JOINT REGIONAL PLANNING PANEL
(Sydney West Region)

JRPP No	2014SYW049 DA
DA Number	1121/2014/JP
Local Government Area	THE HILLS SHIRE COUNCIL
Proposed Development	DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION IN FOUR STAGES OF EIGHT X FIVE STOREY RESIDENTIAL FLAT BUILDINGS (300 UNITS) AND ASSOCIATED PRIVATE ROAD/BASEMENT CAR PARKING
Street Address	LOT 38 DP 10702 - BALMORAL ROAD, KELLYVILLE
Applicant/Owner	UNIVERSAL PROPERTY GROUP PTY LTD
Number of Submissions	1st notification:25 2nd notification period: One
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	• 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	Submissions received
Recommendation	REFUSAL
Report by	Senior Town Planner Greg Samardzic

EXECUTIVE SUMMARY

The Development Application is for demolition of existing structures and construction in four stages of eight x five storey residential flat buildings (300 units) and associated private road/basement car parking. A mix of 180 x one bedroom and 120 x two bedroom units are proposed.

The proposal seeks to vary the maximum building height development standard for residential flat buildings using Clause 4.6 of LEP 2012. The site has a 16m height limit to the LEP Height Control Map. The variation is a maximum of 990mm (approximately 6.18%). The height variation relates to lift over runs.

The proposed development includes variations to The Hills DCP 2012 in respect to building setbacks, building height, building length, density, landscaping, unit mix and maximum site area. The variation to number of storeys along the eastern boundary and variation to density are not supported. The maximum density is 175 persons per site hectare for the

residentially zoned part of the site. The density proposed is 184.59 persons per site hectare. This equates to approximately 15 units over density.

The development site is located within the Balmoral Road Release Area and is zoned R4 High Density Residential. The area is being converted from a rural area into a new urban release area. To the east of the site, allotments are zoned R3 Medium Density Residential, R2 Low Density Residential to the south and R4 to the north and west. On the immediate adjoining property to the east, an integrated housing development containing 44 detached single and two storey dwellings is currently under construction.

Submissions have been received from adjoining and surrounding owners. The submissions raise concerns with excessive height, bulk and scale, poor urban design, visual impact, overlooking, overshadowing, traffic, flooding and inadequacies in submitted documentation.

The applicant has amended the design to provide increased setbacks to the eastern boundary where the majority of the submissions have originated from. However, the proposed transition remains a five storey development to adjoining detached single and two storey dwellings.

The proposed development represents as an overdevelopment due to the development being over the LEP height limit, DCP maximum number of levels and density development standards.

It is recommended that the Development Application be refused. The subject Development Application would have been reported to a Development Assessment Unit meeting if it was not required to be reported to the JRPP panel. It is noted that the subject Development Application is subject to a deemed refusal appeal with the Land and Environment Court.

BACKGROUND		**MANDATORY REQUIREMENTS**	
Owner:	Mr G Tsagaris and Mrs S M Tsagaris	1.	The Hills LEP 2012 - Clause 4.6 Variation to LEP 16m Height Limit (6.18%).
Zoning:	R4 High Density Residential and RE1 Public Recreation	2.	SEPP 65 – Design Quality of Residential Flat Development – Unsatisfactory
Area:	28,300m^2	3.	DCP Part D Section 7 – Balmoral Road Release Area – Variations, see report
Existing Development:	Dwelling	4.	DCP Part B Section 5 – Residential Flat Buildings – Variations, see report
		5.	DCP Part C Section 1 – Parking – Satisfactory
		6.	Section 79C (EP&A Act) – Unsatisfactory
		7.	Section 94 Contribution – Stage 1: $1,725,801.60. Stage 2: $1,755,801.60. Stage 3: $1,755,801.60. Stage 4: $1,755,801.60.
		8.	Capital Investment Value: $62,100,000.00

SUBMISSIONS **REASON FOR REFERRAL TO JRPP**

1. Exhibition:	14 days	1.	Capital Investment Value in excess of $20 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	14 days		
3. Number Advised:	1st notification: Eight 2nd notification period: Eight		
4. Submissions Received:	1st notification:25 2nd notification period: One		

HISTORY

15/11/2013 Pre-lodgement meeting held for a residential flat building development containing 296 units.

18/03/2014 Subject Development Application lodged.

09/05/2014 Letter sent to the applicant requesting compliance or additional information in relation to density, tree management, access ramps, engineering, waste management, environmental health, DCP 2012, SEPP 65 (Residential Flat Design Code), traffic and submission detail issues.

15/05/2014 Briefing to JRPP Panel members.

04/06/2014 Conciliation Conference held.

16/07/2014 Additional information and amended plans submitted. The plans provided a redesign to include relocating buildings b, d, f and h an additional 2.7m away from the eastern boundary from the original 8m side setback and providing additional operable louvre screening to east-facing balconies and terraces.

The redesign did not address the building transition and density concerns. The submitted information did not address Council's requests for additional information in relation to waste management, engineering and tree management matters

22/08/2014 Class 1 Appeal lodged with the Land and Environment Court. The applicant is relying upon the original plans in the appeal.

17/09/2014 Statement of Facts and Contentions filed.

19/09/2014 Call-over held between respective parties.

18/11/2014 Section 34 Conciliation Conference to be held.

PROPOSAL

The Development Application proposes demolition of existing structures and construction in four stages of eight x five storey residential flat buildings (300 units) and associated private road/basement car parking. A mix of 180 x one bedroom and 120 x two bedroom units are proposed.

The proposal seeks to vary the maximum building height development standard for residential flat buildings using Clause 4.6 of LEP 2012. The site has a 16m height limit. The variation is a maximum of 990mm (approximately 6.18%).

The proposed four stages are:

- Stage 1 is the southern two buildings (Buildings A & B) plus basement car park.
- Stage 2 is Buildings C & D plus basement car park.
- Stage 3 is Buildings E & F plus basement car park.
- Stage 4 is Buildings G & H to the north plus basement car park.

A total of 544 car parking spaces are provided.

Associated site landscaping and embellishments are proposed. A total of 30 trees are proposed to be removed and 10 trees are to be retained to be integrated into the landscape concept.

THE SUBJECT SITE AND SURROUNDS

The subject site is located on the northern side of Balmoral Road and has an overall area of 28,300m^2. The site is part zoned R4 High Density Residential and RE1 Public Recreation (1,971.84m^2) under The Hills LEP 2012. The site has a frontage to Balmoral Road of 98.56m and a depth of 286-287m. The site has a separate frontage to Hodges Street to the north and a lineal reserve of 20m in width is to be created. The reserve is to connect to Elizabeth Macarthur Creek Reserve to the west and to Strangers Creek Reserve to the east.

The subject site has a gradual slope from east to west of approximately 4.8m. The site contains a detached dwelling house on the south eastern corner. The remainder of the site is undeveloped consisting of grassland with sporadic trees along the Balmoral Road frontage and eastern boundary. The site is approximately 480m to the east of the intersection of Balmoral Road and Old Windsor Road.

The site is part of the Balmoral Road Release Area which is being converted from a rural residential area into a new urban release area. To the east of the site, allotments are zoned R3 Medium Density Residential and R2 Low Density Residential to the south (refer to Attachment 2 – Zoning Map). To the north and west, land is zoned R4 High Density Residential. The property to the west contains a dwelling house and there is a proposal to construct seven residential flat buildings containing 226 units. To the east, there is a recent approval to construct an integrated housing development containing 44 detached single and two storey dwellings. To the northwest, is Tennis Land which is accessed by Memorial Drive and the north is a new retirement living development which contains five storey buildings. To the south, there are recent approvals to construct further residential style developments.

The Northwest Railway Line is proposed to the west some 600m away. The nearest station will be located at Bella Vista. The site is located within 500m of the Balmoral Road T-Way Interchange.

CONCILIATION CONFERENCE

Due to the number of submissions received, a Conciliation Conference was held on 4 June 2014 with six objectors attending. The issues discussed mainly relate to:

- Building transition between the development and the integrated housing development to the east and south.
- Overshadowing.
- Traffic.

The following outcomes were achieved in the Conference:

- **Council staff will particularly consider the interface impacts and concerns arising from the development including overshadowing and privacy.**

Comment: To be discussed in greater detail in the body of this report. It is recommended that in the determination of the subject Development Application a reason for refusal be included due to the inappropriate transition between the development (five storeys) and the development (one and two storeys) to the east.

- **The applicant is to consider all issues raised. If there are significant amendments to the design or further shadow details provided then the application will be renotified.**

Comment: The applicant had provided additional information and a redesign by:

- Relocating blocks b, d, f and h an additional 2.7m away from the eastern boundary from the original 8m side setback.
- Redeigning top floor layouts to further recess the built form.
- Cutting back the overhang roof (and replacing with lightweight) pergolas).
- Providing additional operable louvre screening to east-facing balconies and terraces.
- Submitting hourly shadow diagrams submitted.

The residents were advised that the matter will be reported to the NSW Government Joint Regional Planning Panel (JRPP) for determination.

The proposed amendments provided some improved development transition. However, it is considered that the development represents an overdevelopment containing excessive bulk and scale.

1. Compliance with The Hills Local Environmental Plan 2012

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.

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	16m	Components of the buildings exceed 16m to a maximum of 16.99m.	No – see comments below.

The variation to height is addressed below:

Variation to Height

The LEP limits the height of the development to 16m. The proposal has a maximum height of 16.99m a variation of 990mm or 6.18%.

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 applicant contends that the proposed development is a form of development that is most appropriate for these greenfield sites as they will have minimal, if any, detrimental impacts on the surrounding amenity or the long term development potential of these lands.*
- *The subject design seeks to provide a building form which is generally compatible with the approved and proposed building forms of development of lands in this locality. The height is similar in scale to that approved at No. 21 Balmoral Road. Further, the design and positioning of the proposed buildings on site is unlikely to result in any significant impacts on neighbouring lands with regard to overshadowing, privacy and visual impact.*
- *The subject proposal is consistent with the objectives for the zone as it provides a mix in housing type at a high density yield and is in a location which is walking distance to public transport.*
- *The breach of height limit is not a matter of state or regional significance.*
- *There is public benefit in allowing the development to proceed. If the development was required to comply with the height limit an additional storey would have to be removed. Once other development is constructed up to 16m height limit a four storey development on the site would be out of character.*
- *Deleting a floor would not assist in providing housing choice or housing affordability.*
- *Strict compliance is considered to be unreasonable and unnecessary for the following reasons:*
  - *The floor level of the development was required to be lifted to provide the 500mm freeboard above the 1 in 100 year flood.*
  - *It is only the roof structures that exceed the height limit.*
  - *There is unlikely to be any adverse visual or acoustic privacy impacts.*
  - *There will be no adverse overshadowing impacts on surrounding premises.*
  - *The proposal will not result in the loss of any views from adjoining properties.*
  - *The proposal is considered to demonstrate good urban design, is not excessive in terms of bulk and scale and provides a positive contribution to the streetscape.*
  - *The non-compliance is minor. The desired future character for the area is for five storey residential flat buildings and the proposal is compatible with this character. The breach in the height will not be discernible.*

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 variations occur due to the slope of the land as the land falls away from the eastern boundary. The height variations relate to lift over-runs and the breaches are minor. However, any breach is unacceptable in context of five level buildings adjacent to the one and two storey integrated housing development to the east.

To be discussed in greater detail in later sections of this report, it is considered that the proposal represents an overdevelopment and is recommended to be refused in part to uphold relevant aims of the LEP.

2. Compliance with The Hills Development Control Plan 2012

The proposal has been assessed against the provisions of Development Control Plan 2012 for both submitted plans and achieved compliance with relevant requirements with the exception of the following:

DEVELOPMENT STANDARD	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 5 – Clause 3.3(a) Setbacks.	Rear – 8m	Rear – Min. 6.863m to RE1 boundary and basement car park located outside the building zone area.	No, however the protrusions are satisfactory.
Part B Section 5 – Clause 3.4(c) Building Heights.	No building shall contain more than four storeys above natural ground level.	The development incorporates a five storey element.	No, the development exceeds the maximum storey control by one storey.
Part B Section 5 - Clause 3.5(a) Building Separation and Treatment.	The minimum separation between buildings is 12m.	Balconies encroach within the 12m building separation measure.	No, whilst the variation results in acceptable privacy impacts, it will increase the bulk and scale of the development as a whole.
Part B Section 5 – Clause 3.7(a) – Building Length.	Max. 50m.	Max. 52.8m.	No, the variation contributes to the bulk and scale of the development.
Part B Section 5 – - Clause 3.10(a) – Density.	The maximum density permitted is 175 persons per hectare.	The development provides a density of 184.7 persons per hectare.	No, the proposal is considered an over development of the site.

<table>
<tr><th>DEVELOPMENT STANDARD</th><th>THDCP REQUIREMENTS</th><th>PROPOSED DEVELOPMENT</th><th>COMPLIANCE</th></tr>
<tr><td>Part B Section 5 – Previous Clauses 3.11(a), (b), (d), (e), (f), (g) and (i) - Unit Layout and Design.</td><td>- 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.
<table><tr><th>Apartment Size Category</th><th>Apartment Size</th></tr><tr><td></td><td></td></tr><tr><td colspan="2">Type 1</td></tr><tr><td>1 bedroom</td><td>50m^2</td></tr><tr><td>2 bedroom</td><td>70m^2</td></tr><tr><td>3 or more bedrooms</td><td>95m^2</td></tr><tr><td></td><td></td></tr><tr><td colspan="2">Type 2</td></tr><tr><td>1 bedroom</td><td>65m^2</td></tr><tr><td>2 bedroom</td><td>90m^2</td></tr><tr><td>3 or more bedrooms</td><td>120m^2</td></tr><tr><td></td><td></td></tr><tr><td colspan="2">Type 3</td></tr><tr><td>1 bedroom</td><td>75m^2</td></tr><tr><td>2 bedroom</td><td>110m^2</td></tr><tr><td>3 or more bedrooms</td><td>135m^2</td></tr></table>
- 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.

Minimum four hours of direct sunlight for windows of primary living areas between 9am and 3pm on 21 June.</td><td>180 one bedroom units.

120 two bedroom units.

No three bedroom units proposed.

Not addressed by the applicant.</td><td>No, the proposed apartment mix is not supported.

No, compliance not demonstrated.</td></tr>
<tr><td>Part B Section 5 – Clause 3.20(a) – Storage.</td><td>At least 10m^3 to be provided for storage space per unit within a lockable garage (with a minimum area of 5m^2 and 2m in width).</td><td>Communal storage spaces provided in basement.</td><td>No, storage spaces are not individually dedicated for each unit/garage. Amended plans can be submitted to comply.</td></tr>
<tr><td>Part B Section 5 – Clause 3.22(h) – Pedestrian/Bicycle links.</td><td>Bicycle lockup facility to be provided close to the main entry of the building.</td><td>Only provided to some buildings.</td><td>No, amended plans can be submitted to comply.</td></tr>
<tr><td>Part B Section 5 – Clause 3.24(a) and (d) – Services.</td><td>Development consent must not be granted until arrangements satisfactory to the relevant authorities are made for the provisions of services.</td><td>Arrangements satisfactory to the relevant authorities for provision of services have not been made.</td><td>No, and not adequately addressed by the applicant. Arrangements can be made by the applicant and</td></tr>
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DEVELOPMENT STANDARD	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	All electricity and telephone services on site must be underground.	All electricity and telephone to the site are not proposed to be underground.	conditions can be imposed to comply.
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 a development area of 26,317m^2.	No, however the site area is considered reasonable.
Part D Section 7 – Clause 8.3.2(b) – Stormwater Management.	A minimum cumulative storage capacity of a stormwater management system to be 20,000L per residential flat building.	4 x 20,000L rainwater tanks are proposed.	No, it is recommended that the proposal be redesign to require 8 x 20,000L rainwater tanks instead. Amended plans can be submitted to comply.

a) Setbacks

Clause 3.3(a) of DCP Part B Section 5 requires a minimum rear setback of 8m.

The proposed development has a minimum of 6.863m including the basement car park which encroaches within setback areas.

The relevant objectives of this clause of the DCP are:

i. *To provide setbacks that complements 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 standard states that:-

The setbacks are to the RE1 boundary. The RE1 zoned part of the site is 20m in width to Hodges Street which provides an additional buffer. The basement car park will not visible.

Comment:
The encroachments are considered acceptable in this instance as they primarily adjoin public land.

The front and rear setbacks have been designed to ensure there is an appropriate landscape setting for the development. The setbacks of the proposed development as a whole are considered appropriate. The encroachments to the rear are supportable. The proposed rear setback responds to the desired scale and character of the locality and will complement the future setting of the Hodges Street streetscape. There will be no adverse visual impact. Landscaping with deep soil plantings can be provided around the perimeter of the development.

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

b) Building Height

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

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

The development includes eight buildings and all are 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 standard states that:-

The proposal is a generally complying development which will be similar in nature and scale to other residential housing proposed for this high density locality. The only issue of any concern relates to the overall height of the development.

Comment:
The proposed variation is also relevant to the LEP height variation addressed earlier in this report. The proposal is not considered consistent with the relevant objectives of the DCP. Whilst there is adequate area for landscaping and screen planting along the eastern boundary, a long run of five storey buildings directly facing one and two storey detached dwellings does not provide for an adequate building transition. The justification to support the variation is not supported in this instance in particular along the R4 and R3 zone interface of the subject site and to the adjoining property to east respectively. To protect the amenity of future occupants it is desirable that buildings along this interface have reduced levels.

In this regard, the variation to the number of storey control in particular along the eastern boundary is not considered satisfactory.

c) Building Separation

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

The minimum separation between buildings is 12m.

The development includes balconies within the 12m between buildings b & d, e & c and h & f.

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 standard states that:-

Building separation is designed for the proposed built-forms to be spaced out on site to comply with required minimum separation distances.

Comment:

Whilst the proposed buildings provide articulated facades to generate modulated buildings to create functional balconies, the variation adds to the bulk and scale of the development as a whole and the dominance of the built form. The buildings are appropriately designed to provide internal privacy the variation while being minor demonstrates the overdeveloped nature of the development when taking into the context of the development located in the precinct.

The proposal satisfies the above third objectives and is not supported in this instance.

d) Building Length

Clause 3.7(a) requires a maximum building length of 50m.

The development exceeds this requirement by approximately 2.8m.

The relevant objectives of this clause of the DCP are:

i. *To reduce the visual bulk and scale of residential flat building developments.*
ii. *To ensure that developments will enhance and contribute to the streetscape and desired character of the future and existing neighbourhood.*

The applicant provided the following justification to the proposed variation:

The built form typology is that each block is composed of two wings joined at the core by a recessed glazed foyer. When shown in parallel, the maximum length of the two wings and glazed link is 50m, however where one of the wings is rotated by 10 degrees, then the overall combined breaches the numerical standard by approximately 2.8m.

When assessed in isolation, the variation appears to be minor however it is considered that the proposed variation to building length adds to the overdevelopment nature of the proposal when viewed in conjunction with the other variations proposed. The variation results in unacceptable privacy impacts and bulk and scale in particular to the future integrated housing development to the east. The proposed variation is not supported in this instance.

e) Density

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

The maximum density permitted is 175 persons per hectare.

The applicant proposes a density of 184.7 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 is of the opinion that it complies with the above development standard. The applicant included the 1.971.84m^2 RE1 Public Recreation zoned land part of the site for calculation purposes.

Comment:
The applicant has calculated density by including the RE1 zoned land. This is not appropriate as the RE1 zoned will be acquired by the relevant acquisition authority being Council. This land will ultimately be acquired by Council. The applicant is incorrectly increasing yield for the developable R4 zoned part of the site. This leads to an overdevelopment of the site. Depending on bedroom mix the development is approximately 15 units over density. The variation contributes to increasing its impacts on adjoining premises.

Accordingly the variation to density is not supported.

f) Unit Layout and Design

Clauses 3.11(a), (b), (d), (e), (f) and (g) read as follows:

- 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.

Apartment Size Category	Apartment Size
Type 1	
1 bedroom	50m^2
2 bedroom	70m^2
3 or more bedrooms	95m^2
Type 2	
1 bedroom	65m^2
2 bedroom	90m^2
3 or more bedrooms	120m^2
Type 3	
1 bedroom	75m^2
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.

Clause 3.11(i) requires a minimum four hours of direct sunlight for windows of primary living areas between 9am and 3pm on 21 June if the development is a double loaded corridor. The development has such a design and the applicant has been requested to

address this development standard and currently has provided demonstration of whether compliance is achieved.

The objectives of the clause are:

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

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

To provide a mix of residential flat types and sizes to accommodate a range of household types and to facilitate housing diversity.

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.

To ensure designs utilise passive solar efficient layouts and maximise natural ventilation.

Comment:
An assessment of the proposal against the controls finds that all units fall within the type 3 apartment size category. However, 60% of the units are 1 bedrooms and the remainder are two bedrooms. The proposed apartment mix is of concern and it demonstrates that the applicant has not adequately dealt with this matter. There is an excessive amount of one bedroom units involved and one bedroom units are to be limited to a maximum of 25% under the new controls. Further, there are no three bedroom units proposed where a minimum of 10% is required by the DCP.

In addition, there are concerns with the design of some proposed one bedroom units containing a study and two bathrooms and two bedroom units that contain a study/sitting room. It is considered that they are capable of being converted into a two bedroom and three bedroom units respectively. This could have the potential for further increasing densities. The applicant has argued that two bathrooms is high desirable in particular for visitor use. It is recommended that should any approval be granted, that a condition be imposed requiring a restriction to use ensuring that that these units are to remain as one bedroom and two bedroom units although the overall apartment mix as submitted is not supported.

g) Storage

Clause 3.20(a) of DCP Part B Section 5 requires that;

At least $10m^3$ is to be provided for storage space per unit within a lockable garage (with a minimum area of $5m^2$ and 2m in width).

Communal storage spaces are provided in basement. Storage spaces are not individually dedicated for each unit/garage.

The relevant objectives of this clause of the DCP are:

i. *To ensure that each dwelling has reasonable private storage space (storage requirements include household items either within the dwelling or in secure garage areas).*

The applicant provided the following justification to the proposed variation:

The control describes required storage volumes and makes reference to secured individual garages. The clause appears to relate to individual dwelling houses and townhouses rather than residential flat buildings, so its applicability is not directly possible. The design of the

proposal is for a secured basement car park with open car parking spaces and provision of secured storage cages in dedicated areas. Most units are provided with internal storage rooms in tandem with basement storage. SEPP 65 encourages volumes to be split within basements and units without a minimum length or depth.

Comment:
Whilst the justification by the applicant can be supported in part, it is considered that amended plans could be provided to show clear dedicated numbered areas which comply. Communal type or undedicated areas are not considered to be satisfactory in this instance. Accordingly the variation to density is not supported.

h) Pedestrian/Bicycle Links

Clause 3.22(h) of DCP Part B Section 5 requires that;

A bicycle lockup facility is to be provided close to the main entry to the building.

Some facilities are provided to some buildings however the provided facilities are not in close proximity the main entrances of the buildings. It is recommended further facilities be provided to the buildings B, D, F and H. Accordingly, the variation can be easily complied with.

i) Maximum Site Area

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

The maximum lot size for residential flat buildings is 5,000m^2.

The proposed development site has an area of 26,317m^2.

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 development standard provides a very limited site area variation above the minimum allotment size of 4000m^2 prescribed under LEP 2012. The contains eight buildings which on average excluding the area of the access road will occupy 5,000m^2 of land per building and comply with the intent of the maximum lot size standard. The alternative arrangement would be to subdivide the land the access road, the public reserve off Hodges Street and four 5000m^2 allotments. The proposed development will result in a thoughtful development outcome for this site when developed in four stages rather than subdivided.

Comment:
The development of a site in excess of 5000m^2 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.

j) Stormwater Management

Clause 8.3.2(b) of DCP Part D Section 7 requires that;

The minimum cumulative storage capacity of this system must be 20,000 litres per residential building.

The proposed development site has eight buildings however only four 20,000 litre rainwater tanks are proposed.

The relevant objectives of this clause of the DCP are:

i. *To control stormwater and to ensure that residential flat buildings do not increase downstream drainage or adversely impact adjoining and downstream properties.*
ii. *To ensure the integrity of watercourses is protected and enhanced in accordance with Council's ESD objective 4.*
iii. *To provide for the disposal of stormwater from the site in efficient, equitable and environmentally sensible ways in accordance with Council's ESD objective 3.*

Due to size of the development containing 300 units, the proposed variation is not supported. Amended plans should be amended to accommodate the minimum required storage capacity in this instance.

Based on the numerous variations above, it is considered that the proposal does not satisfy the following aim/s of Part B Section 5 of the DCP:

Encourage a high standard of aesthetically pleasing and functional residential flat building developments that sympathetically relate to adjoining and nearby developments.

Ensure that development will not detrimentally affect the environment of any adjoining lands and ensure that satisfactory measures are incorporated to ameliorate any impacts arising from the development.

Encourage innovative and imaginative designs with particular emphasis on the integration of buildings and landscape areas that add to the character of the neighbourhood.

Provide high levels of amenity and safety for future residents of any residential flat building development.

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

The required Design Verification Statement was prepared by Andre Mulder for Rustom Kudinar-Kwee of Zhinar Architects, who are registered architects.

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

(i) Context

Good design responds to and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Comment:
The site is located in the Balmoral Road Release Area however adjoins an allotment that is zoned R3 Medium Density Residential. The area is being converted from a rural area into a new urban release area. This context is likely to evolve over time as adjoining sites are to be developed within the new zonings. On the immediate adjoining property to the east, there is currently construction of an integrated housing development containing 44

detached single and two storey dwellings. This property and the subject site share a zone interface boundary of approximately 286m.

The development does not respond to the context into which it is placed. The proposed development represents as an overdevelopment due to the development being over the height, number of levels and density limits. There will be a row of five storey buildings with numerous balconies facing one and two storey dwellings. An inappropriate building transition is provided between the five storey buildings at the eastern boundary and the approved one and two storey dwellings on the adjoining site. The proposed development will affect the amenity of future residents. A reduction in levels or units along the eastern boundary can occur without affecting the development potential of the site in particular as the proposal is an overdevelopment.

The applicant has attempted to maximise the development potential of this large vacant site without regard to amenity levels of future residents. The development does not conform to the future desired character of the area such as providing appropriate building transition between zone interfaces.

(ii) Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Comment:
The height (including the number of levels) of the development overall in particular along the eastern boundary is not acceptable in terms of residential amenity impacts. The proposal does not respond to its context. Concern has been raised in relation to density which results in an overdevelopment. Whilst setbacks allow for landscape areas, entrances and deep-soil zones, the height along the eastern boundary does not provide a satisfactory visual transition between a five storey residential flat building development and adjoining detached single/double storey dwellings. The proposed buildings that face this boundary will have a row of balconies on each level contributes to the scale concerns and involving privacy impacts.

(iii) Built Form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:
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 and height which results in an overdevelopment.

(iv) Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

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

(v) Resources, Energy and Water Efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Comment:
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. The proposal should be redesign to require further rainwater tanks to comply with Council's DCP. Amended plans can be submitted to comply.

(vi) Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Comment:
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

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Comment:
The building design compromises privacy of future residents given the building transition and number of storey concerns.

(viii) Safety and Security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment:
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. The basement car parks have been appropriately designed and appropriate conditions of consent can be imposed to further assist in the promotion of safety and security.

(ix) Social Dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New developments should 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.

Comment:

The location of this development provides numerous dwellings within a precinct that will provide in the future, a range of support services. Council on 9 September 2014 adopted The Hills Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings which introduced new development standards in relation to unit floor areas and mix. This was an attempt to ensure that an appropriate provision of unit types and sizes in the Shire. The standards seek to allow for types of units to be offered to the residents of the Shire who vary in size in particular. Compliance with the above standards are discussed under Section 2(f) of this report and it is considered that the applicant has not adequately dealt with this issue.

(x) Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

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

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

ITEM	GUIDELINE	COMMENT	COMPLIES
Part1 Local Context			
Context	**Local Context** - • Undertake a local context analysis.	Not adequately addressed in the SEE and drawings submitted with the Development Application.	See comments under i.- context of this section of this report.
	Residential Flat Building Types - • Tower apartments are best used where higher densities are desired; provide for strong urban forms and precincts; and mixed uses at lower levels.	Urban form consistent with those envisaged in the DCP and nearby locality.	Transition is an issue.
	Building Height - • Test height controls against the FSR and the proposed number of storeys and minimum ceiling heights.	Does not comply with height and number of stories. Adequacy of justification tested.	There are breaches with the 16m height development standard. A written justification using Cl. 4.6 of LEP 2012 to this standard has been submitted. The number of storeys along the eastern boundary is not supported.
	Building Depth - • An apartment building depth of 10-18 metres is appropriate. Developments that proposed wider than 18 metres must demonstrate how satisfactory daylighting	Maximum depths of 20m.	The depth arises due to the double loaded corridor arrangements. The proposed building depth itself does not compromise the amenity of

	and natural ventilation are to be achieved.		individual units. The building is also well articulated.
	Building Separation - Increase building separation distances as building height increases as follows: Up to four storeys: • 12m between habitable rooms/balconies. • 9m between habitable rooms/balconies and non-habitable rooms. • 6m between non-habitable rooms. Up to five to eight storeys: • 18m between habitable rooms/balconies. • 13m between habitable rooms/balconies and non-habitable rooms. • 9m between non-habitable rooms. Nine storeys and above: • 24m between habitable rooms/balconies. • 18m between habitable rooms/balconies and non-habitable rooms. • 12m between non-habitable rooms.	Proposed buildings are five storeys. The development includes balconies within the 12m of individual buildings. The separation between the 5th storey levels is not addressed. Building separation to adjoining buildings not adequately addressed.	Variation to building separation adds to the overdeveloped nature and visual impact of the development.
	Street Setbacks - • Identify desired streetscape character. • Minimise overshadowing of street and buildings. • Consider secondary upper level setbacks to reinforce desired scale of buildings on the street. • Underground parking structures, awnings and balconies may encroach on the setback.	Front setback is 10m which complies with DCP.	Yes.
	Side and Rear Setbacks - • To retain or create rhythm or pattern of development that positively defines the streetscape so that	Min. 8m side setbacks Rear – Min. 6.863m to RE1 boundary and basement car park located outside the building zone area.	See section 2(a) of this report for discussion on setbacks.

	space is not just what is left over around the building form. • Consider building separation, open space and soil zones. • Relate setbacks to existing streetscape pattern.	Suitable perimeter plantings and deep soil to provide buffer to adjacent buildings	
	Floor Space Ratio - • Height, setbacks and FSR are to be consistent.	No FSR requirement. Minor breaches to height. Does not comply with max. density requirements.	No – see sections 1 and 2(b) and (c) of this report regarding height and density.
Part 2 Site Design			
Site Analysis	• Site analysis to include plans and sections of the existing features of the site, and written description.	Included and site analysis materials submitted. Details on the exact built form of adjoining developments provided however transition is a concern.	The proposed building transition between the development and the adjoining development to the east is not supported.
Site Configuration	**Deep Soil Zones -** • Optimise provision of deep soil zones. • Support a rich variety of vegetation type and size. • Increase permeability of paved areas. • 25% of open space to be deep soil zone.	Large deep soil areas provided around basement. Largest deep soil areas around boundary. 27% site is deep soil. Common open space is centrally located and due to basement below is not deep soil except at the periphery of the common open space. However, centrally within the common open space is a large landscaped area with soil depths above the car park sufficient for sufficient landscape planting.	Yes
	Fence and Walls - • Respond to character of street and area. • Delineate private and public domain without compromising safety and security. • Contribute to amenity, beauty and usability of private and communal open spaces.	Adequate fencing details provided.	Yes

	• Retain and enhance amenity of public domain by avoiding continuous lengths of blank walls and using planting to soften the edges and reduce their scale. • Select durable materials which are easily cleaned and graffiti resistant.		
	Landscape Design - • Improve amenity of open space with landscape design, including shade and screening. • Contribute to streetscape and public domain. • Improve energy efficiency and solar efficiency of dwellings and microclimate of private open spaces. • Design landscape with regard to site characteristics. • Contribute to water and stormwater efficiency. • Provide sufficient depth of soil above pavers. • Minimise maintenance by robust landscape elements.	Landscape design is suitable. Central communal areas provided between dwellings. Open palisade fence allows site landscape to connect to adjacent public open space to be conditioned should approval be granted. Landscape plan and location of deep soil contributes to water infiltration. Native species and low water species are proposed to reduce water consumption and maintenance.	Yes
	Open Space - • Provide communal open space which is appropriate and relevant to the context and building setting. • Facilitate the use of communal open space by solar access, site features, and minimise overshadowing. • Provide private open space for each apartment. • Local open space to increase residential amenity. • Provide environmental benefits including habitat, microclimate, rainwater, percolation, outdoor drying area.	Communal open space detailed on landscape drawings. Will receive ample solar access. The central communal area is centrally placed. The total communal area is at least 30% of site. The private open space for ground level units are a min. 12.84m² and up. DCP only requires 12m². Above ground balconies achieve the min. 10m² as required by DCP. Min. 4m dimension achieved.	Yes

	• Communal open space should be 25-30% of site area. • Minimum private open space for each apartment is 25m^2 at ground level/above podium with minimum dimension of 4m.		
	Orientation - • Orient buildings to maximise north facing walls and provide adequate building separation. • Respond to streetscape and optimise solar access. • Courtyards and setbacks to northern boundaries. • Optimise solar access to living spaces and private open space by orienting them to the north. • Building elements to maximise sun in winter and shade in summer.	All units have good solar access. The site has a north-south axis and buildings appropriately orientated.	Yes
	Planting on Structures - • Design for optimum plant growth by appropriate soil and drainage conditions. • Design planters to support soil depth and plant selection.	Landscape drawings show soil depth and mix of planting over structures. The landscape plan establishes sufficient soil on the basement slab to ensure planting and basement setbacks are maintained in key locations to allow for mature planting.	Yes
	Stormwater Management - • Retain stormwater on site. • Protect stormwater quality. • Control erosion. • Consider using grey water for site irrigation.	Satisfactory subject to conditions however insufficient information provided.	Further information required for any conditions to be imposed.
Site Amenity	**Safety -** • Delineate private and public space. • Optimise visibility, functionality and safety of building entrances. • Improve opportunities	Clear delineation provided from entry gates to principal building entries. Passive surveillance well provided.	Yes – subject to NSW Police recommendations being conditioned in any consent.

	for casual surveillance. • Minimise opportunities for concealment. • Control access to the development.	Controlled access from entry gates.	
	Visual Privacy - • Maximise visual privacy between adjoining buildings by separation, setbacks and site layout. • Design layouts to minimise direct overlooking of rooms and private open spaces. • Use site and building design elements to increase privacy without compromising light and air access.	Extensive rows of balconies face side boundaries. There is substantial landscaping and privacy screens proposed on east elevations.	There is a substantial visual impact onto the eastern adjoining allotment.
Site Access	**Building Entry -** • Improve presentation to street by entry treatment. • Direct connection and clear transition between street and entry. • Ensure equal access for all. • Provide safe and secure access. • Separate building entry from car parks. • Design entries/circulation to allow furniture movement. • Provide mailboxes to be convenient, but not clutter the appearance of the development from the street.	Satisfactory	Yes
	Parking - • Determine car spaces by access to public transport, density and ability to accommodate on site. • Limit visitor spaces, where impact on landscape and open space is significant. • Give preference to underground parking. • Provide bicycle parking which is easily	544 car parking spaces provided with the amended plans and 551 spaces provided in the original plans. 540 spaces required. Underground and at-ground parking provided. Bicycle and motor bike parking provided.	Yes

	accessible.		
	Pedestrian Access - • Accessible routes to public and semi-public areas. • Promote equity by entry location and ramps. • Ground floor apartments to be accessible from the street and associated open space. • Maximise number of accessible, visitable and adaptable apartments in a building. • Barrier free access to at least 20% of dwellings.	Level access provided from front and rear gates to building entrances and communal open space. Ground floor apartments accessible shown. Barrier free access provided to all units.	Yes
	Vehicle Access - • Ensure adequate separation between vehicle entries and street intersections. • Optimise opportunities for active street frontages and streetscape design. • Improve appearance of car parking entries. • Limit vehicle entries away from pedestrian entries and on secondary frontages.	Vehicle ingress and egress can occur in a forward direction. Entry/exit for cars meets sight line requirements.	Yes
Part 3 Building Design			
Building Configuration	**Apartment Layout -** • Determine apartment sizes in relation to location, market, spatial configuration and affordability. • Ensure apartment layouts are resilient over time. • Design layouts to respond to natural and built environments and optimise site opportunities. • Avoid locating kitchen in circulation space. • Include adequate storage in the apartment. • Ensure apartments facilitate furniture	Apartments have been designed to meet SEPP 65/RFDC sizes for all units. 1 BR and 2 BR units meet Council apartment sizes. All units have good solar access, have efficient i.e. not wasteful layouts. All room sizes are suitable. Most kitchens are within 8m of windows. Single aspect units >8m in width but achieve good amenity.	Yes

	removal and placement. • Single aspect apartments should be limited in depth to 8m from a window. Buildings not meeting this standard must demonstrate how satisfactory daylight and natural ventilation can be achieved. • Kitchen to be maximum of 8m from window. • Cross over or cross through apartments >15m deep to have minimum width of 4m.		
	Apartment Mix - • Provide variety of apartments in larger buildings. • Refine appropriate mix by considering population trends and proximity to transport, employment and services. • Locate mix of 1 and 3 bed units on ground floor to enable access by disabled, elderly and families. • Optimise accessible and adaptable apartments.	Apartment mix is: 120 2 bedroom units 180 1 bedroom units No three bedroom units are proposed. Mixture of 1 and 2 bedroom units are located on the ground level. Accessible units are to be distributed through buildings and are included on the ground level. An access report was provided with the original submission.	See comments under 2(f) of the report.
	Balconies - • Provide at least one primary balcony. • Primary balconies to be adjacent to living area. • Consider secondary balconies in larger apartments, adjacent to bedrooms and for clothes drying. • Balconies to respond to local climate and context, solar access, wind and privacy. • Design balustrades to allow views and casual	Balconies provided adjacent to all living spaces. Ground floor units have good on-grade access as well as solar access. Balustrades are solid. Shading devices are employed. Balconies are generally 2.5m wide (minimum dimension), some are wider. Double aspect units	Yes

	surveillance, while providing safety and privacy. • Co-ordinate and integrate building services with façade and balcony design. • Primary balcony to have minimum depth of 2m.	contain multiple balconies which further enhances the amenity of the unit.	
	Ceiling Heights - • Co-ordinate internal ceiling heights and slab levels with external height requirements. • Minimum floor to ceiling height of 2.7m. • Variations to demonstrate satisfactory daylight.	Minimum ceiling height is 2.7m.	Yes
	Flexibility - • Provide robust building configurations which utilise multiple building entries and circulation cores. • Promote accessibility and adaptability by accessible and visitable apartments and pedestrian access.	Buildings have main entrances as well as secondary entrances. Buildings provide disabled access.	Yes
	Internal Circulation - • Increase amenity and safety by generous widths, lighting, minimising lengths, avoiding tight corners, legible signage and adequate ventilation. • Support better apartment layouts by designing buildings with multiple cores. • Articulate longer corridors by using series of foyer areas and windows along or at end of window. • Minimise maintenance and maintain durability by using robust materials in common circulation areas.	Internal corridors are a min. 1.5m wide. Internal corridors are relatively short and the maximum number of units off a single core is three.	Yes
	Storage - • 50% of storage to be within apartment and accessible from hall or	Storage areas are placed in basement and ancillary areas within some units.	Storage space within basement not individually dedicated.

	living area and dedicated storage rooms on each floor and car parks. • Storage to be suitable for local area and able to accommodate larger items (e.g. bicycles) • Ensure storage is secure for individual use.		
Building Amenity	**Acoustic Privacy -** • Maximise acoustic privacy by adequate separation. • Internal layout to separate noise from quite areas by grouping bedrooms and service areas. • Resolve conflicts between noise, outlook and views by design measures, such as double glazing. • Reduce noise transmission from common corridors. • Provide seals to entry doors.	Acoustic privacy achieved	Yes
	Daylight Access - • Orient building to optimise northern aspect. • Ensure daylight access to communal open space March-September and shade in summer. • Optimise apartments receiving daylight access to habitable rooms and principal windows. • Design for shading and glare control. • Living rooms and private open space of at least 70% of apartments should receive 3 hours direct sunlight between 9am and 3pm in mid-winter. • Limit single aspect apartments with a southerly aspect to a maximum of 10% of	91.9% of units have 2 hours solar access in midwinter to living rooms and balconies. The 3 hour component not addressed. The communal areas have good balance of solar access and shade year round. There are no south-facing single aspect units in the development.	Proposal appears to be satisfactory when assessed against the submitted hourly shadow diagrams however the 3 hour component not addressed.

	total units.		
	Natural Ventilation - • Promote and guide natural breezes. • Utilise building layout and section to increase potential for natural ventilation. • Internal layout to minimise disruptions and group rooms with similar usage together. • Select doors and operable windows to utilise air pressure or windows to funnel breezes. • Co-ordinate design with passive solar design. • Explore innovative technologies to ventilate rooms. • 10-18m of building depth recommended for natural ventilation. • 60% of units to be naturally cross ventilated. • 25% of kitchens to have access to natural ventilation.	68% of units are naturally cross-ventilated. 50% of kitchens are immediately adjacent to windows. Maximum building depth is approx. 22.2m. Single aspect units all face east and west. Other kitchens are generally within 8m of the primary glass line.	Yes – with the exception to building depth however a compliant BASIX certificate demonstrates good energy outcomes.
Building Form	**Awnings and Signage -** • Locate awnings over building entries. • Enhance safety by providing lighting.	Building entries are covered.	Yes – capable of being conditioned.
	Facades - • Consider relationship between building form and façade or building elements. • Facades to have appropriate scale, rhythm and proportion responding to use and desired character. • Facades to reflect orientation of site using sun shading devices. • Express important corners by giving visual prominence to parts of the façade. • Co-ordinate and integrate building services and utility	As shown in the submitted photomontages the buildings are well articulated and proportioned. Wall surfaces are broken up and balconies enhance the facades.	Yes

	items.		
	Roof Design - • Relate roof design to desired built form. • Relate to size and scale of building, elevations, building form. • Respond to orientation of site. • Minimise visual intrusiveness of service elements. • Facilitate use of roof for sustainable functions.	Skillion type roofs which contribute to the maximum height and number of storeys proposed.	See height discussions under sections 1 and 2(b) of this report.
Building Performance	**Energy Efficiency -** • Incorporate passive solar design to optimise heat storage in winter and heat transfer in summer. • Improve control of mechanical heating and cooling. • Plan for photovoltaic panels. • Improve hot water system efficiency. • Reduce reliance on artificial lighting. • Maximise efficiency of household appliances.	Buildings have good passive design. Apartments have good access to natural daylight. BASIX Certificate submitted with the Development Application meets the criteria.	Yes
	Maintenance - • Design windows to enable internal cleaning. • Select manually operated systems, such as blinds. • Incorporate and integrate building maintenance systems into the design of the building form, roof and façade. • Select durable materials which are easily cleaned. • Select appropriate landscape elements and vegetation and provide appropriate irrigation systems. • Provide garden maintenance and storage area.	Principal windows have easy access for cleaning. Exterior materials are masonry and painted render. Landscape areas are accessible for maintenance.	Yes

	Waste Management - • Incorporate existing built elements where possible. • Recycle and reuse demolished materials. • Specify building materials that can be reused or recycled. • Integrate waste management into all stages of project. • Support waste management by specifying project needs and reducing waste by using standard product sizes. • Prepare waste management plan. • Locate storage areas for bins away from street frontage. • Provide waste cupboards or temporary storage area. • Incorporate on-site composting where possible.	A Waste Management Plan has been submitted with the application. Waste areas provided however the waste arrangements in term of collection have not been assessed to be satisfactory at this stage.	Further information required for any conditions to be imposed.
	Water Conservation - • Use AAA rated appliances. • Encourage use of rainwater tanks. • Collect, store and use rainwater on site. • Incorporate local native vegetation in landscape. • Consider grey water recycling.	BASIX Certificate covers water related strategies. Landscape plan includes native species.	Yes

4. Issues raised in Submissions

The proposal was placed on public exhibition and 25 submissions have been received. The table below addresses the issues raised. The application was renotified when amended plans were submitted and one submission was received.

ISSUE/OBJECTION	COMMENT	OUTCOME
Urban Design The development site is zoned R4 High Density Residential. The site is adjacent to land zoned R3 Medium Density Residential to the east and R2 Low Density Residential to the south. The SEPP	The proposal is not supported from a building transition perspective. A row of five storey component all along the eastern boundary which will adjoin one and two storey detached dwellings is not a satisfactory	Recommendation for refusal.

65 Design Verification Statement states that the proposed built form softens the transition from low/medium to high density zones. This is not the case. On the eastern adjoining property, there is an approval to construct an integrated housing development containing 44 dwellings. At the boundary, there are six single storey dwelling houses and one double storey dwelling. These dwellings are set back between 900mm - 6m to the boundary. Construction of four x five storey buildings with a height in excess of 16m and located 8m from that boundary is proposed. Each of the buildings is orientated towards that boundary. Although the applicant is seeking an exemption under Clause 4.6 of the LEP to the height standard, the applicant's reasoning of low lying topography and the applicant's desire to vary the roof structure forms are not strong enough. The development is contrary to good urban design and to DCP 2012.	urban design outcome. An improved transition is recommended through a reduction of levels or a stepping of development between three and five storey buildings throughout the development site.	
There are inadequate side setbacks and lack of a transition between the proposal and adjoining developments. The design has sought to maximise the development potential of the site to the detriment of the streetscape and to adjoining allotments. The planning principle found in *Seaside Property Development Pty Ltd v Wyong Shire Council* is largely adopted by Part 3.9 of DCP 2012 Part B Section 5 – Residential Flat Buildings in relation to development at zone interfaces. The development should be reduced in height to no more than three stories to provide a more appropriate transition rather than pushing the limits at the boundary of two different zones.	Whilst the applicant attempted to address these concerns by increasing setbacks, replanned top floor layouts, cutting back the overhang roof and recomposing the eastern facades did assist however it is considered that the amendments did not fully resolve the building transition concerns. As a result, the variations to height and number of storey requirements are not supported in this instance. The proposal represents an overdevelopment as further demonstrated by the variation to maximum density requirements.	Recommendation for refusal.
The development makes no provision for increased setbacks to accommodate the endangered ecological community (Cumberland Plain Woodland) which exists on the eastern portion of the site. There is no	A flora/fauna and arborist report was requested from the applicant and to date has not been submitted.	Recommendation for refusal.

provision for increased setbacks pursuant to Part 3.3 of the DCP.		
Visual Impact The four buildings at the boundary are non-compliant with the maximum number of storeys and building length development standards resulting in a poor visual outlook for future residences. The visual bulk is overwhelming and excessive contrary to Part 3.7 of the DCP and will affect amenity levels for future residents.	A maximum five storey development at this location is not supported and not envisaged for the area. The proposed variation to building length also adds to the overdeveloped nature of the proposal. A development such as this will bring in a visual change which is considered to be unsatisfactory in the changing context of the locality.	Recommendation for refusal.
Privacy The height, setback and orientation of the development will result in significant overlooking to adjoining dwelling houses. Blocks B, D, F and G have balconies and floor to ceiling windows facing the side boundary. Impacts are not internalised and would not comply with minimum separation distances established by AMCORD. The overlooking will be extensive as it will occur from five levels and from four buildings. Views into principle living and private open space areas will occur.	The applicant is relying on the provision of operable louvre and boundary landscape screening. Whilst these measures might assist it is recommended that an improved building transition be employed to improve privacy levels.	Recommendation for refusal.
Solar Access The shadow diagrams indicate afternoon overshadowing to the adjoining eastern allotment. The plans fail to depict approved dwellings or the location of their private open space areas in particular adjacent to the boundary. The plans do not show the location and nature of fencing or indicate horizontal/vertical impacts of the development upon approved structures. The overshadowing will adversely impact upon the enjoyment of future residents and upon solar panels which are to be installed upon all western orientated roofs.	The submitted shadow diagrams have been assessed and are satisfactory in relation to impacts onto adjoining properties.	Issue addressed.
Traffic The increase in residents will affect the performance of the local road network in particular the intersection of Balmoral Road and Old Windsor Road and Hector Circuit and Memorial Avenue. The existing traffic conditions are unsuitable for a development of this scale and would result in	Council's Traffic Projects Officer has assessed the subject Development Application and raised no objections subject to a condition. It is recommended that the applicant construct the proposed roundabout at the intersection of Balmoral Road and Free Settlers Drive as a condition of consent under a	Issue addressed.

unsafe driving conditions.	works in kind agreement with Council.	
Flooding The site is subject to a 1:100 flooding event. The construction of a basement level subject to flooding is inappropriate and could affect the safety of residents and their property. The application does not address the safety of residents during flood. The extensive built form in the floodway may result in disturbances to adjoining land.	Council's Subdivision and Waterways Sections are assessed this component of the proposal and require further details. It is envisaged that the proposal could be designed in a way that would address these concerns.	Issue addressed.
State Government Strategic Planning LEP 2005 was amended to rezone the Balmoral Road Release Area. From the subject site up to the creek line was rezoned to high density to support the original Kellyville station and town centre as part of the North West Rail Link. The proposed station location has been moved from between Balmoral Road and Burns Road (now Memorial Avenue) to Samantha Riley Drive on Old Windsor Road. The proposed Bella Vista station is not located within the Balmoral Road Release Area nor is it in close proximity to the subject site. The relocation of the proposed stations reduces the need and justification of high density zones between Balmoral and Memorial Avenue.	The station at Bella Vista is considered to be in reasonable proximity to the subject site. The proposal has been designed that provides 544 car parking spaces that comply with Council's DCP for parking.	Issue addressed.
Inadequate Information The Statement of Environmental Effects (SEE) fails to have regard to the zone interfaces and makes no reference to the development approved under Development Consent No. 921/2013/ZE. The full implications of the development are not considered. Having failed to appreciate the development occurring on the adjoining property, the request to vary the height standard is not well founded or that it demonstrates that requiring compliance with the development standard is 'unreasonable or unnecessary'.	The applicant has attempted to address the inadequacies however the proposal is not supported.	Issue addressed.

ENGINEERING COMMENTS

Council's Development Engineer has assessed the proposal and has requested additional information in relation to flooding, basement car parking design and public road design issues. In particular the sag point in the private road is a flooding issue and is not an acceptable design. The architectural drawings do not match the engineering plans.

WATERWAYS COMMENTS

Council's Waterways section assessed the subject proposal from a flooding perspective and stated that there are discrepancies between the MUSIC model, engineering plans and storm water management plan.

RESOURCE RECOVERY COMMENTS

Council's Resource Recovery Projects Officer has assessed and additional information is requested in relation to resolving vehicular conflicts between parking spaces and waste collection points. This issue has not been fully addressed by the applicant.

PARKS COMMENTS

Council's Parks section has assessed the subject proposal and raised no objections in relation to the relationship of the development with the RE1 zoned portion of the site including future easements, acquisition and access requirements (subject to no steps between the reserve and the development).

PROPERTY COMMENTS

Council's Property Manager has assessed the proposal and raised no objections subject to when the plan of subdivision is lodged that the public recreation land is created as a separate lot and has suitable access.

TREE MANAGEMENT COMMENTS

Council's Senior Tree Management Officer has assessed the proposal and requested submission of a flora/fauna and arborist report. This issue has not been addressed by the applicant.

ENVIRONMENTAL HEALTH & SUSTAINABILITY COMMENTS

Council's Environmental Health Coordinator has assessed the proposal and requested submission of a preliminary contamination site investigation and salinity assessment report. This issue has not been addressed by the applicant.

ROADS & MARITIME SERVICES COMMENTS

The subject Development Application was referred to the NSW Roads and Maritime Services (RMS) pursuant to the provisions of Clause 104 of the Infrastructure SEPP. The RMS in their correspondence of 22 April 2014 recommended a condition in relation to submission of a construction traffic management plan.

NSW POLICE COMMENTS

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) factors that should be considered in this development in relation to surveillance, lighting and technical

supervision, territorial reinforcement, environmental maintenance, access control and other matters.

SYDNEY WATER COMMENTS

Sydney Water has assessed the proposal and made comments in relation to water, wastewater, recycled water and stormwater matters to be considered by Council. Further information is required in relation to stormwater.

CONCLUSION

The proposal has been assessed against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy 65, The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered to be unsatisfactory in particular in relation to building transition and representing an overdevelopment of the subject site.

The proposal is not considered to be supportable as it will pose detrimental impacts on the eastern adjoining premises. The issues raised in the submissions have been addressed in the body of the report.

It is recommended that the subject Development Application be refused.

IMPACTS:

Financial

This application is subject to a Class 1 Appeal which will incur legal costs if defended.

The Hills Future - Community Strategic Plan

The Hills Future Community Strategic Plan outlines the aspirations of community residents for The Hills Shire region. Desired community outcomes include balanced urban growth, vibrant communities and a protected environment. The social and environmental impacts have been identified and addressed in the report and are inconsistent with the outcomes of The Hills Future Community Strategic Plan.

RECOMMENDATION

The subject Development Application be refused on the following grounds:

1. The development is an overdevelopment on the site and is inconsistent with the following aims and objectives of Local Environment Plan 2012:
    - To guide the orderly and sustainable development of The Hills, balancing its economic, environmental and social needs.
    - To provide strategic direction and urban and rural land use management for the benefit of the community.
    - To provide for the development of communities that are liveable, vibrant and safe and that have services and facilities that meet their needs.

    (Section 79C1(a)(i),(b),(c) and (e) of the Environmental Planning and Assessment Act, 1979).

2. The variation under Clause 4.3 – Height of buildings is not supported due a building transition containing a row of five storey buildings on the subject site along the eastern boundary and adjoining one/two storey detached dwellings to the east and is inconsistent with its objectives of:

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

(Section 79C1(a)(i),(b),(c) and (e) of the Environmental Planning and Assessment Act, 1979).

3. The development does not comply with the following requirements of DCP 2012 Part B Section 5 – Residential Flat Buildings:
   - Building height (number of storeys).
   - Building separation and treatment.
   - Building length.
   - Density.
   - Unit layout and design.
   - Storage.
   - Pedestrian/bicycle links.
   - Services.

   The proposed development in particular five storey building along the eastern boundary is considered unsatisfactory, resulting in a poor level of amenity for future residents to the east. The development has internal impacts which will affect the amenity of future residents. The development does not satisfy aims (i), (ii), (iii) and (iii) of the DCP.
   (Section 79C(a)(iii), (b),(c) and (e) of the Environmental Planning and Assessment Act 1979).

4. The development does not comply with the following requirement of DCP 2012 Part D Section 7 – Balmoral Road Release Area:
   - Stormwater management.

   The proposed development requires the minimum cumulative storage capacity of a stormwater management system to be 20,000 litres per residential flat building which is not achieved in the present circumstances.

5. The proposal does not comply or address the following requirements State Environmental Planning Policy No. 65 and the Residential Flat Design Code of State with respect to:
   - Context (inappropriate building transition).
   - Scale (inappropriate height, number of stories and built form).
   - Density (development exceeds maximum population density).
   - Amenity (overdeveloped nature will affect the amenity of future residents to the east and within the development).
   - Social dimension and housing affordability (the development contains only one and two bedroom units)
   - Local context (building transition, building height and separation).
   - Site design (extensive visual impacts).
   - Building design (containing only one and two bedroom units).
   - Daylight access (living rooms and private open space areas of at least 70% of apartments receiving three hours of sunlight).
   - Building separation between the development and adjoining buildings to the east.
   - Building separation between the fifth storey levels of the development.

   (Section 79C(a)(i), (b),(c) and (e) of the Environmental Planning and Assessment Act 1979).

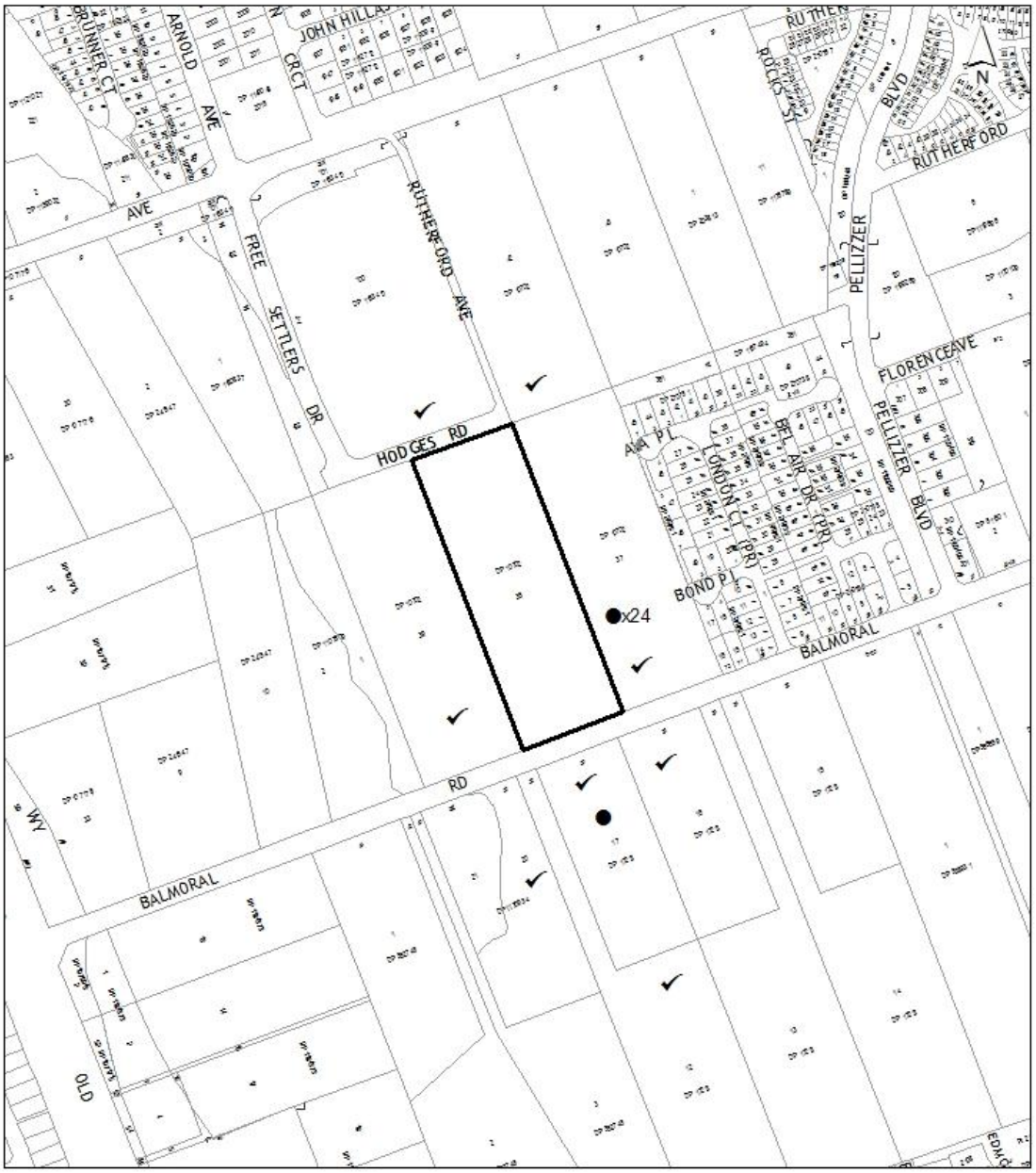
5. The proposal will unreasonably add the intensity, bulk and scale of the development resulting in an overdevelopment of the site. The development will have an unreasonable visual impact upon future adjoining development in particular the adjoining eastern allotment.
   (Section 79C(1)(a)(iii),(b),(c) and (e) of the Environmental Planning and Assessment Act, 1979).

6. Inadequate information has been provided to address flora/fauna, tree management, waste management, engineering, flooding, contamination and salinity, specifically:
    - The presence of a critically endangered ecological community – Cumberland Plain Woodland and the applicant intends to offset the loss of this portion of CEEC given the proposed landscaping with species selected from this vegetation type is alone, not sufficient to offset the loss.
    - No submission of a flora/fauna report.
    - An amended arborist report is required as ground truthing has indicated that there are more trees present than stipulated in the original report.
    - Vehicular conflict between car parking spaces and waste collection points.
    - Adequate storage for waste and recycling has not been provided.
    - Submission of a preliminary site investigation.
    - Submission of a salinity assessment.
    - The sag point in the private road is a flooding issue and is to be designed out.
    - There are discrepancies between the MUSIC model, engineering plans and stormwater management plan.
    - The architectural drawings do not match the engineering plans.
    - The engineering plans require additional amendments in relation to car park and basement design.
    - Disabled car parking spaces are located in areas that are not in the close vicinity to lift entry points. Locating disabled car spaces in areas that require disabled persons to cross the access ramp negotiating the oncoming vehicles is not supported.
    - Public road falls are to be 3%
    - The verge on Balmoral Road to be constructed 4.5m wide
    - Footpaths are to be 1.2m wide rather than 1.5m wide

ATTACHMENTS

1. Locality Plan
2. Zoning Plan
3. Aerial Photograph
4. Site Plan
5. Elevations
6. Sections
7. Landscaping Plans
8. Shadow Diagrams
9. Photomontage
10. Approved Development To The East

ATTACHMENT 1 – LOCALITY PLAN



SUBJECT SITE

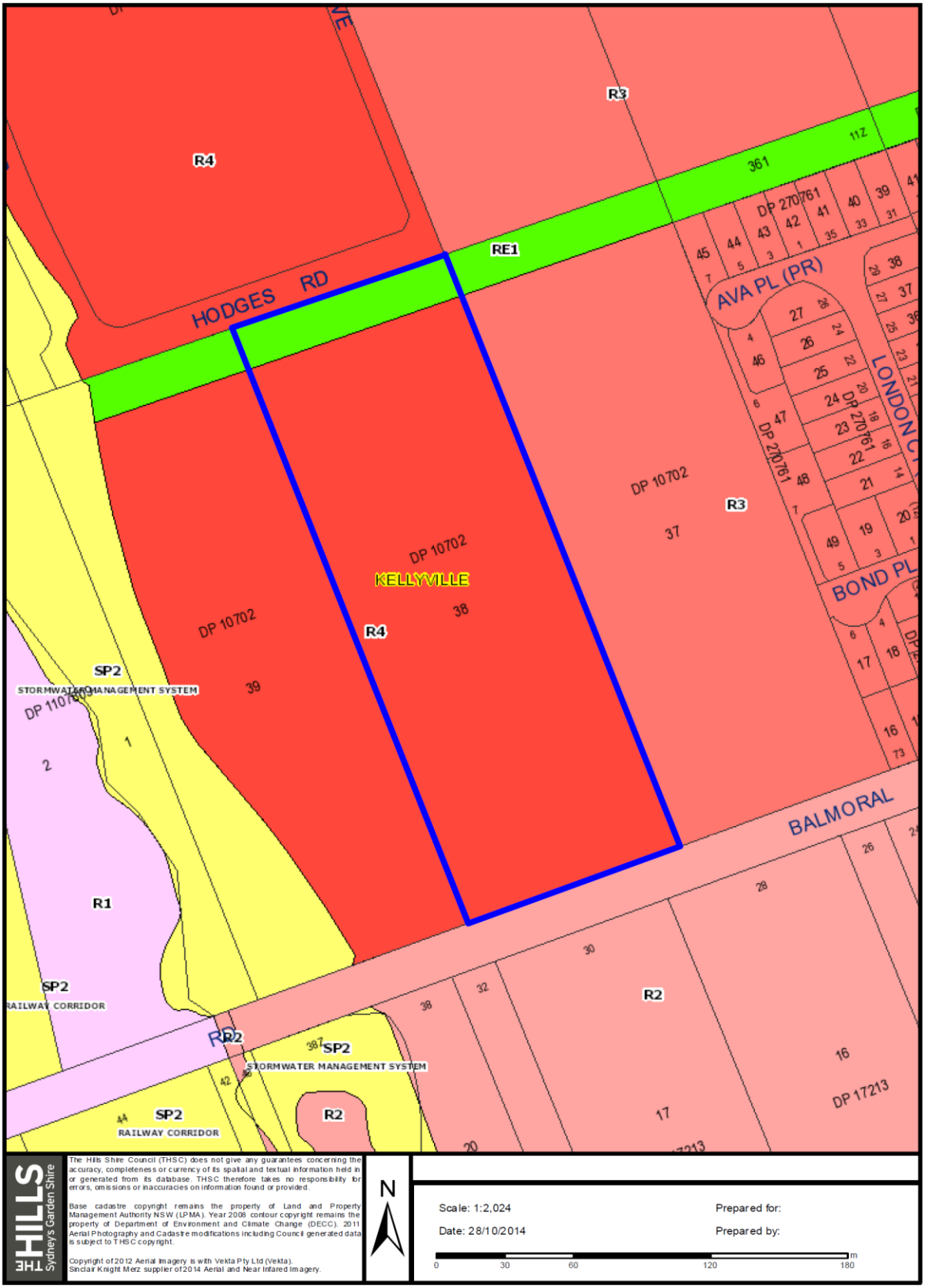
✓ PROPERTIES NOTIFIED

● SUBMISSIONS RECEIVED

THE HILLS Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

ATTACHMENT 2 – ZONING PLAN

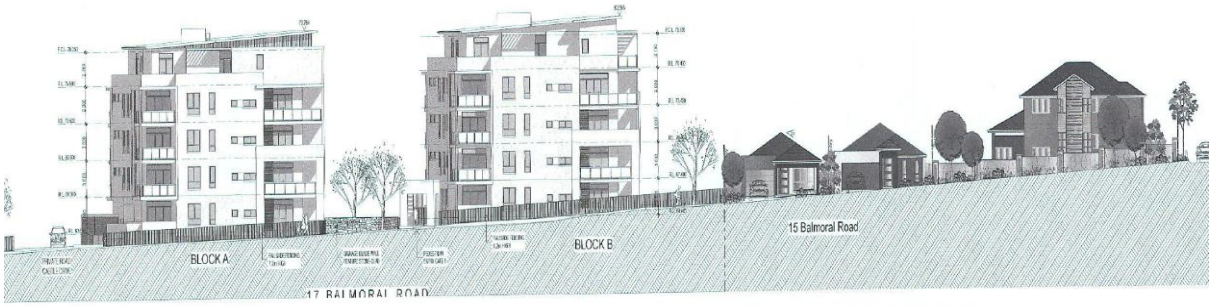


ATTACHMENT 3 – AERIAL PHOTOGRAPH

ATTACHMENT 4 – SITE PLAN

ATTACHMENT 5 – ELEVATIONS

1 North Elevation
Scale 1:200 @ A1
Scale 1:400 @ A3



2 South Elevation & Street Elevation - Balmoral Road
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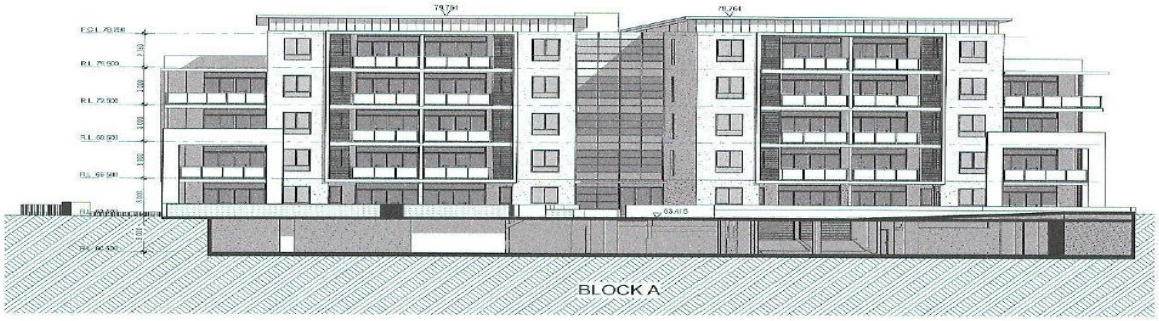
Scale 1:400 @ A3

1 West Elevation - Block A
Scale 1:200 @ A1
Scale 1:400 @ A3



2 East Elevation - Block A
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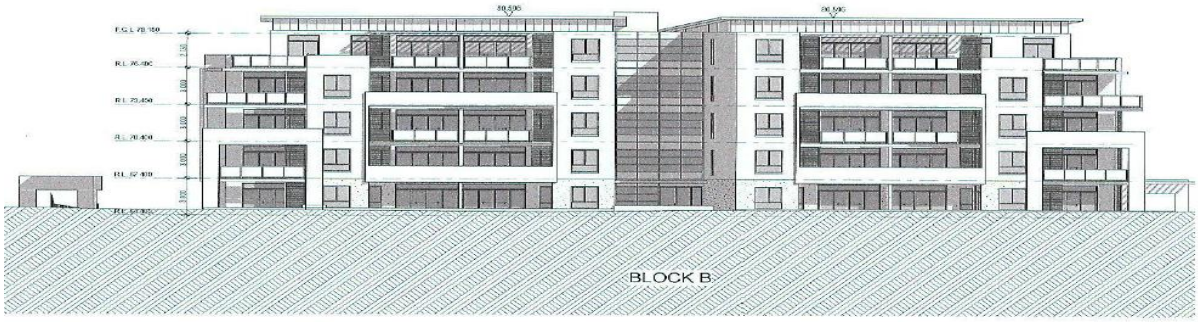

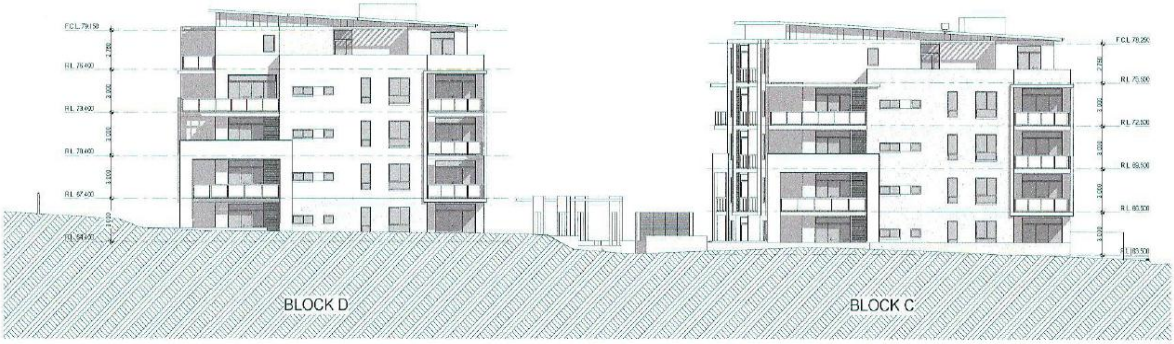

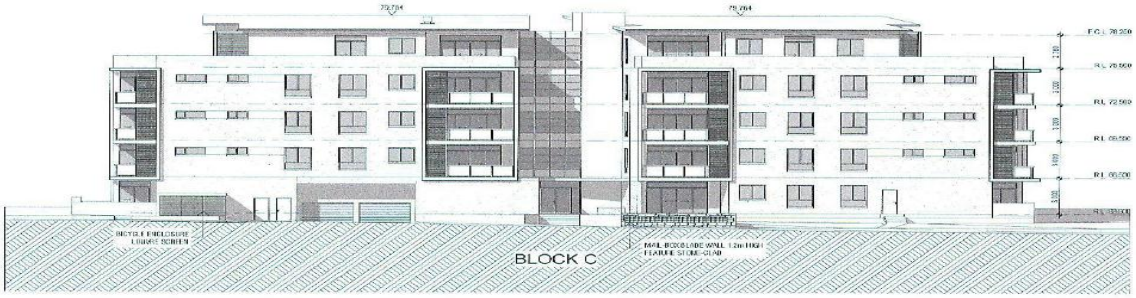

1 West Elevation - Block C
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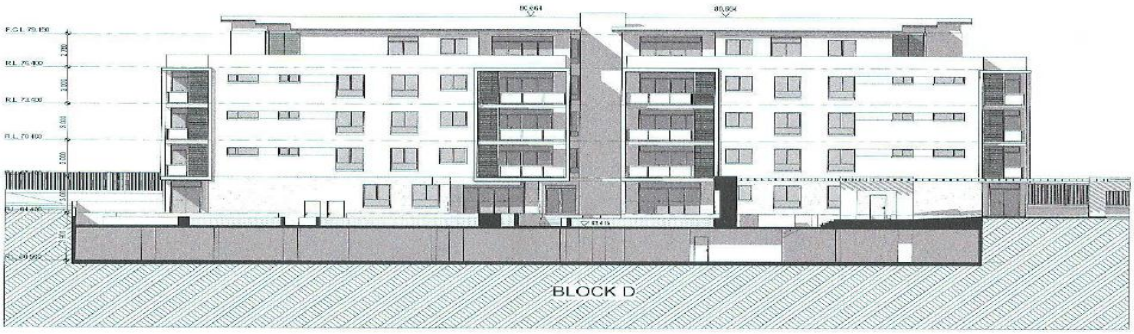

2 East Elevation - Block C
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1 West Elevation - Block E
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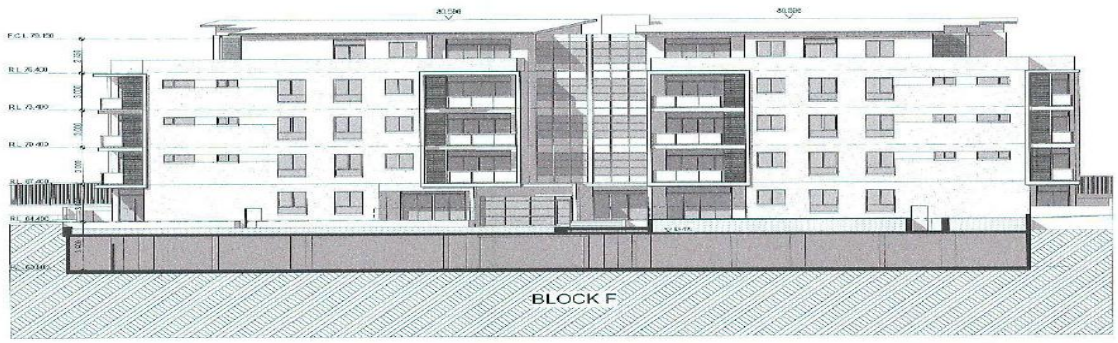
Scale 1:400 @ A3



3 West Elevation - Block F
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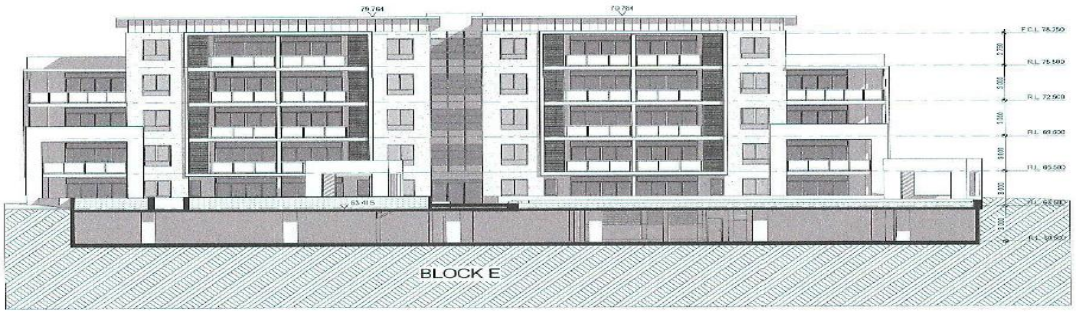

2 East Elevation - Block E
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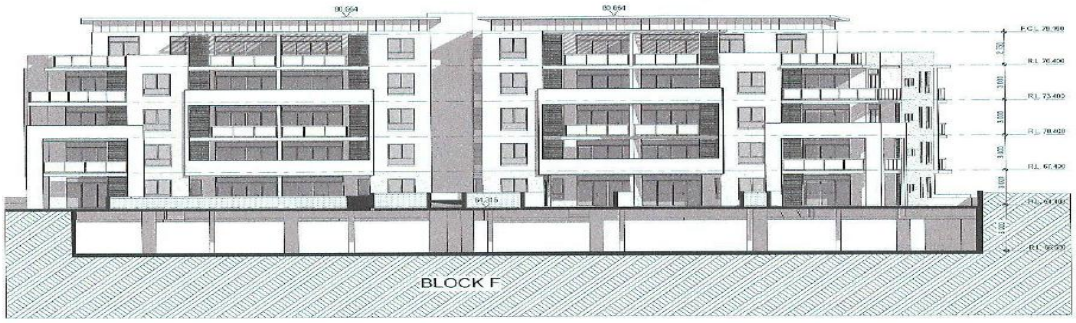

1 West Elevation - Block G
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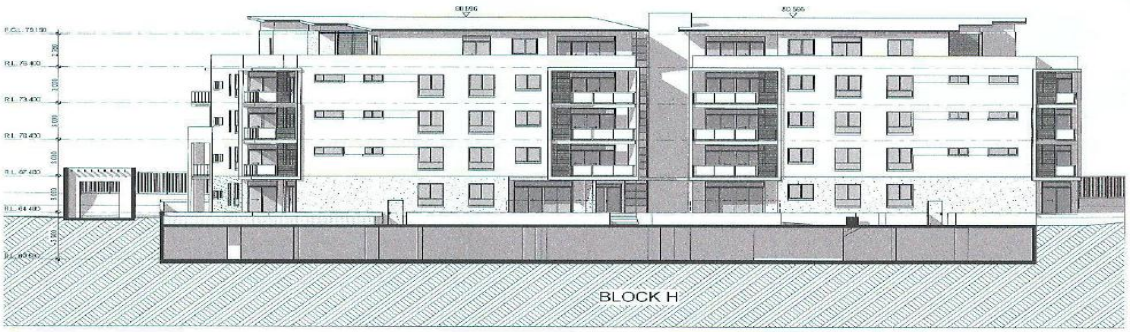
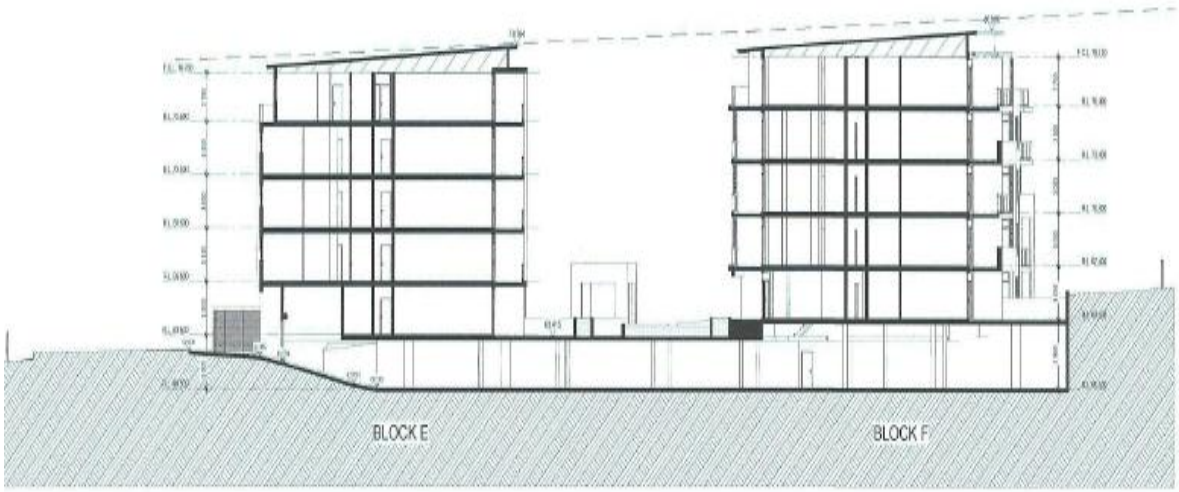
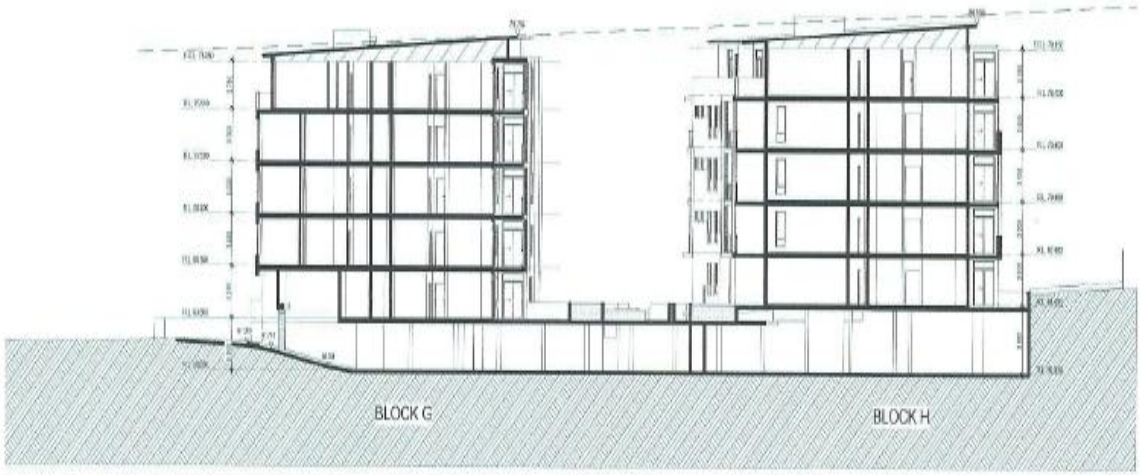


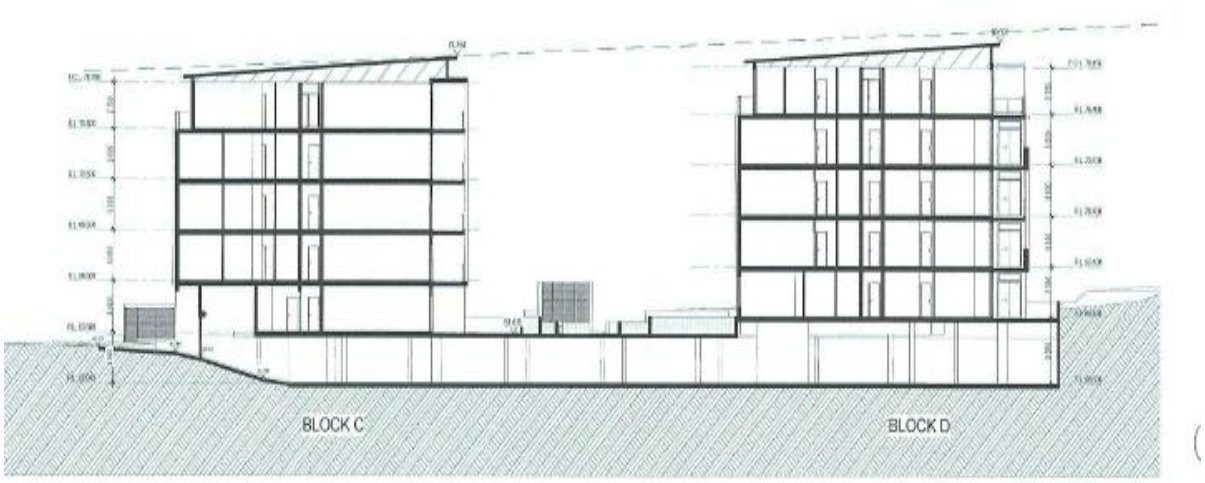
2 East Elevation - Block G
Scale 1:200 @ A1
Scale 1:400 @ A3

ATTACHMENT 6 – SECTIONS

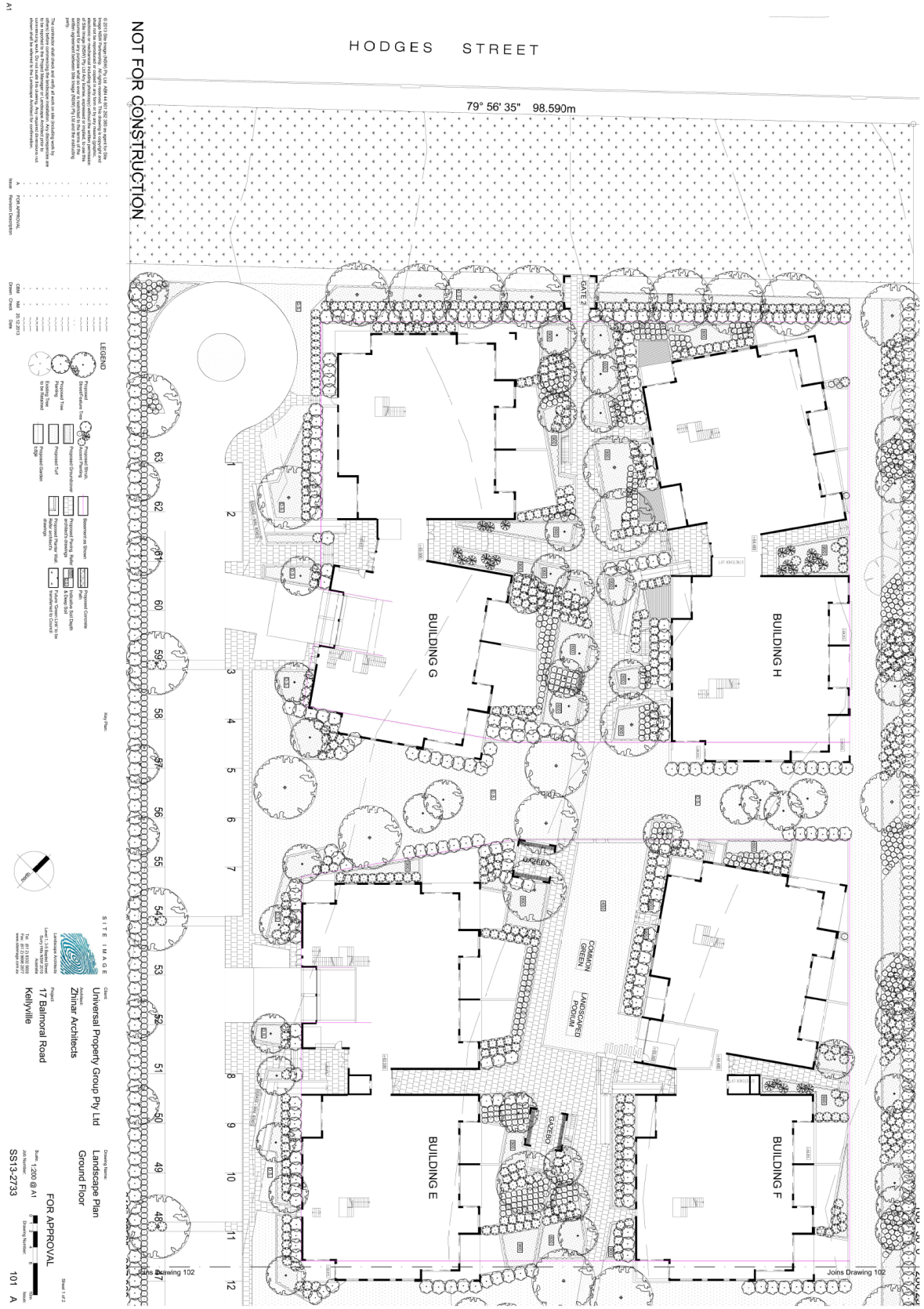




ATTACHMENT 6 – SECTIONS



ATTACHMENT 7 – LANDSCAPE PLANS


NOT FOR CONSTRUCTION
HODGES STREET
79° 56' 35" 98.590m
GATE 2
BUILDING G
BUILDING H
BUILDING E
BUILDING F
GAZEBO
COMMON GREEN
LANDSCAPED PODIUM
Joins Drawing 102
Joins Drawing 102
LEGEND
FOR APPROVAL
Universal Property Group Pty Ltd
Zhinar Architects
17 Balmoral Road
Kellyville
Landscape Plan
Ground Floor
FOR APPROVAL
SS13-2733
101
A


HODGES STREET
BALMORAL ROAD
NEW PRIVATE ROAD (TBN: CASTLE DRIVE)

9AM


HODGES STREET
BALMORAL ROAD
NEW PRIVATE ROAD (TBN: CASTLE DRIVE)

12PM


BLOCK H
BLOCK F
BLOCK D
BLOCK B
BLOCK G
BLOCK E
BLOCK C
BLOCK A
NEW PRIVATE ROAD (TBN 'CASTLE DRIVE')
BALMORAL ROAD

3PM

ATTACHMENT 9 – PHOTOMONTAGE

ATTACHMENT 10 – APPROVED DEVELOPMENT TO THE EAST