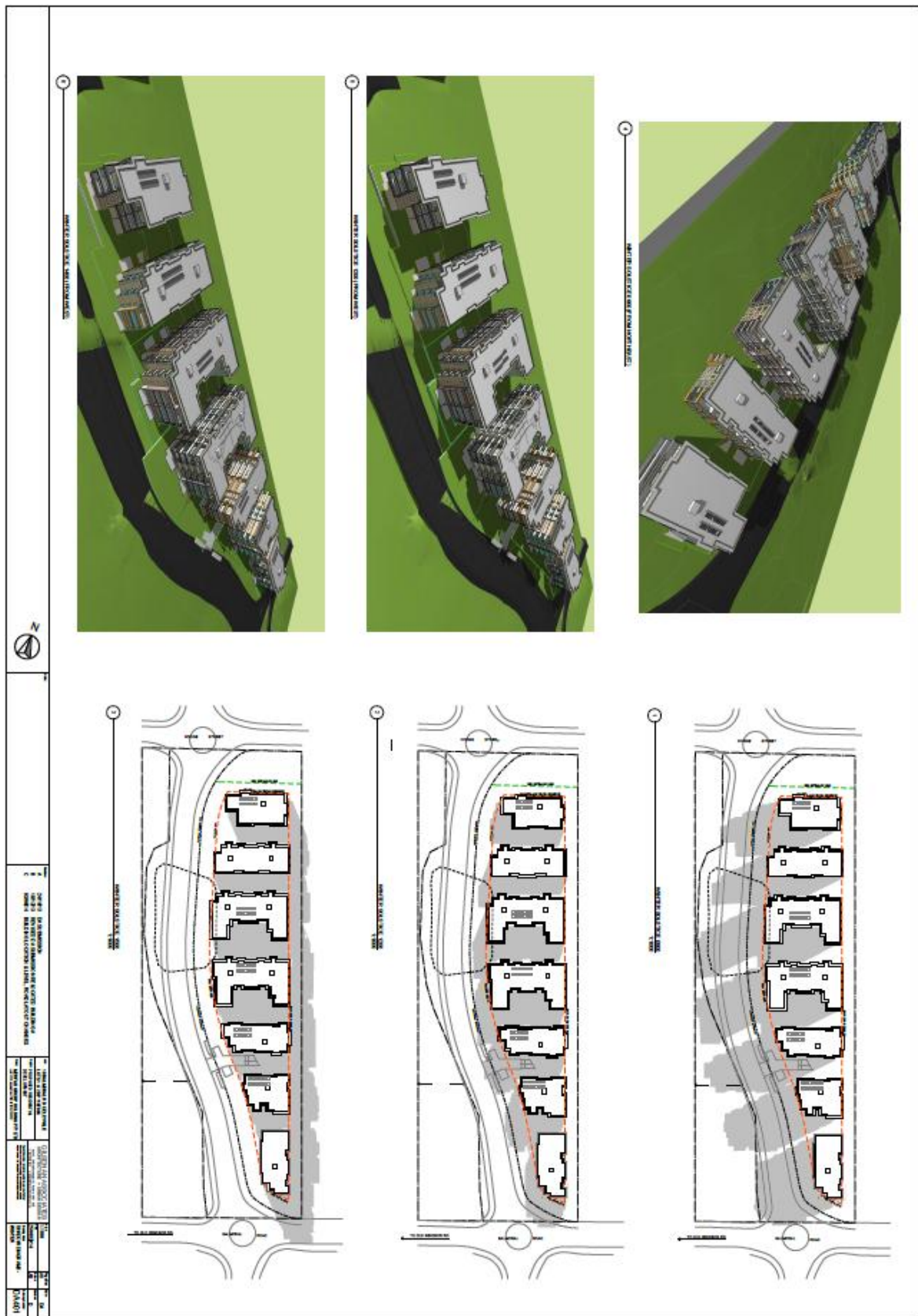
ATTACHMENT 8 – UPPER LEVEL PLANS



ATTACHMENT 9 – ELEVATIONS AND SECTION



ATTACHMENT 10 – SHADOW DIAGRAMS





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 ERM2013/0958
Our file:
Your ref: DA2014/579/JP

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

Attention: Robert Buckham

DOC. No.:
BOX No.:
- 2 DEC 2013
THE HILLS SHIRE COUNCIL

28 November 2013

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval

Dev Ref: DA2014/579/JP

Description of proposed activity: Construction of seven 7 residential flat buildings containing two hundred and twenty six 226 dwellings and associated works

Site location: 19 Balmoral Road 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:

- 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.

DOC. No.:
BOX No.:
29 NOV 2013
THE HILLS SHIRE COUNCIL

www.water.nsw.gov.au
Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 PO Box 3720 Parramatta NSW 2124 Australia | t + 61 2 8838 7777 | f + 61 2 8838 7554 | e information@water.nsw.gov.au | ABN 72 189 919 072 170912

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

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

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

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

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

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

www.water.nsw.gov.au [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 ERM2013/0958

File No:

Site Address: 19 Balmoral Road Kellyville

DA Number: DA2014/579/JP

LGA: The Hills Shire Council

Number	Condition
Plans, standards and guidelines	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2014/579/JP and provided by Council:</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p>
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Vegetation Management Plan</p> <p>(ii) Erosion and Sediment Control Plan</p> <p>(iii) Soil and Water Management Plan</p> <p>(iv) Amendments to Plans (to be provided in accordance with guidelines)-</p> <p>a) The applicant is to show details of all works relating to the removal of the dam and remediation of the area with In-stream works – rehabilitation to a natural channel with pools and riffles should be shown.</p> <p>b) A 15m fully vegetated riparian zone is to be shown from the top of bank of the watercourse, (as Condition 22) where it applies within the applicant's property. No infrastructure should be within this zone.</p> <p>c) Stormwater outlets are to point downstream</p> <p>d) The NSW Office of Water recommends that drainage discharge to low flow water level. Concurrence of the placement and suitability of the stormwater outlets is to be sought from Sydney Water prior to application for the Controlled Activity Approval.</p>
4	<p>All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx</p> <p>(i) Vegetation Management Plans</p> <p>(ii) Riparian Corridors</p>

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 | ABN 72 189 919 072 170912

Our Reference: 10 ERM2013/0958 **File No:**
Site Address: 19 Balmoral Road Kellyville
DA Number: DA2014/579/JP
LGA: The Hills Shire Council

Number	Condition
	(iii) In-stream works (iv) Outlet structures
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.
Rehabilitation and maintenance	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
Reporting requirements	
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.
Security deposits	
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.
Access-ways	
10-11	N/A
Bridge, causeway, culverts, and crossing	
12-13	N/A
Disposal	
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.
Drainage and Stormwater	
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.
Erosion control	

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 | ABN 72 189 919 072
 170912

Our Reference: 10 ERM2013/0958 **File No:**
Site Address: 19 Balmoral Road Kellyville
DA Number: DA2014/579/JP
LGA: The Hills Shire Council

Number	Condition
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.
Excavation	
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.
Maintaining river	
20	N/A
21	The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the NSW Office of Water.
River bed and bank protection	
22	The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain a riparian corridor with a width of 15 metres measured horizontally landward from the highest bank of the river for the length of the site directly affected by the controlled activity in accordance with a plan approved by the NSW Office of Water.
23	The consent holder must establish a riparian corridor along Elizabeth Macarthur Creek in accordance with a plan approved by the NSW Office of Water.
END OF CONDITIONS	

ATTACHMENT 12 – PREVIOUS JRPP REPORT

ATTACHMENT 12

JOINT REGIONAL PLANNING PANEL

07 AUGUST 2014

**ITEM-2 JRPP REPORT - DA NO. 579/2014/JP
(Sydney West Region)**

JRPP No	2014SYW023 DA
DA Number	579/2014/JP
Local Government Area	THE HILLS SHIRE COUNCIL
Proposed Development	CONSTRUCTION OF SEVEN (7) RESIDENTIAL FLAT BUILDINGS CONTAINING TWO HUNDRED AND TWENTY SIX (226) DWELLINGS AND ASSOCIATED WORKS
Street Address	LOT 39 DP 10702 BALMORAL ROAD, KELLYVILLE
Applicant/Owner	MERFAD GROUP HOLDINGS
Number of Submissions	NA
Regional Development Criteria (Schedule 4A of the Act)	GENERAL DEVELOPMENT WITH A CIV OF OVER \$20 MILLION
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • The Hills LEP 2012 • The Hills DCP 2012 • SEPP No. 65 – Design Quality of Residential Flat Development • Residential Flat Design Code
List all documents submitted with this report for the panel's consideration	NIL
Recommendation	DEFERRAL
Report by	DEVELOPMENT ASSESSMENT COORDINATOR ROBERT BUCKHAM

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Mr R. P. H. and Mrs K. Y. Chu	1.	<u>Section 79C (EP&A Act)</u> - Satisfactory
Zoning:	R4 – Residential , SP2 – Infrastructure and RE1 Public Recreation	2.	<u>The Hills LEP 2012</u> – Clause 4.6 Variation to LEP 16m Height Limit (9.3%).
Area:	2.84Ha	3.	<u>SEPP 65 – Design Quality of Residential Flat Development</u> – Unsatisfactory
Existing Development:	Dwelling	4.	<u>DCP Part D Section 7 – Balmoral Road Release Area</u> – Variation, see report

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		5.	DCP Part B Section 5 – Residential Flat Buildings – Variation, see report
		6.	DCP Part C Section 1 – Parking – Satisfactory
		8.	Capital Investment Value: \$49,976,832

SUBMISSIONS**REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	The submitted information was not submitted in accordance with Council's lodgement requirements (floor plans within reports). In addition a building was proposed within the RE1 Public Recreation zone. Given the issues that remained outstanding and the applicant's intention to submit further amended plans notification and advertising is still to be undertaken.	1.	Capital Investment Value in excess of \$20 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	Refer above		
3. Number Advised:	Refer above		
4. Submissions Received:	Refer above		

EXECUTIVE SUMMARY

The development application proposes the construction of seven (7) residential flat buildings containing a total of 210 dwellings with on-site basement parking for 472 vehicles, including 381 resident and 91 visitor spaces. The proposal incorporates 50 x 1 bedroom units, and 160 x 2 bedroom units. The Capital Investment Value is \$49,976,832.

The proposal includes a variation to the LEP Height Control Map. The site has a 16 metre height limit, a maximum of 17.5 metres is proposed. The variation is 1.5 metres or 9.3%. The height variation relates to lift over runs and portions of the upper storeys buildings F and G located adjacent to an existing natural depression on the site.

The proposed development includes variations to The Hills DCP Part B Section 5 – Residential Flat Buildings in respect to building setbacks, building height, building separation, density, unit sizes and maximum site area. The variations to density and building separation are not supported.

During the briefing of the matter, the panel requested that the applicant be provided with only one opportunity to amend the proposal. The applicant has provided amended plans and a response however and has since identified that they are intending to make further amendments knowing they did not have the support of Council staff. The applicant intends to amend the development to comply with the density and building separation controls.

This report has been prepared to provide the panel with the opportunity to determine the matter if they wish. Council staff recommend that the matter be deferred to allow the applicant to address all outstanding issues. The report has been based on the set of plans before Council staff at the time of writing this report which was non-compliant with Council's LEP and DCP. The variations to density and density and building separation are not supported as they would result in an overdevelopment of the site.

HISTORY

06/11/2013	Subject Development Application lodged.
31/01/2014	Amended Concept Plans submitted identifying the land zone RE1 Public Recreation as part of the site. A nil setback was provided to this land.
06/02/2014	Briefing to JRPP Panel members.
14/02/2014	Letter sent to applicant requesting additional information in relation to Impact on RE1 zoned land; <ul style="list-style-type: none"> • Setbacks; • Building Separation; • Unit size; • Density; • Parking; • Site stormwater management and site drainage. • Road Details • Waste Management
03/04/2014	Fourteen day letter sent to applicant.
11/06/2014	Additional information submitted.
03/07/2014	Meeting with applicant. It was identified that the proposal could not be supported based primarily on the density and building separation variations proposed.
08/07/2014	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. It was resolved that: <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>
09/07/2014	Applicant's consultant advised the amended plans are being prepared.

PROPOSAL

The Development Application proposes the construction of seven (7) residential flat buildings containing a total of 210 dwellings with on-site basement parking for 472 vehicles, including 381 resident and 91 visitor spaces. The proposal incorporates 50 x 1 bedroom units, and 160 x 2 bedroom units.

The proposal involves a series of 4-5 storey residential flat buildings across the site, with the majority adopting a 'U' configuration to provide landscaped courtyards and opportunities for communal open space areas.

The proposal also includes the construction of a new collector road that connects Balmoral Road with the existing portion of Hodges Street to the north of the site.

The proposal includes a variation to the LEP Height Control Map. The site has a 16 metre height limit. The variation is a maximum of 1.5 metres or 9.3%.

The original proposal lodged with Council overlooked land on the site zoned RE1 Public Recreation. The original proposal included part of building located within the RE1 zone. The RE1 zoned land is approximately 20m wide adjacent to the northern boundary (Hodges Road). Subsequent plans were submitted appropriately identified this land however concern remained with site density and building separation and these were conveyed to the applicant. The applicant advised that they were undertaking modifications to the proposal to comply with density and building separation.

These plans had not received at the time of writing this report however if these matters are addressed the application will be likely to be supported.

1. Current Proposal and Amendments Identified by the Applicant

The applicant lodged amended plans on 11 June 2014 in respect to the issues raised in Council's original letter dated 14 February 2014. The additional information included legal advice in relation to Council's DCP density control. Subsequent discussions between Council staff and the applicant's consultants identified that the applicant would make further amendments to the proposal.

The proposal was considered unsatisfactory for advertising and notification given the initial issues in relation to the RE1 zone being overlooked. The submitted information was also not in accordance with Council's lodgement requirements (floor plans within reports). Given the issues that remained outstanding and the applicant's intention to submit further amended plans notification and advertising is still to be undertaken.

During the briefing of the matter, the panel requested that the applicant be provided with only one opportunity to amend the proposal. The applicant has provided a response and has since identified that they are intending to make further amendments knowing they did not have the support of Council staff.

This report has been prepared to provide the panel with the opportunity to determine the matter if they wish. Council staff recommend that the matter be deferred to allow the applicant to address all outstanding issues. The remainder of the report has been based on the set of plans before Council staff at the time of writing this report which was non-compliant in terms of density and building separation and considered to be an overdevelopment of the site.

2. 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 \$49,976,832 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

3. Compliance with The Hills Local Environmental Plan 2012

(i) Permissibility

The proposal is defined as a residential flat building:

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

A residential flat building is permitted within the R4 High Density Residential zone.

(ii) The Hills LEP 2012 - Development Standards

The following addresses the principal development standards of the LEP relevant to the subject proposal:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height of buildings	16 metres	Components of the buildings exceed 16 metres to a maximum of 17.5 metres	No – see comments below.

The variation to height is addressed below:

(ii) Variation to Height

The LEP limits the height of the development to 16 metres. The proposal has a maximum height of 17.5 metres a variation of 1.5 metres or 9.3%.

Clause 4.6 Exceptions to Development Standards states as follows:

- (1) *The objectives of this clause are:*
- to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
 - to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

-
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
- a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - b) the public benefit of maintaining the development standard, and
 - c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Consent must not be granted under this clause for a subdivision of land within Zone E4 Environmental Living if:
- a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- a) a development standard for complying development,
 - b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated listed in the table to this clause,
 - c) clauses 4.1A, 4.1B, 5.4, 6.2 and 6.4 of this Precinct Plan.

The applicant has reviewed this matter and has concluded that:

- The proposal is in close proximity to the Kellyville Railway Station and the extent of non-compliance does not permit any additional yield on the site as the extent of variation relates to less than 10% of the standard and the proposal retains the desired 4-5 storey built form on the site.

- *The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are manageable within the site, and have no significant impact on adjoining properties or open space areas.*
- *The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality generally.*
- *The proposal has no impact on heritage or other views; and*
- *The proposal is not located within a low density residential area and the proposed building height is compatible with that of adjoining development sites.*

Comment:

The height objectives of the LEP are:

- a) *to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
- b) *to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

The height variation relates to lift over runs and portions of the upper storeys buildings F and G located adjacent to an existing natural depression on the site.

The proposed height of the buildings is considered satisfactory given the variation is minor. The urban form is considered to be appropriate for the area and the development of a modern development.

The design of the proposed development, particularly in terms of the materials, colours, and articulation as well as the building configuration provide appropriate articulation and modulation of the building mass. The proposal presents as a compatible element within the existing the streetscape and the future desired character of the locality

There will be no unreasonable loss of privacy or amenity as a result of the variation. Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

It is also noted that in accordance with the Departments Circular PS 08-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

4. Compliance with The Hills Development Control Plan

The proposal has been assessed against the provisions of The Hills Development Control Plan (THDCP) particularly:-

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

The proposed development achieves compliance with the relevant requirements of the above with the exception of the following:

DEVELOPMENT STANDARD	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 5 – Clause 3.3 (d) Setbacks	No balcony shall protrude into the setback area	Balconies protrude into all setback areas	No, however the protrusions are minor.
Part B Section 5 – Clause 3.4 (c) Building Heights	No building shall contain more than 4 storeys above natural ground level	The development incorporates a 5 storey element	No, the development exceeds the maximum storey control by 1 storey.
Part B Section 5 - Clause 3.5 (a) Building Separation and Treatment	The minimum separation between buildings is 12 metres	Balconies encroach within the 12m building separation measure.	No, the variation results in unacceptable privacy impacts.
Part B Section 5 – Clause 3.10(a) - Density	The maximum density permitted is 175 persons per hectare.	The development provides a density of 192.3 persons per hectare.	No, the proposal is considered an over development of the site.
Part B Section 5 – Clause 3.11(a) – Unit Layout and Design	The minimum internal floor area for each unit; 1 bedroom - 75m ² 2 bedroom - 110m ²	The proposal incorporates the following 1 bedroom – 64.38m ² to 90.9m ² 2 bedroom - 94.37m ² to 130m ²	Unit sizes do not comply with the DCP however comply with the provisions of the Residential Flat Design Code.
Part D Section 7 – Clause 3.2.2.2(c) – Minimum lot width and lot road frontage	The maximum lot size for residential flat buildings is 5,000m ² .	The development site has an area of 14,510m ² , plus 6,486m ² for local roads.	No, however the site area is considered reasonable.

a) Setbacks

Clause 3.3(d) of THDCP Part B Section 5 requires that;

"No balcony shall protrude into the setback area"

The proposed development has numerous balconies encroaching within setback areas.

The relevant objectives of this clause of the DCP are:

- i. *To provide setbacks that complement the setting and contributes 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.*

The applicant in justifying the proposed variation to the Development Standards states that:-

"The minor encroachment of balconies is considered acceptable as it provided for additional articulation of the building and will not generate unreasonable privacy impacts given the likely forms of development to the north and the fact the land to the south is a drainage channel which means the development will continue to be viewed within a landscape setting."

Comment:

The encroachment of balconies with the setback areas is considered acceptable in this instance as they primarily adjoin public land. The eastern setback adjoins private property and a proposal of similar scale is currently under assessment. The proposed setbacks will still allow for the development to meet the 12m building separation requirement

Accordingly the proposal is considered to be satisfactory in regard to the provisions of the DCP.

b) Building Height

Clause 3.4(d) of BHDGP Part B Section 5 requires that;

"No building shall contain more than 4 storeys above natural ground level"

The development includes a number of buildings all 5 storey.

The relevant objectives of this clause of the DCP are:

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

The applicant in justifying the proposed variation to the Development Standards states that:-

"The proposal is generally consistent with the maximum height requirements under The Hills LEP control 2012, noting the minor variation to lift overruns and a small portion of the upper level roof forms to Building A, E and G. The non-compliance with the 4 storey height control is considered acceptable given the majority of the proposal complies with the 16m height control contained within the LEP that enables 5 storey residential flat buildings and noting that the LEP prevails over the DCP to the extent of the inconsistency between the controls. It is further noted that the site to the north accommodates a five (5) storey residential flat buildings. (Seniors Living Development)"

Comment:

The proposed variation is relevant to the LEP height variation addressed in Section 3 of this report. The proposal is considered consistent with the relevant objectives of the DCP in that adequate area remains for landscaping and screen planting.

In this regard, the variation to the height control is considered satisfactory.

c) Building Separation

Clause 3.5(a) of BHDCP Part B Section 5 requires that;

"The minimum separation between buildings is 12m"

The development includes a number balconies within the 12m of individual buildings.

The relevant objectives of this clause of the DCP are:

- i. *To ensure privacy within buildings.*
- ii. *To avoid overlooking of living spaces and private open space.*
- iii. *To minimise the visual impact of residential flat building developments by minimising the bulk and scale of residential flat buildings and promoting suitable landscaping between buildings.*

The applicant in justifying the proposed variation to the Development Standards states that:-

"Building Separation is designed to align with the RFDC, noting minor non compliances to the physical separation distance between the ends of the 'U' of the buildings that are addressed through alternate means including minimising direct windows and ensuring the areas of non-compliance do not relate to living areas or windows. As shown on the submitted plans the proposal has been designed to mitigate privacy impacts through ensuring that there are no direct facing windows within the 12m separation distance. In the majority of cases the walls to the southern edge of the 'U's is provided with limited, if any, windows to ensure there is no cross-viewing. Therefore the technical non-compliance is considered acceptable, noting that adequate building separation is provided and the 'U' configuration provides for a series of internal landscaped courtyards to provide an appropriate setting for future residents."

Comment:

The proposed variation to building separation is as a result of overdevelopment relating to the non-compliance of density. The variation results in unacceptable privacy impacts and bulk and scale.

The proposed variation is not supported.

d) Density

Clause 3.10(a) of THDCP Part B Section 5 requires that;

"The maximum density permitted is 175 persons per hectare."

The applicant proposes a density of 192.3 persons per hectare.

The relevant objectives of this clause of the DCP are:

- i. *To ensure residential flat building development does not over-tax existing services and facilities.*
- ii. *To provide opportunities for a suitable density housing form that is compatible with the existing surrounding development.*

The applicant in justifying the proposed variation to the Development Standards states that:-

"The proposal sits within the desired density across the entire site, with a departure from the maximum range when only considering the R4 zoned land. In this instance it is considered most appropriate that the entire allotment size is utilised given there is no delineation in the DCP and the fact the site is within a release area that necessitates substantial infrastructure delivery. To simply excise off 5000m² of the allotment with no concession for the increased cost in delivering the development is considered unreasonable.

In particular it is noted that the proposal is consistent with the maximum building height (with exception of lift overruns), landscaped area, setbacks, and open space that indicates that the proposal is of an appropriate scale.

Finally given the proximity to the future Kellyville Railway Station the proposed density is considered appropriate."

Comment:

It is considered that the use of the entire development site, 2.84Ha, for calculating density is not appropriate. The land zoned SP2 Infrastructure and RE1 Public Recreation will be acquired by the relevant acquisition authority. The applicant is effectively double dipping in that they are increasing yield for the R4 zoned part of the site and will ultimately be paid for the land to be acquired not part of the development site. This leads to an over development of the site resulting in a number of variations.

Accordingly the variation to density is not supported.

e) Unit Floor Areas

Clause 3.11(a) of THDCP Part B Section 5 requires that;

"The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following;

- 1 bedroom unit – 75m²*
- 2 bedroom unit – 110m²*
- 3 bedroom unit – 135m²"*

The proposal incorporates the following range of dwelling sizes:

- 1 bedroom: 64.38m²- 90.9m²*
- 2 bedroom: 94.37m²- 130m²*

The proposal involves minor variations to the controls noting that the dwelling sizes align with the provisions of the RFDC.

The relevant objectives of this clause of the DCP are:

- i. *To ensure that individual units are of a size suitable to meet the needs of residents.*
- ii. *To ensure the layout of units is efficient and units achieve a high level of residential amenity.*
- iii. *To ensure designs utilise passive solar efficient layouts and maximise natural ventilation.*

The applicant in justifying the proposed variation to the Development Standards states that:-

The proposal involves variation to the internal apartment sizes identified in the DCP, namely to the 1 bedroom and 2 bedroom units. 1 bedroom units require 75m² under the DCP and only 50m² in the RFDC, whilst 2 bedroom units require 110m² versus the 70m²-80m² in the RFDC.

Dwelling sizes of the proposed units vary from:

- *64.38m² - 90.9m² for 1 bedroom units; and*
- *94.37m² -130m² for 2 bedroom units.*

The design concept seeks to provide a balance between the objectives of the DCP to provide apartments of a size that meet the needs of the community and achieve high levels of residential amenity, are generally consistent with the guiding policies of the Residential Flat Design Code and assist in meeting the overall objectives of the DCP to provide various densities across the residential area that relate to existing and future adjoining development.

It is further noted that Clause 30A of SEPP 65 provides:

- (1) A consent authority must not refuse consent to a development application for the carrying out of residential flat development on any of the following grounds:*
- (b) **apartment area:** if the proposed area for each apartment is equal to, or greater than, the recommended internal area and external area for the relevant apartment type set out in Part 3 of the Residential Flat Design Code.*

It is reinforced that the units exceed the minimum internal and external areas contained in the RFDC. A discussion of the key rationale behind the variation is provided below.

Transit Oriented Development

The proximity of the site to the future Kellyville railway station ensures that this site enjoys the best and most advantageous conditions to develop a community that integrates seamlessly with the commercial town centre. Accordingly, the site has all the hallmarks and preconditions of a "transit oriented development" comprising:

- *increasing residential densities (medium to high density)*
- *increasing the viability of public transport investment*
- *near to, and part of, a mix of retail, employment, commercial and civic development (future)*
- *enhanced accessibility via walking and cycling*
- *within close proximity of a transport / transit node*
- *open and green space accessible to the community*
- *housing mix and diversity*

Metro Plan for Sydney 2036

The development proposal is consistent with numerous elements of the Metropolitan Plan for Sydney 2036. The proposal focuses urban development around planned transport capacity and provides for a mix and diversity of housing consistent with the role and size of the Balmoral release area.

Proposed Apartment Sizes

A range of apartment sizes have been modelled and the minimum apartment size requirements of the Hills Council substantially exceeds that identified in the Residential Flat Design Code (RFDC). Therefore the variation to the DCP control should be supported.

Comment:

The apartments meet the minimum unit sizes required by SEPP 65. In this regard, SEPP 65 contains the following minimum apartment sizes:

- 1 bedroom unit – 50m²
- 2 bedroom unit – 70m²
- 3 bedroom unit – 95m²

It is also noted that Clause 30A of SEPP 65 'Standards that cannot be used as grounds to refuse development consent for residential flat buildings' states that apartment size cannot be a reason for refusal if the proposed area for each apartment is equal to, or greater than, the recommended internal area and external area for the relevant apartment type set out in Part 3 of the Residential Flat Design Code. The apartment sizes all exceed the minimum requirements of the SEPP.

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 ²	Affordable Housing (SEPP 65)
2 bedroom	70m ²	
3 or more bedrooms	95m ²	
Type 2		
1 bedroom	65m ²	Mid-Point
2 bedroom	90m ²	
3 or more bedrooms	120m ²	
Type 3		
1 bedroom	75m ²	The Hills DCP 2012
2 bedroom	110m ²	
3 or more bedrooms	135m ²	

- 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 6 of the 210 units (3%) are the type 1 apartment size category, 185 of the 210 units (88%) are the type 2 apartment size category, and 19 of the 210 units (9%) are the type 3 apartment size category. No units comprise three or more bedrooms and 24% of units are one bedroom.

Whilst these are draft controls only, the applicant has been encouraged to comply with the draft amendments before submitting the amended plans.

f) Maximum Site Area

Clause 3.2.2.2(c) of THDCP Part D Section 7 requires that;

"The maximum lot size for residential flat buildings is 5,000m²."

The proposed development site has an area of 14,510m².

The relevant objectives of this clause of the DCP are:

- i. *To ensure that development lots have sufficient areas to provide adequate access, parking, landscaping and building separation.*

The applicant in justifying the proposed variation to the Development Standards states that:-

"The 'maximum' lot size exceeds 5000m² however the proposal involves a series of residential flat buildings across the site that aligns with the objectives of the control."

Comment:

The development of a site in excess of 5000m² is considered reasonable as it does not result in any orderly development issues in the Balmoral Road Release Area. Accordingly the proposal is considered to be satisfactory in regard to the provisions of the DCP.

5. Compliance with State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Buildings

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 in the Balmoral Road Release Area. The development conforms to the future desired character of the area. 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 however concern has been raised in relation to density which results in an overdevelopment.

The setbacks allow for landscape areas, entrances and deep-soil zones. The proposed setbacks have been developed to provide a satisfactory distance from surrounding boundaries, to form active street frontages and adequate open space areas for communal recreation spaces. The proposal addresses matters such as privacy and open space matters.

(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. However concern has been raised in relation to density which results in an overdevelopment.

(iv) Density

The proposed development is considered to be an overdevelopment. The development does not comply with Council's numerical density controls and this results in an unacceptable built form outcome.

(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 compromises privacy of future residents given the building separation standards are not met.

(viii) Safety and Security

The development has been designed with safety and security concerns in mind. The common open spaces are within direct view of occupants to allow 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.

(x) Aesthetics

The building mass is articulated to provide smaller scale forms, with variable setbacks, using natural material colours, and a diversity of material textures to provide visual relief and strengthen the rural character of the architectural language.

The choice of materials will be from a limited thematic palette for the entire site. Each building and pavilion, has been designed with its own distinctive character reflecting the function of that building.

The relevant provisions of the Residential Flat Design Code are addressed below:

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	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.	No FSR control	NA.
	Test heights against the proposed number of storeys and the minimum ceiling heights for the desired building use.	The proposed ceiling heights for each residential storey are 3m.	
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 daylighting and natural ventilation are to be achieved.	The proposed building depth is between 10m and 20m. Appropriate solar access is provided to all units.	No, however the variation is minor.
Building Separation	<u>Up to 4 storeys</u>	The development provides unacceptable building separation.	No, the variation to building separation is not supported.
	12 m between habitable rooms/balconies		
	9m between habitable rooms/balconies and non-habitable rooms; 6m between non-habitable rooms.		
	<u>Five to eight storeys/up to 25 metres</u>	The development provides unacceptable building separation.	No, the variation to building separation is
	18m between habitable		

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	rooms/balconies 13m between habitable rooms/balconies and non-habitable rooms 9 metres between non-habitable rooms Design and test building separation controls in plan and section. <ul style="list-style-type: none"> - Test building separation controls for daylight access to buildings and open spaces. - Building separation controls may be varied in response to site and context constraints. - Developments that propose less than the recommended distances apart must demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved (see Daylight Access, Visual Privacy and Acoustic Privacy). 		not supported.
Street Setback	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls. Identify the quality, type and use of gardens and landscaped areas facing the street.	The development is located in a new release area. The street setback is considered acceptable.	Yes
Side and rear setback	Relate side setback to existing streetscape patterns. Test side and rear setback with building separation, open space and deep soil zone requirements (see Building Separation, Open Space and Deep Soil Zones).	Side setbacks are either provided by generous landscaped setback areas or access driveways.	Yes.

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.		
Floor Space Ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with: <ul style="list-style-type: none"> - Building height - Building footprint - The three dimensional building envelope - Open space requirements 	NA, no FSR control.	NA.
Part 2: Site Design			
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone.	The majority open space is provided around the buildings. Deep soil zones equate to 35%.	Yes
Open Space	The area of communal open space required should generally be at least 25-30% of the site area. 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 ² .	The development provides for a range of open space areas. Each unit is provided with a balcony or terrace area of at least 20m ² .	Yes Yes
Pedestrian Access	Identify the access requirement from the street or car parking area to the apartment entrance. Provide barrier free access to at least 20% of dwellings in the development.	Pedestrian access is provided from the street or car parking area to the apartment entrance. Entrance and access to the basement parking is achieved via the internal stairs and elevators.	Yes
Vehicular Access	Generally limit the width of driveways to a maximum of 6m. Locate vehicle entries away from main pedestrian entries and on secondary frontages.	The maximum width of the driveway is 6 metres. Vehicular access is from Free Settlers Drive and is suitably separated from the pedestrian access.	Yes Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part 3: Building Design			
Apartment Layout	Single aspect apartments should be limited to 8 metres from a window.	Areas over 8m from a window are kitchens, laundries, bathrooms and study areas. These are not the primary habitable rooms and the wet areas and kitchen can be ventilated using the required BASIX ducted fans.	Yes
Apartment Mix	Provide a diversity of apartment types to cater for different household requirements.	The proposal provides for 48 x 1 bedroom units and 178 x 2 bedroom units.	Yes
Balconies	Provide primary balconies for all apartments with a minimum depth of 2 metres	All balconies provide useable areas with a depth of 2.5 metres.	Yes
Ceiling heights	Minimum floor to ceiling height for habitable rooms is 2.7m and 2.4m for non-habitable.	Minimum 2.7 metres.	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).	Ground floor apartments are proposed.	N/A
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.	There are a maximum of 7 units per floor.	Yes
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:	Separate storage closets are provided in each unit in addition to storage areas in the basement car park exceeding 10m ³ .	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	<ul style="list-style-type: none"> - Studio – 6m³ - 1 bed – 6m³ - 2 bed – 8m³ - 3 bed+ - 10m³ 		
Daylight Access	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.	82% of the units receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.	Yes
Natural Ventilation	60% of residential units should achieve natural cross flow ventilation.	63% of units achieve cross flow ventilation. The remaining units are single aspect. Mechanical ventilation is used in all units allowing ventilation to be achieved.	Yes
Waste Management	Supply waste management plans as part of the DA as per the NSW Waste Board.	A satisfactory waste management plan was submitted with the application.	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.	The development will be connected to recycled water to be used for landscape irrigation and car washing.	Yes

SUBDIVISION ENGINEERING COMMENTS

It is imperative that the design surface level of the road remains higher than the flood level of the creek. The flood levels interpolated onto the engineering drawings have increased. The 100 year flood levels are higher than the proposed design surface level of the road. The resulting flood water entering onto the road is unacceptable. On this basis the proposal cannot be supported.

TREE MANAGEMENT COMMENTS

No objection raised to the proposal. Relevant conditions can be recommended.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection raised to the proposal. Relevant conditions can be recommended.

WASTE MANAGEMENT COMMENTS

No objection raised to the proposal. Relevant conditions can be recommended.

CONCLUSION

The proposed development has been assessed against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions of THDCP Part B Section 5 – Residential Flat Buildings, Part C Section 1 Parking, Part C Section 3 Landscaping and Part D Section 7 – Balmoral Road Release Area.

This report has been prepared to provide the panel with the opportunity to determine the matter if they wish. Council staff recommend that the matter be deferred to allow the applicant to address all outstanding issues. At the time of writing this report the proposal before Council staff was non-compliant and the variations to density and building separation were considered to result in an overdevelopment of the site.

RECOMMENDATION

The Development Application be deferred to allow the applicant to address the outstanding matters.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning Plan and DCP Road Layout
4. Site Analysis Plan
5. Basement Plans
6. Part Ground Floor Plans
7. Part Upper Floor Plans
8. Elevations and Section
9. Shadow Diagrams
10. Site Calculations

ATTACHMENT 1 – LOCALITY PLAN



□ SUBJECT SITE

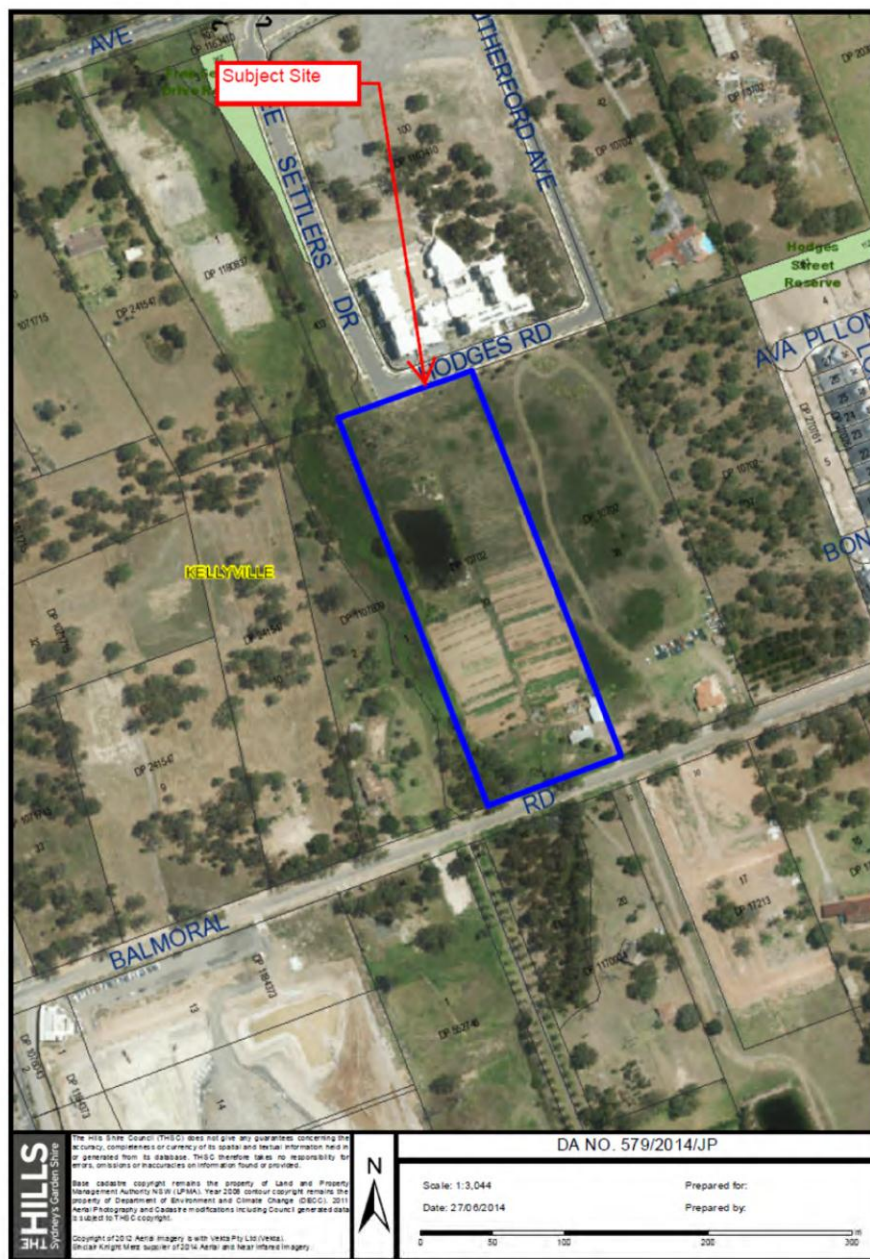
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THE HILLS SHIRE COUNCIL

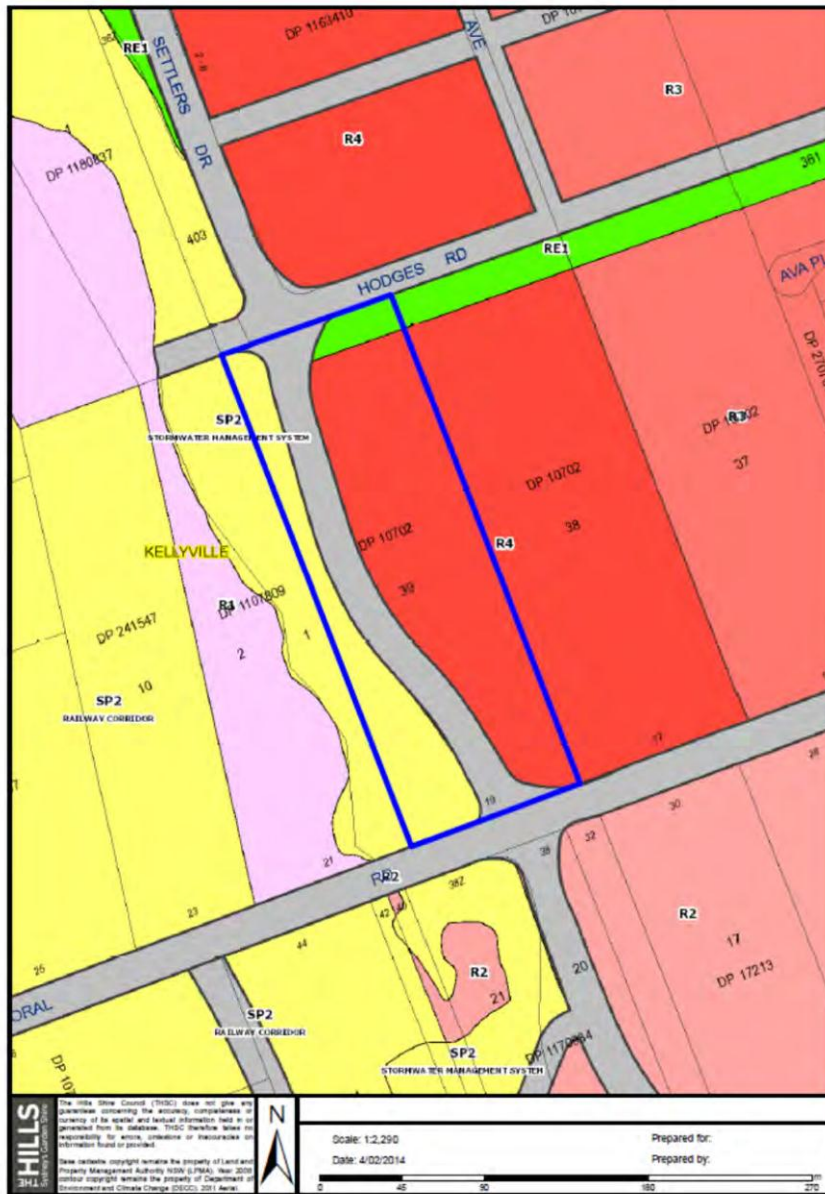
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ATTACHMENT 2 – AERIAL PHOTOGRAPH



ATTACHMENT 3 – ZONING AND DCP ROAD LAYOUT



The site plan illustrates the proposed development at 17 Balmoral Road, a 17-hectare residential site. The plan shows the layout of the proposed buildings, including the main building complex and the proposed council collection road. Key features include:

- Proposed Buildings:** The plan shows the layout of the proposed buildings, including the main building complex and the proposed council collection road. The buildings are labeled with their respective lot numbers and setbacks.
- Setbacks:** The plan indicates the setbacks for the proposed buildings, including the 20m setback from the reserve and the 10m setback from the council collection road.
- Proposed Council Collection Road:** The plan shows the layout of the proposed council collection road, which is 10m wide and runs along the eastern boundary of the site.
- Proposed Land Use:** The plan indicates the proposed land use for the site, which is residential.
- Surrounding Context:** The plan shows the surrounding context, including the existing residential area to the north and the proposed council collection road to the east.

ATTACHMENT 5 – BASEMENT PLANS



ATTACHMENT 6 – PART GROUND FLOOR PLANS





ATTACHMENT 7 – PART UPPER FLOOR PLANS

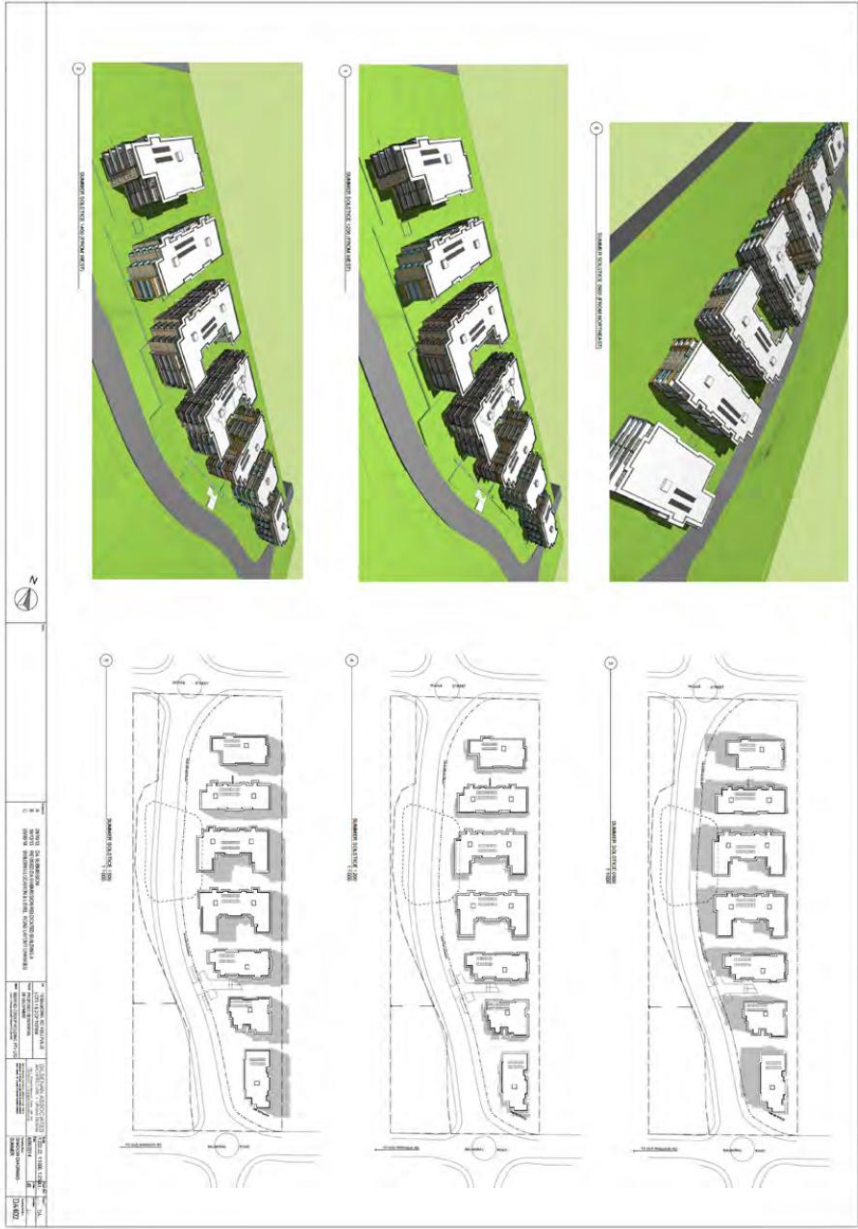




ATTACHMENT 8 – ELEVATIONS AND SECTION



ATTACHMENT 9 – SHADOW DIAGRAMS



ATTACHMENT 10 – SITE CALCUALTIONS

