

## JOINT REGIONAL PLANNING PANEL (Sydney West Region)

<b>JRPP No</b>	2014SYW058
<b>DA Number</b>	DA 1336/2012/JP/A
<b>Local Government Area</b>	THE HILLS SHIRE COUNCIL
<b>Proposed Development</b>	S. 96(2) MODIFICATION TO AN APPROVED MIXED USE DEVELOPMENT
<b>Street Address</b>	Lot E DP 399088, NO. 2-4 BARRY ROAD, KELLYVILLE
<b>Applicant</b>	RESTIFA AND PARTNERS
<b>Number of Submissions</b>	NIL
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	S. 96(2) MODIFICATION TO A DEVELOPMENT EXCEEDING \$20 MILLION
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• LEP 2012</li> <li>• SEPP Sydney Region Growth Centres 2006 (North Kellyville)</li> <li>• SEPP 65 Design Quality of Residential Flat Buildings</li> <li>• SEPP Building Sustainability Index BASIX 2004</li> <li>• SREP 20 – Hawkesbury Nepean River</li> <li>• Residential Flat Design Code</li> <li>• DCP North Kellyville</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	NIL
<b>Recommendation</b>	Approval subject to modified conditions
<b>Report by</b>	Kristine McKenzie PRINCIPAL EXECUTIVE PLANNER

### EXECUTIVE SUMMARY

Development Consent was granted by the JRPP on 20 December 2012 for a mixed use development comprising retail, commercial and residential development. The proposed Section 96(2) Modification Application seeks to increase the number of residential units on what is known as Site 2 (See Attachment 4) from 124 to 169 and increase the residential parking from 241 to 343 spaces. The applicant also seeks to amend the staging of the development.

The proposal includes a variation to the 16 metre height limit under SEPP Sydney Region Growth Centres. The original approval permitted a maximum height above the SEPP limit for these buildings to 2.54 metres. The current proposal does not seek to increase the height above the previous approval. The proposed development will increase and 'relocate' some areas of the original height variation which are due to the relocation of rooftop structures such as lift cores and plant rooms. The proposed height variation is considered satisfactory given the location of the site which is surrounded by future public roads.

The proposal has also been assessed having regard to the requirements of DCP North Kellyville, SEPP 65 and the Residential Flat Design Code and is considered satisfactory. The proposal includes minor variations to the Residential Flat Design Code to cross ventilation and single aspect units. Cross-flow ventilation was varied for the original application however the amended layout has increased the number of units complying with the SEPP criteria. The number of single aspect units has increased from the original proposal and is a variation for this proposal. The design of the units is considered satisfactory and will result in a reasonable built form outcome.

The increased unit numbers have been primarily achieved through changes to the unit types and mix and an amended floor plate. The design also incorporates an additional basement level of parking for the increased unit numbers.

The proposal was exhibited and notified to adjoining property owners on two occasions and no submissions were received.

In the absence of the JRPP process, this matter would be determined at a Council meeting due to the variation to the height standard.

## BACKGROUND

## MANDATORY REQUIREMENTS

Owner:	J Polito	1.	<u>SEPP Sydney Region Growth Centres (North Kellyville) 2006</u> - Variations required, see report.
Zoning:	B2 Local Centre, R2 Low Density Residential, R3 Medium Density Residential, SP2 Infrastructure and RE1 Public Recreation	2.	<u>SEPP 65 Design Quality of Residential Flat Buildings</u> - Satisfactory.
Area:	41,120m <sup>2</sup> (entire site) 8140m <sup>2</sup> (subject component)	3.	<u>SEPP Building Sustainability Index BASIX 2004</u> - Satisfactory.
Existing Development:	Dwelling, Market Garden and Nursery	4.	<u>DCP North Kellyville</u> - Variations required, see report.
		5.	<u>Section 79C (EP&amp;A Act)</u> - Satisfactory.
		6.	<u>Section 94 Contribution</u> - Yes, currently \$6,582,523.52

## SUBMISSIONS

## REASON FOR REFERRAL TO JRPP

1. Exhibition:	Yes, 30 days.	1.	S. 96(2) Modification to a development exceeding \$20 million
2. Notice Adj Owners:	Yes, 30 days.		
3. Number Advised:	26, including the Hills District Historical Society.		
4. Submissions Received:	Nil		

## HISTORY

- 20/12/2012** Development Consent 1336/2012/JP granted by the JRPP for a mixed use development comprising retail, commercial and residential units.
- 27/09/2013** Development Consent granted under Delegated Authority to subdivide the site into four lots (DA 180/2014/ZB). Site 2 was referred to as 'proposed lot 2' and was approved to have a lot area of 8140m<sup>2</sup>. This subdivision has not yet been registered.
- 30/04/2014** Subject Section 96(2) Modification Application lodged.
- 05/06/2014** Letter sent to the applicant requesting additional information regarding The submission of a request for a written variation under the provisions of Clause 4.6 of SEPP (Sydney Region Growth Centres) 2006 in relation to the variation to height, a written assessment addressing the requirements of Development Control Plan North Kellyville Section 4 – Residential Development, the submission of details addressing SEPP 65 and the RFDC in regard to daylight access in relation to the number of single aspect units and natural cross ventilation, waste information and details regarding driveway ramp access and width of a parking aisle.
- 10/07/2014** Additional information submitted by the applicant.
- 30/07/2014** Email sent to the applicant requesting additional information regarding height and setbacks.
- 06/08/2014** Additional information submitted by the applicant.

## PROPOSAL

Development Consent was granted by the JRPP for a mixed use development comprising retail, commercial and residential units on 20 December 2012. The works were approved to be constructed in four stages and included the following:

- Retail and commercial component with a gross floor area of 10,375m<sup>2</sup>;
- 274 residential apartments;
- 930 car parking spaces will be provided to cater for all proposed uses; and
- A park with an area of 4261m<sup>2</sup>.

The proposal also included the construction and dedication of public roads.

The proposal, in broad terms, comprised:

- Development of Site 1 for a mixed use building (retail/commercial/residential);
- Development of Site 2 for residential use (apartment buildings);
- Development of Site 3 as open space;
- Associated infrastructure and public domain works; and
- Use of the supermarket tenancy.

The Section 96(2) Modification Application seeks to amend the approved apartment buildings on Site 2. The approved form of these units is two separate apartment buildings separated by a common open space area.

The modifications are:

- An increase in the total number of apartments from 124 to 169, being an increase of 45 units; and
- An increase in the total number of parking spaces from 241 to 343 spaces, being an increase of 102 spaces.

The approved unit mix on Site 2 was as follows:

1 Bedroom - 20 (16%)  
2 Bedroom - 73 (59%)  
3 Bedroom - 31 (25%)

The proposed mix on Site 2 is as follows:

1 Bedroom - 67 (39.6%)  
2 Bedroom - 92 (54.4%)  
3 Bedroom - 10 (6%)

It is noted that the applicant only seeks to amend the apartment component on Site 2. The original development also includes 150 units on Site 1 which was a mixed use component comprising retail, commercial and residential units. When considered holistically across the 319 residential units, the development as a whole comprises the following mix:

1 bedroom - 88 (27.6%)  
2 bedroom - 181 (56.7%)  
3 bedroom - 50 (15.7%)

New criteria has recently been incorporated into various DCPs relating to residential apartment mix. It may be noted that the new controls do not relate to North Kellyville, however the above mix is generally reflective of the new controls and is in keeping with the desired future development of the Shire.

The application also amends ancillary components of the development in relation to external design to facilitate the additional units and includes the installation of solar panels on the roof of the apartment buildings.

In addition, the applicant has sought to amend the approved staging of the development. The approved staging was as follows:

- Stage 1 – subdivision, services and infrastructure, open space, road and drainage works;
- Stage 2 – all site 1 works with the exception of apartment blocks C1, C2 and D;
- Stage 3 – site 1 apartment blocks C1, C2 and D; and
- Stage 4 – all site 2 works.

The proposed staging is:

- Stage 1 - Subdivision, site services and infrastructure, road works and OSD basin.
- Stage 2A - Site 2 - All basement parking, the whole of the podium and apartment Block E.



- Stage 2B – Site 2 - Apartment Blocks F1 and F2.
- Stage 3 – Site 1 - All works up to the podium level for the whole of the site including all basement parking, retail/commercial tenancies, loading docks and the like.
- Stage 4 – Site 1 - Apartment Blocks A1 and A2.
- Stage 5 – Site 1 - Apartment Block B.
- Stage 6 – Site 1 - Apartment Blocks C1 and C2.
- Stage 7 - Site 1 - Apartment Block D.

Attachment 6 shows the proposed staging plan.

Further, the applicant seeks to have an additional condition of consent imposed regarding the payment of the Special Infrastructure Contribution.

## **ISSUES FOR CONSIDERATION**

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

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

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

The original development had a capital investment value of \$137,575,000 and was determined by the Joint Regional Planning Panel.

The JRPP are also responsible for determining applications to modify a consent for regionally significant development under Section 96(2) of the EP&A Act. The current modification application has been lodged under the provisions of Section 96(2) of the EP and A Act, 1979 and as such is required to be determined by the Panel.

### **2. Compliance with Requirements of SEPP (Sydney Region Growth Centres) 2006**

The proposed modifications have been assessed under the provisions of the principal development standards of the SEPP:

<b>CLAUSE</b>	<b>REQUIRED</b>	<b>PROVIDED</b>	<b>COMPLIES</b>
4.1 Minimum subdivision lot size	1500m <sup>2</sup> (relates to Site 2 only)	There is no subdivision proposed with this application however the approved preceding subdivision for Site 2 has approved a lot area of 8,140m <sup>2</sup> .	Yes
4.1A Minimum lot sizes for other development	Apartment buildings 4000m <sup>2</sup>	There is no subdivision proposed with this application however the approved preceding subdivision for Site 2 has approved a lot area of	Yes

		8,140m <sup>2</sup> .	
4.1B Residential density	Subdivision of land must not occur unless a DCP has been prepared which will not impede the provision of 4500 dwellings in the precinct.	There is no subdivision proposed with this application.	Yes
4.3 Height of buildings	16 metres	The original approval allowed a height variation for these buildings varying from 1.87m – 2.54m. The proposal will increase and 'relocate' some areas of the original height variation. The height is consistent with the original approval.	No – see comments below.
4.4 Floor space ratio	1:1 (relates to Site 1 only and only applies to the commercial/retail component)	Not applicable to the modification application for Site 2.	NA
4.5 Calculation of floor space ratio and site area	Sets criteria for calculation of floor space ratio and site area	Not applicable to the modification application for Site 2.	NA
4.5A Business, office and retail floor area	The total gross floor area used for the purposes of business, office and retail premises on all land in the Zone B2 Local Centre must not exceed 15,000m <sup>2</sup> .	Not applicable to the modification application for Site 2.	NA
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	Variation proposed to height which is addressed below.	Yes

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.

#### **a. Variation to Height**

SEPP Sydney Region Growth Centres 2006 limits the height of the development to 16 metres. As detailed above, the original proposal permitted a variation to the height of the subject buildings by up to 2.54 metres. The proposal does not seek to increase the height of the buildings but rather it increases the extent of the building which projects above 16 metres. Attachment 5 shows the approved and proposed height and the additional area of roof which exceeds the height limit.

The applicant has submitted the following as justification:

*The plans accompanying the section 96 application do not alter the maximum building heights established under Development Consent 1336/2012. However the amended plans do alter the extent of the building which projects above the 16m Precinct Plan height standard. This circumstance relates only to the rooftop structures associated with mechanical plant and equipment.*

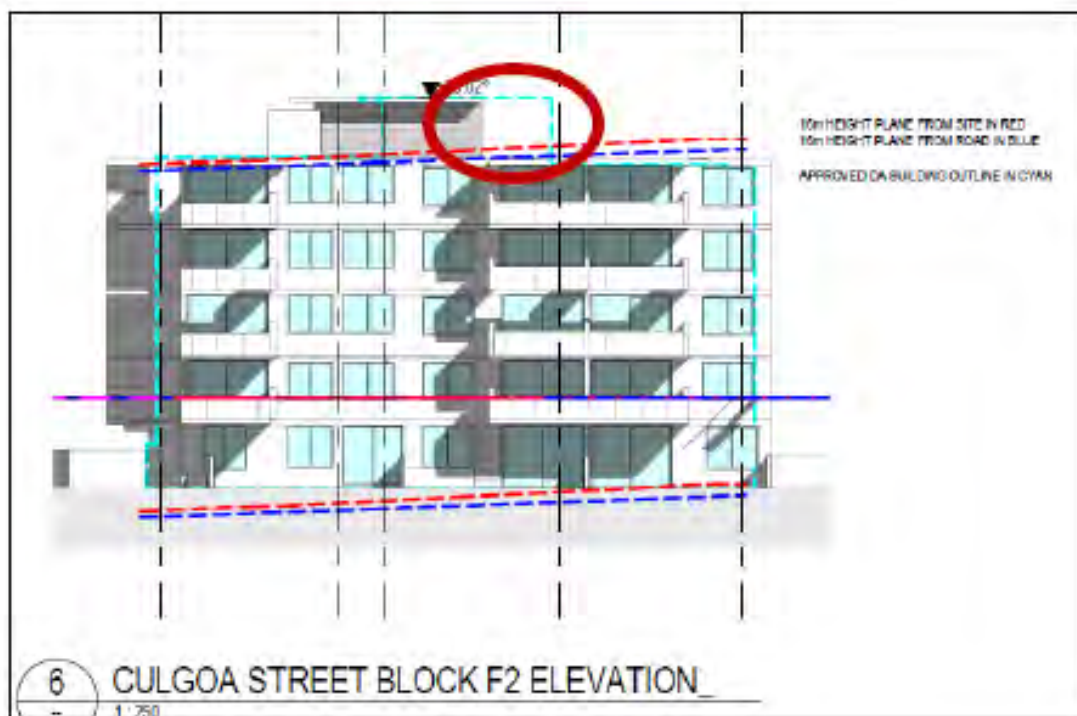
*The extent to which it is proposed to alter these approved rooftop structures is noted below:*

- *Block E - Size increased by 72m<sup>2</sup> to the south to integrate 2 x lift cores, and repositioned slightly to the east;*
- *Block F1 - Size increased by 12m<sup>2</sup>; and*
- *Block F2 - Size reduced by 15m<sup>2</sup> and repositioned slightly to the east.*

*The images below are extracts and highlight the changes to the rooftop plant rooms.*

(The light blue line shows the approved buiding outline, the red line shows the 16m SEPP height limit and the dark blue line shows the 16m height limit from the road).





***Why compliance with the standard is unreasonable and unnecessary in this instance***

*The principles underpinning the building height control in clause 4.3 of the Precinct Plan are:*

- (a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*
- (b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,*
- (c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,*
- (d) to provide appropriate height controls for commercial development,*
- (e) to restrict the height of buildings within the curtilage of heritage items*

*Consistency with those objectives and the absence of any environmental impacts would demonstrate that strict compliance with the height standard would be both unreasonable and unnecessary in this instance.*

*The contentions below demonstrate how this proposal is consistent with the objectives in clause 4.3:*

*Objective (a) - To preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*

*Response - The minor adjustment to rooftop structures will not result in any adverse impacts for adjacent residential areas in terms of overshadowing, overlooking, visual intrusion or loss of views.*

*These rooftop structures were always part of the approved building - they have simply been altered as necessary as a consequence of the general design amendments which are the subject of the section 96 application.*

*Objective (b) - To provide for a range of residential building heights in appropriate locations that provide a high quality urban form*

*Response - The approved building heights do not alter. The proposed amendments to the rooftop structures are minor in scope and lack any amenity or built form impacts. Consequently this objective is not undermined.*

*Objective (c) - To facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas.*

*Response - The minor adjustment to rooftop structures will not result in any adverse impacts for adjacent residential areas in terms of overshadowing, overlooking, or loss of views.*

*Objective (d) - To provide appropriate height controls for commercial development*

*Response -Not applicable*

*Objective (e) - To restrict the height of buildings within the curtilage of heritage items.*

*Response - The building is about 315m distant from the heritage item at No.45 Hezlett Road, a dwelling house ('Yalta'). The physical separation between the two sites, and the intervening, approved development for Site 1 of DA 1336/2012 is sufficient to ensure the heritage values, setting and context of 'Yalta' would not be diminished despite the extent to which the rooftop structures of Site 2 of DA 1336/2012 are proposed to now exceed the 16m building height standard.*

### **What are the environmental planning grounds to justify the variation?**

*The following contentions are provided in support of this submission to vary the 16m height control in this particular instance:*

- The desired future character of the locality, and the contemplated built form, are still achieved;*
- Amenity is not compromised for the residential or public domain components of the development;*
- No adverse outcomes arise for the natural or built environment, or adjacent sites ;*
- The objectives of the height standard, and the zone objectives, are achieved; and*
- No adverse outcomes result for the capacity of infrastructure and services.*

### **Is the proposal in the public interest?**

*Subclause (4) of clause 4.6 of the Precinct Plan requires consideration of the proposal's consistency with both the objectives of the standard, and the objectives of the zone which apply to the site.*

*Our assessment of consistency with the objectives underpinning the standard is provided at section 6.1 above. Consideration of consistency with the objectives for the R3 Medium Density Residential zone is addressed below:*

#### **R3 MEDIUM DENSITY RESIDENTIAL ZONE OBJECTIVES**

*The objectives for this zone are provided within the Land Use Table of the North Kellyville Precinct Plan, are considered below:*

*To provide for the housing needs of the community within a medium density residential environment.*

*Response - The proposal provides a supply of 169 dwellings into the local housing market, consistent with Metropolitan and subregional strategies which promote the supply of a significant majority of the region's housing demand in established areas and growth centres.*

*To provide a variety of housing types within a medium density residential environment.*

*Response - The proposal involves a mix of apartment sizes, including 1, 2, and 3 bedrooms which provides for housing choice and optimises affordability.*

*To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

*Response - Not applicable.*

*To encourage medium density housing adjoining the North Kellyville Local Centre.*

*Response - The development proposed for Site 2 adjoins that part of the site which is designed at the town centre (i.e. site 1 - zoned B2 Local centre). The development of a residential flat building on Site 2 is consistent with this objective.*

*To support the well-being of the community, including educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.*

*Response - Not applicable.*

*To allow for low density tourist and visitor accommodation that does not interfere with residential amenity.*

*Response - Not applicable.*

*There is no public benefit in maintaining strict compliance with the development standard in this instance given:*

- The departure from the height control within North Kellyville Precinct Plan will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment; and*
- The departure from the height control within the North Kellyville Precinct Plan allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls.*

*The proposal does not strictly comply with the maximum height standard prescribed by Clause 4.3(2) of the North Kellyville Precinct Plan.*

*The plans accompanying the section 96 application do not alter the maximum building heights established under Development Consent 1336/2012. However the amended plans do alter the extent of the building which projects above the 16m height standard. This circumstance relates only to the rooftop structures associated with mechanical plant and equipment.*

*Having reviewed the possible effects arising from this non-compliance we are satisfied the objectives of clause 4.6 of the Precinct Plan are satisfied, requiring only limited flexibility in the application of that standard to accommodate the minor elements of the project which exceed the height limit.*

*The possible effects arising from this non-compliance have been evaluated against all planning controls and objectives applying to the site and that analysis concludes this proposal will not result in any adverse built form, heritage, public domain, amenity or environmental outcomes.*

*Consequently we contend that strict compliance with this development standard is unreasonable and unnecessary in this particular instance and that the use of clause 4.6 of Precinct Plan to vary this development control is appropriate in this instance.*

**Comment:**

The objectives of the SEPP are:

- (a) *to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*
- (b) *to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,*
- (c) *to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,*
- (d) *to provide appropriate height controls for commercial development,*
- (e) *to restrict the height of buildings within the curtilage of heritage items.*

The objectives of the DCP are:

- 1. *To ensure development is appropriately scaled to suit the dwellings context and its scale.*
- 2. *To ensure building heights achieve built form outcomes that reinforce quality urban and building design.*

The proposed extent of the height increase is considered to be negligible. The increase is minor and will not be perceived by persons viewing the development or create any adverse additional shadow impact. In this regard the height does not exceed the original approved height of the buildings.

The proposed height of the buildings is considered satisfactory given that the site is surrounded by proposed and future roads. As such the development is separated from adjoining sites in terms of its location. The separation to adjoining future development will reduce the potential for impacts to adjoining development.

Clause 4.6 (4) of the SEPP states:

***Development 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*

Comment: The applicant has adequately addressed the matters required to be addressed by subclause (3).

- (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*

Comment: As detailed above, the proposal is an appropriate development outcome in regard to public interest and is consistent with the objectives of the zone.

- (b) *the concurrence of the Director-General has been obtained.*

Comment: Council has assumed concurrence under the provisions of Circular PS 08-003 issued by the Department of Planning and infrastructure.



Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

### 3. Compliance with Development Control Plan North Kellyville

#### a. DCP Residential Development Requirements

The following table addresses the requirements of Section 4 - Residential Development in regard to the Site 2 residential flat building component. It may be noted that the original approval permitted a variation to setbacks. In this regard the building façade was set back 4.5m however the articulation zone setbacks varied down to 1.2 metres. The proposed plans indicate the same setbacks variation as has been previously approved.

Clause	Required	Provided	Satisfactory
2.4 Density	In the R3 zone, a minimum density of 20 dwellings/hectare, with no maximum density.	16.2 dwellings are required, with 169 proposed.	Yes
4.1 Housing Types	4000m <sup>2</sup> lot size and minimum frontage of 50m.	In accordance with the approved subdivision, Site 2 will have an area of 8140m <sup>2</sup> and a frontage to Road No. 1 of 138.27m, Road No. 2 of 63.14m (including splay corners), Road No. 3 of 137.54m and Barry Road of 59.25m (including splay corners).	Yes
4.2.1 Front Setbacks	All retail and commercial buildings in the centres are to have a zero front setback.	There is no change proposed to the approved setbacks.	Yes
	In mixed use buildings the residential floors must be set back as shown in Figure 26, being 4m.	NA to Site 2.	NA
	Apartment buildings in the <b>'Ridge' character area (Site 2)</b> are to have a 4.5m setback to the building façade line with a 3.5m setback for the articulation zone.	The original approval allowed a variation to the articulation zones down to 1.2 metres. The same setbacks are proposed in the modified design.	Yes
4.2.2 Side and Rear Setbacks	Two-storey and above - 0m setback for a mixed use development.	N/A as all buildings have frontage to existing or proposed roads.	NA
	Two storey and above – 6m for a residential flat building.	N/A as all buildings have frontage to existing or proposed roads.	NA
4.2.3 Dwelling Massing and Siting	Building heights must be in accordance with Clause 4.3 of Appendix 2 of the State Environmental Planning Policy (Sydney Region Growth Centres 2006 (Amendment No 3). The height limit is 16m.	This matter is addressed above – see comments above in Section 2(a).	No

4.2.4 Site Coverage and Landscape Area for Residential Flat Buildings	Maximum site coverage of 50% and minimum landscape area of 50%.	The proposed site coverage is 39.6% and landscaped area is 58.4%.	Yes
4.3 Architectural Design and Streetscape	All provisions relate to single dwellings.	N/A as all provisions relate to single dwellings.	NA
4.4.1 Private Open Space for Residential Flat Buildings and Mixed Use Development	For dwellings with ground level access, private open space shall be provided with a minimum width of 4m and depth of 3m. This private open space shall be provided within one metre of natural ground and may be included as part of the minimum landscape area requirements.	All units are provided with a private open space area which meets the requirements.	Yes
	Private (ground level) open space areas shall be enclosed with a landscape screen with an effective height of 1.8 metres from the finished ground level.	The proposed landscape plan has been reviewed and adequate privacy will be provided to ground level courtyards.	Yes
	Where direct access to the ground level open space is not possible, provide at least one balcony or terrace for each dwelling, directly accessible from the main living area. Provide an area of private outdoor space of 10m <sup>2</sup> min. per dwelling with a minimum horizontal dimension of 2.4m.	All upper floor units have a private open space area which meets these requirements.	Yes
	At least 50% of all private outdoor space is to receive at least 3 hours of sunlight between 9am and 3pm at the winter solstice (21 June).	All private outdoor areas receive at least 3 hours sunlight.	Yes
4.4.2 Communal open Space for Residential Flat Buildings	Communal open spaces should be located so as to form a focus of the development and provide a landscape buffer between buildings.	The common open space is centrally located and provides a buffer between the development on the site.	Yes
	Communal open spaces shall be private spaces and only accessible to the residents and visitors of the building.	The common open space area is private and for use of residents and visitors.	Yes

	Communal open spaces should provide places and <b>equipment for children's</b> play.	Play equipment, seating and covered areas are provided in the common open space.	Yes
	A minimum of 30% of the site area is to be communal open space.	Site 2 has 2536m <sup>2</sup> which is 31.1%.	Yes
	50% of the communal open space must receive a minimum of 3 hours of sunlight between 9am and 3pm at the winter solstice (21 June).	68% of the common open space achieves the required sunlight.	Yes
	To contribute to passive surveillance of communal open space, fences or other boundary treatments from a dwellings private open space facing into communal open space are to have a maximum total height of 1.4m. The solid component of the boundary treatment is to be a maximum of 1m. Above this, boundary treatments are to be at least 50% visually transparent.	A condition of consent was imposed on the original approval requiring fencing to comply with this requirement.	Yes
4.5.2 Vehicle Access for Residential Flat Buildings and Mixed Use Development	Driveways are to be provided from lanes and secondary streets rather than primary streets, wherever practical. Where access to parking is located on the primary or secondary street frontage, driveways, garaging and entries to car parks are not to exceed 35% of the site frontage.	The proposed vehicle access points are from the secondary roads. There is no vehicle access from Withers Road or Barry Road.	Yes
	Driveways to underground parking are to be designed to ensure minimal visual impact on the street and maximum pedestrian safety. They should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.	The proposed vehicle access points are considered appropriate in number and location and will not unreasonably impact on the residential component.	Yes
	Separate and clearly defined pedestrian access is to be provided to each development.	Appropriate pedestrian access is provided to the development.	Yes
4.5.4 Parking for Residential Flat	On-site vehicle parking to be provided at rate of: 1 space per 1 bedroom unit;	The proposal requires 271 resident spaces and 68 visitor spaces to be provided, being a total of	Yes

Buildings	2 spaces per 2-3 bedroom unit; Visitor parking: add 2 spaces per every 5 units. A minimum of one disabled car space is to be provided for each adaptable dwelling and must comply with the relevant Australian Standard.	339 spaces. The proposed carpark provides 343 spaces.	
	On site bicycle parking: 1 space per 2 units. Visitors: 1 space per 12 units.	99 bicycle parking spaces are required and provided.	Yes
	Basement parking must be provided for Residential Flat Buildings and is encouraged for multi-dwelling developments. Basements are not to be raised more than 1m above ground level.	Basement parking is provided for the residential flat buildings.	Yes
	In the local centre and neighbourhood centres, parking and servicing is to be located to the rear of buildings, or below grade, to minimise impacts on the streetscape and pedestrian amenity.	The car parking areas are provided in basement areas and servicing is provided off a secondary road.	Yes
4.5.5 Site Servicing for Residential Flat Buildings	Garbage, mail box structures, service meters and the like are to be integrated with the overall design of the buildings and/or landscaping. Garbage storage areas are not permitted in front setbacks.	All ancillary services are provided and are satisfactory.	Yes
	Provide communal or individual laundries to every dwelling and at least one external clothes drying area per building.	All units are provided with an internal laundry. Two common clothes lines locations have been provided.	Yes
	Loading facilities must be at the rear of each development.	There is no requirement for loading facilities for the residential flat buildings.	NA
	Service access is permitted from rear lanes, side streets or right of ways.	All access is from secondary roads.	Yes
4.6 Adaptable Housing	10% of all apartments are to be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing	There are 19 adaptable units on Site 2 being 11.2%.	Yes

	Standard (AS 4299-1995).		
	Where possible, adaptable dwellings are to be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.	The adaptable units are provided on all levels however lift access is provided to allow access to both residential levels and basement levels.	Yes
	The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).	A condition was imposed upon the original consent requiring confirmation prior to issue of the Construction Certificate.	Yes
	Car parking and garages allocated to adaptable dwellings must comply with the requirements of the relevant Australian Standard for disabled parking spaces.	All carparking will comply with the relevant Australian Standards.	Yes
4.7 Cut and Fill	DAs are to illustrate where it is necessary to cut and/or fill land and provide justification for the proposed changes to the land levels.	The proposed cut and fill works are satisfactory.	Yes
4.8 Fencing	On corner lots the preferred outcome is for the dwelling to front both street frontages providing a better overall streetscape presentation. Where fencing to the secondary street frontage is proposed, it is not to exceed 1.8m high for more than one third of the length of the secondary road frontage, if relevant.	A condition was imposed on the original consent regarding the provision of fencing to ensure compliance with this standard.	Yes
4.9 Safety and Surveillance	Dwellings should be designed to overlook streets, lanes and other public or communal areas to provide casual	The design of units will allow passive surveillance of the common open space area and adjoining streets.	Yes

	surveillance. In the case of corner lots habitable windows are to be oriented to overlook the side street.		
4.10 Visual and Acoustic Privacy	Direct overlooking of main habitable areas and private open spaces should be minimised through building layout, window and balcony location and design, and the use of screening devices, including landscaping.	The proposed apartment units have been designed with adequate regard to visual and acoustic privacy.	Yes
4.11 Sustainable Building Design	New residential dwellings, including a residential component within a mixed use building and serviced apartments intended or capable of being strata titled are to be accompanied by a BASIX Certificate and are to incorporate all commitments stipulated in the BASIX Certificate.	Updated BASIX Certificates have been submitted and are satisfactory.	Yes

## **b. Character Areas**

The apartment development sits within the 'Ridge' character area under the DCP. The character area is described, in part, as follows:

### **(ii) Ridge Character Area**

*The Ridge Character Area is a suburban residential area located along the ridgeline where land is gently inclined. The Ridge Character Area provides an east-west transition between the gentler slopes along Smalls Creek Character Area and the steeper slopes and denser vegetation in the Environmental Living Character Area. It has good access to main roads and provides views overlooking rural landscapes to the east, and urban areas and the Blue Mountains to the west. The area will have a predominantly low residential density, characterised by one to two storey detached housing with wider setbacks.*

*The public and private domain features include informal native and non-native planting that requires little watering, and attracts native flora and fauna. Verges in the public streetscape are soft landscaped, containing low level ground cover and multiple tree species spaced evenly apart, and often in clusters.*

### **Comment:**

The proposed modifications do not substantially change the built form from that which was originally approved. The following comments were made regarding the assessment of the original application and they remain relevant:

**'The site adjoins both existing and proposed roads and has direct access** to the adjoining local centre development on Site 1. The site is centrally located in regard to retail/commercial development, open space and a future school. It may be noted that this part of the site is zoned R3 Medium Density Residential which permits residential flat building development. In this regard the R3 Medium Density Residential zoning is provided around the local centre to provide a high level of access to retail shops and commercial premises for future residents. Views from the residential flat buildings to the surrounding areas will be achieved'.

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

A Design Verification Statement has been prepared. This statement has addressed the ten (10) matters for consideration under SEPP 65. The relevant rules of thumb of the Residential Flat Design Code are addressed below:

<b>Primary Controls Part 1 – Local Context</b>	<b>Guideline</b>	<b>Compliance</b>
Building Height	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.  Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	Compliance with FSR provided. The submitted design exceeds the SEPP height limit – see Section 2(a) above however is considered satisfactory.
Building Depth	In general, an apartment building depth of 10-18m is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day light and natural ventilation are to be achieved.	The dual aspect units have a depth of 17m and single aspect units 8m. The proposal allows for sufficient day lighting and solar access and through the use of roof top gardens. Natural ventilation will occur throughout the site and accordingly satisfy the aim of the building depth control.
Building Separation	Design and test building separation controls in plan and section.  9 storeys and above: 24m between habitable rooms/balconies 18m between habitable rooms/balconies and non habitable rooms 12m between non habitable rooms.  5 to 8 storeys 18m between habitable rooms/balconies. 13m between habitable rooms/balconies and non-habitable rooms. 9m between non-habitable rooms  Up to 4 storey: 12m between habitable rooms/balconies 9m between habitable/balconies and non-habitable rooms 6m between non-habitable.	A minimum of 18 metres is provided which is adequate separation between buildings.
Street Setbacks	Identify the desired streetscape character, the common setback of	See compliance table in Section 3 above. The

	<p>buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.</p> <p>Test street setbacks with building envelopes and street sections.</p> <p>Test controls for their impact on the scale, proportion and shape of building facades.</p>	<p>proposed street setbacks are considered satisfactory.</p> <p>Buildings are well articulated and in proportion with respect to the locality of the development.</p>
Side and rear setbacks	Relate side setbacks to existing streetscape patterns.	<p>See compliance table in Section 3 above.</p> <p>The area adjoining the site has not been developed however the proposal will be in keeping with future development. Perimeter landscaping is of a high quality. The scale and proportion of the development is satisfactory.</p>
Floor Space ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with building height – building footprint and three dimensional building envelope open space requirements.	The proposal satisfies the required floor space ratio.
<b>Part 2 – Site Design</b>		
<b>Site Configuration</b>		
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	There are no deep soil zones due to the location of the basement parking under. However, Site 2 contains 32% common open landscaping on top the basement which is considered adequate. This is consistent with the original application. In this regard the landscape species chosen comprise a mix of tree, shrub and groundcover planting which will provide a suitable streetscape outcome. The development has adequate stormwater detention tanks and rainwater tanks below ground to cater for run-off.
Open Space	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brownfield sites may have potential for more than 30	Site 2 provides 2620m <sup>2</sup> which is 32% of common open space.



	percent.	
Planting on structures	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. Specific planting sizes are described.	Adequate site landscaping is provided.
<b>Site Amenity</b>		
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	The Castle Hill Police assessed the original proposal and made recommendations. A condition was imposed. There are no changes proposed to the condition.
Visual privacy	Refer to building separation minimum standard.	See above.
<b>Site Access</b>		
Pedestrian access	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p> <p>Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	<p>Ground level entrances provided and lift access to each floor is available from basement level.</p> <p>All works will be carried out in accordance with the BCA.</p> <p>All units are accessible by lift.</p>
Vehicle access	<p>Generally limit the width of driveways to a maximum of 6m.</p> <p>Locate vehicle entries away from main pedestrian entries and on secondary frontages.</p>	Adequate vehicle entry points are provided in accordance with Australian Standards which will not conflict with pedestrian access. Vehicle access is from secondary roads.
<b>Part 3 – Building Design</b>		
<b>Building Configuration</b>		
Apartment layout	<p>Single-aspect apartments should be limited in depth to 8m from a window.</p> <p>The back of a kitchen should be no more than 8m from a window.</p> <p>Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory day light and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation).</p>	<p>Single aspect units are 8m deep and dual aspect units are 17m deep.</p> <p>Satisfactory kitchen locations.</p> <p>Satisfactory day light and natural ventilation provided.</p>
Apartment mix	If Council chooses to standardise apartment sizes, a range of sizes that	A variety of unit sizes has been provided as follows:

	<p>do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability; (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> <li>• 1 bedroom apartment 50 m<sup>2</sup></li> <li>• 2 bedroom apartment 70m<sup>2</sup></li> <li>• 3 bedroom apartment 95m<sup>2</sup></li> </ul>	<p>1 bedroom 64m<sup>2</sup>  2 bedroom 80-98m<sup>2</sup>  3 bedroom 124m<sup>2</sup></p>
Balconies	Provide primary balconies for all apartments with a minimum depth of 2m.	Provided.
Ceiling Heights	Finished floor level to finished ceiling level of 2.7m for living areas and 2.4m to non-habitable areas. These are minimums only and do not preclude higher ceilings, if desired.	Provided.
Ground Floor Apartments	<p>Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</p> <p>Provide ground floor apartments with access to private open space, preferably as a terrace or garden.</p>	Satisfactory ground floor layouts provided.
Internal Circulation	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: for adaptive reuse buildings where developments can demonstrate the achievement of the desired streetscape character and entry response; where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	Proposal designed to maximise residential amenity.
Storage	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>studio apartments 6m<sup>3</sup>;  one-bedroom apartments 6m<sup>3</sup>;  two-bedroom apartments 8m<sup>3</sup>;  three plus bedroom apartments 10m<sup>3</sup>.</p>	Provided as required in units with 50% internal to the unit and 50% within storage areas in the basement parking.
<b>Building Amenity</b>		

Daylight Access	<p>Living rooms and private open space for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.</p> <p>Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).</p>	<p>70.4% of units receive 3 hours direct sunlight.</p> <p>Northern orientation has been maximised.</p> <p>11.2% of units (19 units) on Site 2 are single aspect units.</p>
Natural Ventilation	<p>Building depths, which support natural ventilation typically range from 10m to 18m.</p> <p>Sixty percent (60%) of residential units should be naturally cross-ventilated.</p>	<p>The proposed depths are satisfactory as the development is of a scale that is consistent with the desired existing and future context.</p> <p>The proposal will achieve 56.8% of units with cross-flow ventilation (96 units).</p>
<b>Building Performance</b>		
Waste Management	Supply waste management plan as part of the development application submission as per the NSW Waste Board.	Satisfactory waste management details provided.
Water Conservation	Rainwater is not to be collected from roofs coated with lead or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Satisfactory.

The proposal has also been assessed against the ten design quality principles: context, scale, built form, density, resources, energy and water efficiency, landscape, amenity, safety and security, social dimensions and aesthetics. The proposal is considered satisfactory in regard to the design quality principles.

#### **a. Cross Ventilation and Single Aspect Units**

The SEPP requires the following design which is addressed in relation to the previous approval:

<b>SEPP Criteria</b>	<b>65</b>	<b>SEPP Requirement</b>	<b>65</b>	<b>Approved 1336/2012/JP</b>	<b>Proposed 1336/2012/JP/A</b>	<b>Satisfactory</b>
Cross ventilation		Sixty percent (60%) of residential units should be naturally cross-ventilated.		49% of apartments are cross ventilated (61 out of 124 units).	56.8% of apartments are cross ventilated (96 out of 169 units)	No, however the variation is considered minor given the number of units proposed.
Single aspect units		Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).		8% single aspect, south facing units (10 out of 124 units)	11% single aspect, south facing units. (19 out of 169 units)	No, however the variation is considered satisfactory and appropriate design has been achieved.

The applicant has submitted the following justification:

*It is acknowledged that the revised scheme does not accord with the 'rules of thumb' in the RFDC for matters of cross ventilation and single aspect south facing units. In support of those circumstances the following is provided for Council's consideration:*

**Cross ventilation**

*The figure of 49% cross ventilated apartments achieved with the original DA scheme was noted at that time by Woodhead Architects as being able to be increased to exceed the 60% 'rule of thumb' in the RFDC subject to relying upon measures such as roof vents to top floor apartments and modelling the naturally ventilated corridors to use building side air flow. That approach was accepted by Council.*

*This revised scheme now proposed improves upon the original DA in that 56.8% of apartments are cross ventilated. Woodhead Architects all the corridors will be naturally ventilated with openable windows at the ends to enable cross ventilation throughout. This*

*will be further resolved in the ongoing design development, with the combination of the entry doors and possible ceiling ventilation, subject to detailed fresh air modelling. Once such is completed it is anticipated that the building will be able to significantly exceed the 60% 'rule of thumb' with a total of 157 apartments or 92.8% being cross ventilated.*

#### Single aspect south facing units

*Strict consistency with the RFDC would provide that 17 apartments are single aspect, south facing. This revised scheme proposes 19 such units. In support of the scheme as proposed Woodhead Architects advises:*

- The rectangular site has a relatively elongated configuration in an east-west orientation with a centralised north facing communal open space meaning the apartments would predominantly be either north or south oriented;*
- The introduction of several crossover apartments is intended to minimise the number of single aspect south facing apartments due to this site orientation. However there is a limited number of crossover apartments that can be provided owing to their relative niche market appeal; and*
- All the south facing apartments have their kitchens naturally ventilated being within 8 metres of openable windows, and the provision of naturally ventilated corridors further assists with amenity of these apartments.*

#### **Comment:**

The objectives of the RFDC are:

- To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development.*
- To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours.*
- To provide residents with the ability to adjust the quantity of daylight to suit their needs.*

The proposed design of the units is considered to be satisfactory. The units provide a high level of amenity through their design, location and proximity to future services within the North Kellyville Local Centre.

The units have a satisfactory depth and have balcony and window openings to provide a satisfactory level of natural light and ventilation. The openings provided allow for ambient lighting to the units which can be adjusted if required.

A mix of unit types, sizes and layouts are proposed to provide choice to future residents.

The proposed development is considered to be satisfactory and can be supported.

## **5. Government Authority Comments**

The proposal was referred to the NSW Office of Water, RMS and Rural Fire Service. The following comments were received:

### **a. NSW Office of Water Comments**

The Office of Water advised that there were no changes required to the previous General Terms of Approval for the application.

## **b. RMS Comments**

RMS advised as follows:

*Roads and Maritime has reviewed the above development application and raises no objection.*

As such there are no changes required to the original condition required by RMS.

## **c. Rural Fire Service Comments**

The Rural Fire Service advised as follows:

*The NSW RFS has no objections to the proposed modifications subject to compliance with previous correspondence referenced D12/2355 and dated 20 November 2012.*

In regard to the above comment, the original requirements imposed by the RFS related to the provision of asset protection zones and construction levels. There are no changes proposed to the original condition.

## **SUBDIVISION ENGINEERING COMMENTS**

No objection raised to the proposed modifications. An additional condition is required to be imposed due to the additional excavation for the car parking (See Condition 43a).

## **WASTE MANAGEMENT COMMENTS**

No objection raised to the proposed modifications. Additional conditions imposed to reflect the revised waste arrangements for the development (See Conditions 91a, 91b, 91c, 107a and 116).

## **CONCLUSION**

The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2012, SEPP Sydney Region Growth Centres and the North Kellyville Development Control Plan and is considered satisfactory.

Accordingly approval subject to conditions is recommended.

## **IMPACTS:**

### **Financial**

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

### **The Hills Future - Community Strategic Plan**

The social and environmental impacts have been addressed in the report. The proposal will add to retail shopping and housing choice within the Shire and is a satisfactory built form outcome.

## **RECOMMENDATION**

The Modification Application be approved subject to the following:

1. Condition 1 be deleted and replaced with:

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

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

### REFERENCED PLANS AND DOCUMENTS – DA 1336/2012/JP

DRAWING NO.	DESCRIPTION	DATE
DA00	Cover Sheet	Issue 2
DA01	Site Analysis	Issue 2
DA02	Residential Parking – Lower Level	Issue 3
DA03	Basement Plan	Issue 3
DA04	Ground Floor Plan	Issue 4
DA05	Podium Level Plan	Issue 3
DA06	Typical Residential Plan	Issue 2
DA07	Typical Residential Level	Issue 2
DA07A	Typical Residential Level Site 2	Issue 1
DA08	Roof Plan	Issue 2
DA09	Setback Plan	Issue 2
DA10	Site 1 Withers Road Elevation	Issue 3
DA11	Site 1 Barry Road/Prop Road 1 Elevations	Issue 2
DA12	Site 1 Proposed Road 1 Elevation	Issue 2
DA13	Block F1 and F2 External Elevations	Issue 3
DA14	Site 2 Block E External Elevations	Issue 2
DA15	External Elevations Site 1	Issue 2
DA16	External Elevations Site 2	Issue 2
DA20	Site 1 Section Looking South	Issue 2
DA21	Site 1 Section Looking South	Issue 2
DA22	Site 1 Section Looking East/West	Issue 2
DA23	Site 1 Section Block B, C1, C2	Issue 2
DA24	Site 1 Section Block A2,D	Issue 2
DA25	Site 2 Sections Block E	Issue 2
DA26	Site 2 Section Block F1 and F2	Issue 2
DA50	Typical Apartments	Issue 2
DA51	Typical Accessible Apartments	Issue 2
DA52	Typical Driveway and Ramps	Issue 2
DA53	Typical Loading Dock	Issue 2
DA100	Shadow Analysis – Winter Solstice Sheet 1	Issue 2
DA101	Shadow Analysis – Winter Solstice Sheet 2	Issue 2
DA102	Shadow Analysis – Winter Solstice Sheet 3	Issue 2
DA103	Shadow Analysis – Winter Solstice Sheet 4	Issue 2
DA104	Shadow Analysis – Winter Solstice Sheet 5	Issue 2
DA110	Staging Diagrams	Issue 2
DA120	Perspective Views	Issue 2
---	Plan of Detail and Levels	Sheet 1 of 2 Sheets
---	Plan of Detail and Levels	Sheet 2 of 2 Sheets
001	Landscape Masterplan	Issue D
100	Landscape Masterplan Ground Level	Issue F
101	Landscape Detail Plan Ground Level	Issue F
200	Landscape Masterplan Podium Level	Issue E
201	Landscape Detail Plan Podium Level	Issue E
202	Landscape Detail Plan Podium Level	Issue E
502	Landscape Masterplan	Issue B
501	Landscape Masterplan	Issue C
601	Landscape Cross Sections Roadway Types	Issue D

## REFERENCED PLANS AND DOCUMENTS – DA 1336/2012/JP

<b><u>DRAWING NO.</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DATE</u></b>
S2000	Cover Sheet	2014.07.01 Issue 3
S2001	Approved and Proposed Area Comparison	2014.04.22 Issue 2
S2002	Site Plan	2014.07.01 Issue 3
S2003	Basement 1	2014.07.01 Issue 3
S2004	Basement 2 + Block F2 Level 1	2014.07.01 Issue 3
S2005	Block E Level 1, Block F1 Level 1 + Block F2 Level 2	2014.07.01 Issue 3
S2006	Block E Level 2, Block F1 Level 2 + Block F2 Level 3	2014.07.01 Issue 3
S2007	Block E Level 3, Block F1 Level 3 + Block F2 Level 4	2014.07.01 Issue 3
S2008	Block E Level 4, Block F1 Level 4 + Block F2 Level 5	2014.07.01 Issue 3
S2009	Block E Level 5, Block F1 Level 5 + Block F2 Roof	2014.07.01 Issue 3
S2010	Block E + Block F1 Roof Plan	2014.04.22 Issue 2
S2011	Elevations Block E	2014.04.22 Issue 2
S2012	Elevations Block F	2014.04.22 Issue 2
S2013	External Elevations	2014.07.01 Issue 3
S2015	Sections	2014.04.22 Issue 2
S2016	Sections	2014.04.22 Issue 2
S2020	Shadow Analysis – Winter Solstice Sheet 1	2014.04.22 Issue 2
S2021	Shadow Analysis – Winter Solstice Sheet 2	2014.04.22 Issue 2
S2022	Shadow Analysis – Winter Solstice Sheet 3	2014.04.22 Issue 2
S2030	Typical Bedroom Units	2014.04.22 Issue 2
S2031	Typical Accessible Bedroom Units	2014.04.22 Issue 2
S2033	Staging	2014.07.01 Issue 1
004	Landscape Concept Report	April 2014 Issue D

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

2. Condition 2 be deleted and replaced with:

### **2. Staging of Works**

The proposed works will be staged as follows in accordance with the approved 'staging diagrams':

- Stage 1 - Subdivision, site services and infrastructure, road works and OSD basin.
- Stage 2A - Site 2 - All basement parking, the whole of the podium and apartment Block E.
- Stage 2B – Site 2 - Apartment Blocks F1 and F2.
- Stage 3 – Site 1 - All works up to the podium level for the whole of the site including all basement parking, retail/commercial tenancies, loading docks and the like.
- Stage 4 – Site 1 - Apartment Blocks A1 and A2.
- Stage 5 – Site 1 - Apartment Block B.



- Stage 6 – Site 1 - Apartment Blocks C1 and C2.
- Stage 7 - Site 1 - Apartment Block D.

3. Condition 3 be deleted and replaced with:

### **3. Provision of Parking Spaces and Use**

The development is required to be provided with 1032 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times. These spaces are to comprise:

- (i) 688 spaces for Site 1, including one accessible parking space per accessible residential unit (15 accessible units).
- (ii) 343 spaces for Site 2, including one accessible parking space per accessible residential unit (19 accessible units).
- (iii) All spaces within Site 2 are to be allocated for resident parking.
- (iv) **53 of the residential visitor spaces within Site 1 are permitted to be used as 'dual use spaces', being spaces which are available for retail parking use during the day and available for residential visitor parking during the evening and overnight.**

4. The addition of Condition 43a as follows:

### **43A. Excavation/ Anchoring Near Boundaries**

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

#### **a) Before a Construction Certificate is issued:**

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

#### **b) Before an Occupation Certificate is issued:**

- Once works are complete, all loads must be removed from the anchors.

5. Condition 44 be deleted and replaced with:

### **44. Accessibility and Adaptability**

- (i) Fifteen adaptable units are required to be provided on Site 1 and nineteen adaptable units on Site 2.
- (ii) Prior to issue of the Construction Certificate, a suitable qualified access consultant is required to confirm that the adaptable dwellings are capable of being modified to comply with the Australian Adaptable housing Standard AS 4299-1995.

6. Condition 46 be deleted and replaced with:

#### **46. Bicycle Parking**

- (i) The provision and maintenance thereafter of bicycle racks to hold a minimum of 51 bikes within the retail parking area.
- (ii) Each residential unit is to be provided with a minimum of 1 bike rack space within the basement carpark for the exclusive use of that unit.
- (iii) Adjacent to each lobby area, bike racks to hold a minimum 29 bikes are to be provided in the following locations:

##### **Site 1**

Block A1 - 3 racks  
Block A2 - 2 racks  
Block B - 2 racks  
Block C1 - 2 racks  
Block C - 2 racks  
Block D - 3 racks

##### **Site 2**

Block E - 7 racks  
Block F1 - 4 racks  
Block F2 - 4 racks

7. Condition 48 be deleted and replaced with:

#### **48. Section 94 Contribution –North Kellyville**

The following monetary contributions must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development. The following payments are required to be paid prior to the issue of the first Construction Certificate for each stage of the development.

Payments comprise of the following: -

##### Stage 2A

Stage 2A	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 40	No. of 2 Bedroom Units: 30	No. of 3 Bedroom Units: 5	Sum of Units	No. of Credits: 1	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 234,198.40	\$ 307,457.70	\$ 69,541.90	\$ 611,198.00	\$ 13,908.38	\$ 597,289.62
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 36,587.20	\$ 48,032.10	\$ 10,864.05	\$ 95,483.35	\$ 2,172.81	\$ 93,310.54
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 18,510.80	\$ 24,300.90	\$ 5,496.50	\$ 48,308.20	\$ 1,099.30	\$ 47,208.90
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 137,802.00	\$ 180,907.50	\$ 40,918.35	\$ 359,627.85	\$ 8,183.67	\$ 351,444.18
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 34,279.60	\$ 45,002.40	\$ 10,178.80	\$ 89,460.80	\$ 2,035.76	\$ 87,425.04
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 15,066.40	\$ 19,779.30	\$ 4,473.75	\$ 39,319.45	\$ 894.75	\$ 38,424.70
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 7,819.60	\$ 10,265.40	\$ 2,321.90	\$ 20,406.90	\$ 464.38	\$ 19,942.52
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 19,050.00	\$ 25,008.90	\$ 5,656.65	\$ 49,715.55	\$ 1,131.33	\$ 48,584.22
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 1,846.00	\$ 2,423.40	\$ 548.10	\$ 4,817.50	\$ 109.62	\$ 4,707.88
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 505,160.00</b>	<b>\$ 663,177.60</b>	<b>\$ 150,000.00</b>	<b>\$ 1,318,337.60</b>	<b>\$ 30,000.00</b>	<b>\$ 1,288,337.60</b>

##### Stage 2B

Stage 2B	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 27	No. of 2 Bedroom Units: 62	No. of 3 Bedroom Units: 5	Sum of Units	No. of Credits: 0	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 158,083.92	\$ 635,412.58	\$ 69,541.90	\$ 863,038.40	\$ -	\$ 863,038.40
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 24,696.36	\$ 99,266.34	\$ 10,864.05	\$ 134,826.75	\$ -	\$ 134,826.75
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 12,494.79	\$ 50,221.86	\$ 5,496.50	\$ 68,213.15	\$ -	\$ 68,213.15
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 93,016.35	\$ 373,875.50	\$ 40,918.35	\$ 507,810.20	\$ -	\$ 507,810.20
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 23,138.75	\$ 93,004.96	\$ 10,178.80	\$ 126,322.49	\$ -	\$ 126,322.49
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 10,169.62	\$ 40,877.22	\$ 4,473.75	\$ 55,520.59	\$ -	\$ 55,520.59
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 5,278.23	\$ 21,215.16	\$ 2,321.90	\$ 28,815.29	\$ -	\$ 28,815.29
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 12,858.75	\$ 51,685.06	\$ 5,656.65	\$ 70,200.46	\$ -	\$ 70,200.46
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 1,246.05	\$ 5,908.36	\$ 548.10	\$ 7,702.51	\$ -	\$ 6,602.51
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 340,983.00</b>	<b>\$ 1,370,567.04</b>	<b>\$ 150,000.00</b>	<b>\$ 1,861,550.04</b>	<b>\$ -</b>	<b>\$ 1,861,550.04</b>

##### Stage 4

Stage 4	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 9	No. of 2 Bedroom Units: 24	No. of 3 Bedroom Units: 18	Sum of Units	No. of Credits: 0	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 52,694.64	\$ 245,966.16	\$ 250,350.84	\$ 549,011.64	\$ -	\$ 549,011.64
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 8,232.12	\$ 38,425.68	\$ 39,110.58	\$ 85,768.38	\$ -	\$ 85,768.38
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 4,164.93	\$ 19,440.72	\$ 19,787.40	\$ 43,393.05	\$ -	\$ 43,393.05
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 31,009.45	\$ 144,726.00	\$ 117,306.08	\$ 223,037.51	\$ -	\$ 223,037.51
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 7,712.91	\$ 36,001.92	\$ 36,643.68	\$ 80,358.51	\$ -	\$ 80,358.51
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 3,389.94	\$ 15,823.44	\$ 16,105.50	\$ 35,318.88	\$ -	\$ 35,318.88
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 1,759.41	\$ 8,212.32	\$ 8,358.84	\$ 18,330.57	\$ -	\$ 18,330.57
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 4,286.25	\$ 20,607.12	\$ 20,365.91	\$ 44,659.31	\$ -	\$ 44,659.31
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 415.35	\$ 1,938.72	\$ 1,973.16	\$ 4,327.23	\$ -	\$ 4,327.23
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 113,661.00</b>	<b>\$ 530,542.08</b>	<b>\$ 540,000.00</b>	<b>\$ 1,184,203.08</b>	<b>\$ -</b>	<b>\$ 1,184,203.08</b>

##### Stage 5

Stage 5	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 3	No. of 2 Bedroom Units: 15	No. of 3 Bedroom Units: 3	Sum of Units	No. of Credits: 0	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 17,568.88	\$ 153,728.85	\$ 41,725.14	\$ 213,018.87	-	\$ 213,018.87
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 2,744.04	\$ 24,016.05	\$ 6,518.43	\$ 33,278.52	-	\$ 33,278.52
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 1,388.31	\$ 12,150.45	\$ 3,297.90	\$ 16,836.66	-	\$ 16,836.66
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 10,335.15	\$ 90,453.75	\$ 24,551.01	\$ 125,339.91	-	\$ 125,339.91
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 2,570.97	\$ 22,501.20	\$ 6,107.28	\$ 31,179.45	-	\$ 31,179.45
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 1,129.98	\$ 9,889.65	\$ 2,684.25	\$ 13,703.88	-	\$ 13,703.88
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 586.47	\$ 5,132.70	\$ 1,393.14	\$ 7,112.31	-	\$ 7,112.31
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 1,428.75	\$ 12,504.45	\$ 3,393.99	\$ 17,327.19	-	\$ 17,327.19
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 138.45	\$ 1,211.70	\$ 328.86	\$ 1,679.01	-	\$ 1,679.01
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 37,887.00</b>	<b>\$ 331,588.80</b>	<b>\$ 90,000.00</b>	<b>\$ 459,475.80</b>	<b>\$ -</b>	<b>\$ 459,475.80</b>

## Stage 6

Stage 6	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 9	No. of 2 Bedroom Units: 25	No. of 3 Bedroom Units: 12	Sum of Units	No. of Credits: 0	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 52,694.64	\$ 256,214.75	\$ 66,900.56	\$ 475,809.95	-	\$ 475,809.95
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 8,232.12	\$ 40,026.75	\$ 26,073.72	\$ 74,332.59	-	\$ 74,332.59
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 4,164.93	\$ 20,250.75	\$ 13,191.60	\$ 37,607.28	-	\$ 37,607.28
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 31,005.45	\$ 150,756.25	\$ 98,204.04	\$ 279,965.74	-	\$ 279,965.74
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 7,712.91	\$ 37,502.00	\$ 24,429.12	\$ 69,644.03	-	\$ 69,644.03
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 3,389.94	\$ 16,482.75	\$ 10,737.00	\$ 30,609.69	-	\$ 30,609.69
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 1,759.41	\$ 8,554.50	\$ 5,572.50	\$ 15,886.47	-	\$ 15,886.47
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 4,286.25	\$ 20,840.75	\$ 13,575.96	\$ 38,702.96	-	\$ 38,702.96
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 415.35	\$ 2,019.50	\$ 1,315.44	\$ 3,750.29	-	\$ 3,750.29
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 113,661.00</b>	<b>\$ 552,648.00</b>	<b>\$ 360,000.00</b>	<b>\$ 1,026,309.00</b>	<b>\$ -</b>	<b>\$ 1,026,309.00</b>

## Stage 7

Stage 7	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 0	No. of 2 Bedroom Units: 25	No. of 3 Bedroom Units: 7	Sum of Units	No. of Credits: 0	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ -	\$ 256,214.75	\$ 97,358.66	\$ 353,573.41	-	\$ 353,573.41
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ -	\$ 40,026.75	\$ 15,209.67	\$ 58,236.42	-	\$ 58,236.42
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ -	\$ 20,250.75	\$ 7,695.10	\$ 27,945.85	-	\$ 27,945.85
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ -	\$ 150,756.25	\$ 57,285.69	\$ 208,041.94	-	\$ 208,041.94
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ -	\$ 37,502.00	\$ 14,250.32	\$ 51,752.32	-	\$ 51,752.32
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ -	\$ 16,482.75	\$ 6,263.25	\$ 22,746.00	-	\$ 22,746.00
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ -	\$ 8,554.50	\$ 3,250.64	\$ 11,805.14	-	\$ 11,805.16
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ -	\$ 20,840.75	\$ 7,919.31	\$ 28,760.06	-	\$ 28,760.06
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ -	\$ 2,019.50	\$ 1,315.44	\$ 3,750.29	-	\$ 3,750.29
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ -</b>	<b>\$ 552,648.00</b>	<b>\$ 210,000.00</b>	<b>\$ 762,648.00</b>	<b>\$ -</b>	<b>\$ 762,648.00</b>

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

This condition has been imposed in accordance with Contributions Plan No. 13.

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

- Condition 79 be deleted and replaced with:

### **79. Compliance with BASIX Certificates**

Under clause 97A of the Environmental Planning and Assessment Regulation 2000 it is a condition of this development consent that all commitments listed in BASIX Certificate Nos. 432548M, 432633M, 432626M, 432636M 537427M Block E and 537964M Block F be complied with.

- The addition of Condition 62a as follows:

### **62a. Special Infrastructure Contribution – Growth Centres**

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

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

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

- The addition of Condition 91a as follows:

### **91a. Adherence to Operational Waste Management Plan (Blocks E, F1 and F2)**

All requirements of the Waste Management Plan submitted as part of the Section 96(A) Development Application, prepared by KMH Environmental and dated 3 July 2014 must be implemented during construction as well as the ongoing management of the development.

11. The addition of Condition 91b as follows:

**91b. Construction of Bulk Bin Hardstand Area (Blocks E, F1 and F2)**

The bulk bin hardstand area must be constructed of concrete and is to be bounded by kerb (or equivalent) to prevent bin movement. The finished surface is to be level and non-slip. The floor area must be sized to comfortably store and manoeuvre a minimum of fifteen (15) 660L bulk bins. Each hardstand area is required to be provided with a waste serving path (maximum gradient of 1:20) which leads to the street including kerb crossing, so collectors can safely wheel bins to and from the rear of the collection vehicle for servicing purposes.

12. The addition of Condition 91c as follows:

**91c. Provision of No Parking Signs (Blocks E, F1 and F2)**

Provide No Parking 6:00am to 12:00pm Monday and Thursday from the intersection of Indwarra Avenue and Sandbanks Avenue to the end of the cul-de-sac (entire street frontage along Indwarra Avenue). This is to ensure that there is no conflict between on-street vehicle parking and waste collection.

13. The addition of Condition 107a as follows:

**107a. Bin Vehicle and Mover Trailer (Blocks E, F1 and F2)**

Prior to an Occupation Certificate being issued (interim or final), a mechanical bin mover suitable for 660L bulk bins and a six (6) bay wide bin mover trolley to suit 240L mobile bins (or equivalent) must be provided at the development. The selected mechanical bin mover must be able to convey the bulk bins and loaded bin mover trolley over all ramps and slopes between the waste storage and collection points.

14. The addition of Condition 116 as follows:

**116. Waste and Recycling Management (Blocks E, F1 and F2)**

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

**ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. Zoning Plan
4. Proposed Site Plan
5. Proposed Height Comparison Plan
6. Proposed Staging Plan
7. Previous JRPP Report

## ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE  
☒ PROPERTIES NOTIFIED

NOTE: THE HILLS DISTRICT HISTORICAL SOCIETY ALSO NOTIFIED

**THE HILLS**  
Sydney's Garden Shire

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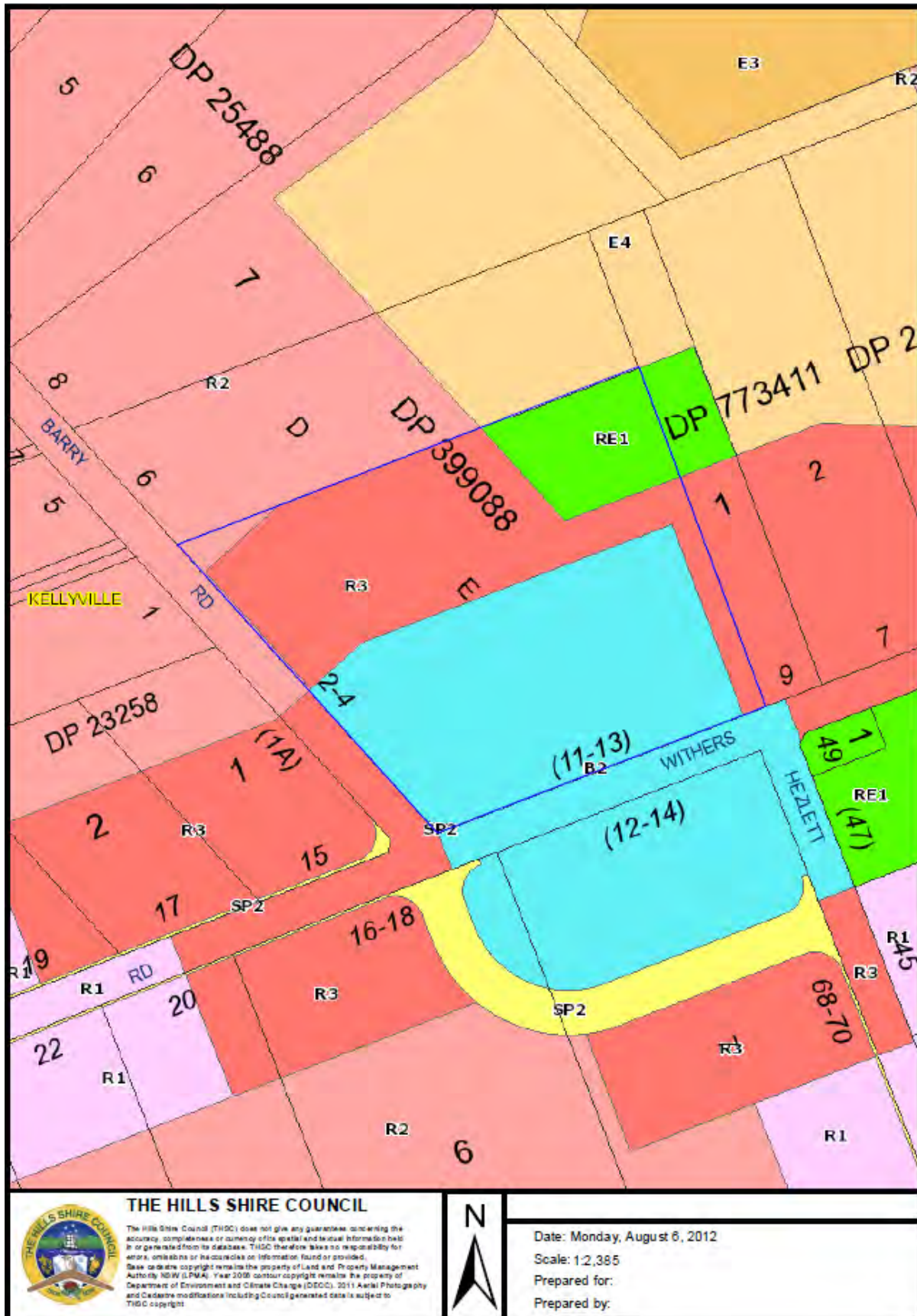


## ATTACHMENT 2 – AERIAL PHOTOGRAPH

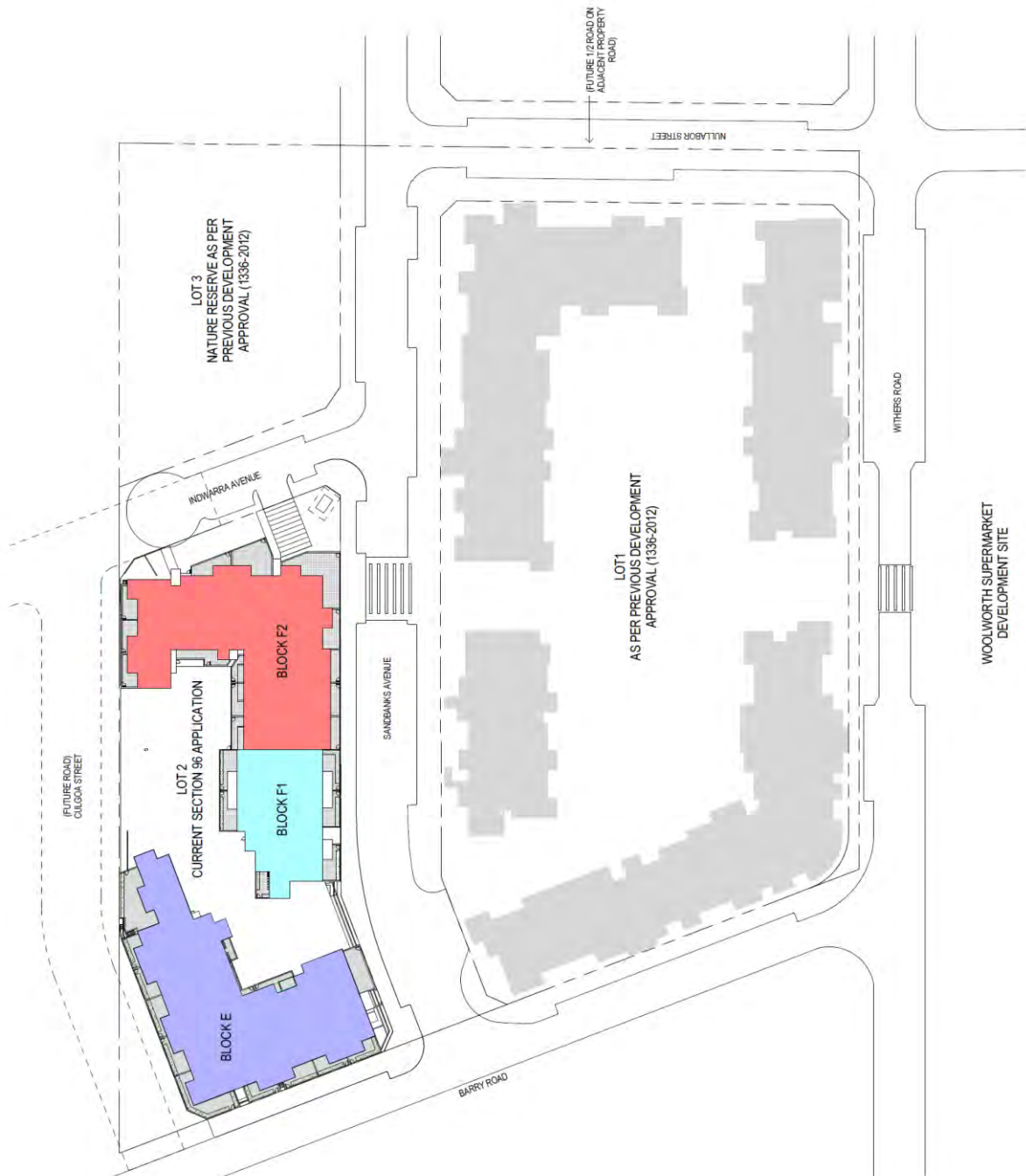




## ATTACHMENT 3 – ZONING PLAN

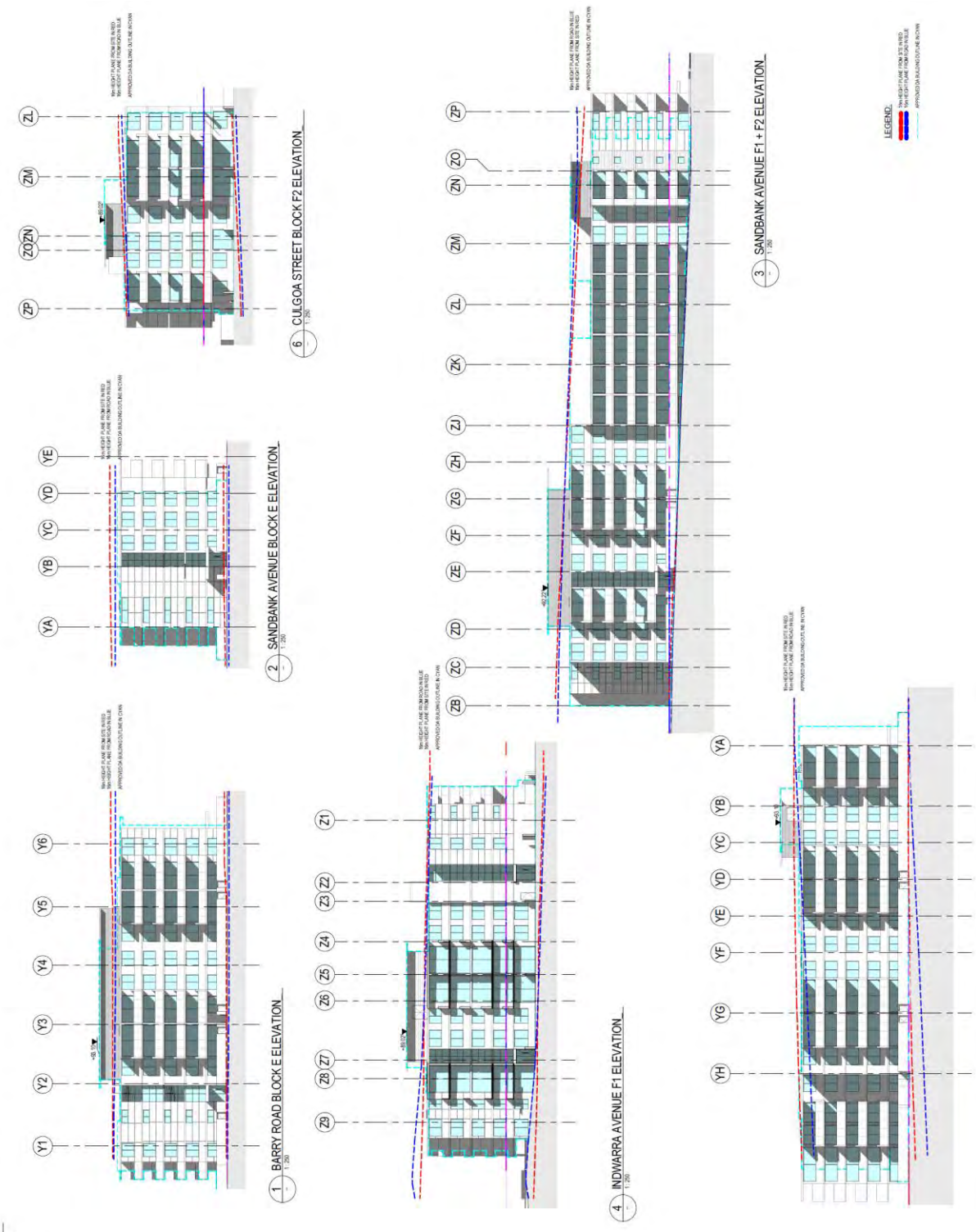


## ATTACHMENT 4 – PROPOSED SITE PLAN





ATTACHMENT 5 – PROPOSED HEIGHT COMPARISON PLAN



## ATTACHMENT 6 – PROPOSED STAGING PLAN



## ATTACHMENT 7 – PREVIOUS JRPP REPORT, 20 DECEMBER 2012

JOINT REGIONAL PLANNING PANEL

20 DECEMBER 2012

### ITEM-2 JRPP PLANNING REPORT - DA 1336/2012/JP

<b>JRPP No:</b>	2012SYW065
<b>DA Number:</b>	DA 1336/2012/JP
<b>Local Government Area:</b>	THE HILLS SHIRE COUNCIL
<b>Proposed Development:</b>	MIXED USE DEVELOPMENT AND APARTMENT BUILDING DEVELOPMENT
<b>Street Address:</b>	LOT E DP 399088, 2 – 4 BARRY ROAD, KELLYVILLE
<b>Applicant:</b>	RESTIFA & PARTNERS
<b>Number of Submissions:</b>	ONE
<b>Recommendation:</b>	APPROVAL SUBJECT TO CONDITIONS
<b>Report by:</b>	KRISTINE MCKENZIE PRINCIPAL EXECUTIVE PLANNER

#### BACKGROUND

#### MANDATORY REQUIREMENTS

Owner:	J Polito	1.	<u>SEPP Sydney Region Growth Centres (North Kellyville) 2006</u> – Variations required, see report.
Zoning:	B2 Local Centre, R2 Low Density Residential, R3 Medium Density Residential, SP2 Infrastructure and RE1 Public Recreation	2.	<u>SEPP 65 Design Quality of Residential Flat Buildings</u> – Satisfactory.
Area:	41,120m <sup>2</sup>	3.	<u>SEPP Building Sustainability Index BASIX 2004</u> – Satisfactory.
Existing Development:	Dwelling, Market and Garden and Nursery	4.	<u>DCP North Kellyville</u> – Variations required, see report.
		5.	<u>Section 79C (EP&amp;A Act)</u> – Satisfactory.
		6.	<u>Section 94 Contribution</u> – Yes, currently \$6,191,053.96

#### SUBMISSIONS

#### REASONS FOR REFERRAL TO JRPP

1. Exhibition:	Yes, 30 days.	1.	Cost of works exceed \$20 million.
2. Notice Adj Owners:	Yes, 30 days.		
3. Number Advised:	26, including the Hills District Historical Society.		
4. Submissions Received:	One.		

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**HISTORY**

<b>21/06/2012</b>	Development Application 1336/2012/JP lodged.
<b>25/07/2012</b>	Letter sent to the applicant requesting additional information regarding DCP compliance, SEPP 65 compliance, subdivision, roadworks, drainage, parking, landscape details, waste information, street numbering, and Office of Water requirements.
<b>02/08/2012</b>	Briefing to the JRPP.
<b>04/10/2012</b>	Additional information submitted by the applicant.
<b>23/10/2012</b>	Further letter sent to the applicant regarding DCP compliance, roadworks, drainage, street numbering and waste.
<b>12/11/2012</b>	Additional information submitted by the applicant.
<b>15/11/2012</b>	Email sent to the applicant requesting clarification regarding clothesline location, setbacks, bedroom numbers and parking.
<b>16/11/2012</b>	Additional information submitted by the applicant.

**PROPOSAL**

The proposal is for a mixed use development comprising retail, commercial and residential units. The retail and commercial component will have a gross floor area of 10,375m<sup>2</sup>, with 274 residential apartments. A total of 930 car parking spaces will be provided. A park with an area of 4261m<sup>2</sup> is also proposed. The proposal will be constructed in four (4) stages.

The proposal, in broad terms, comprises:

- Development of Site 1 for a mixed use building (retail/commercial/residential);
- Development of Site 2 for residential use (apartment buildings);
- Development of Site 3 as open space;
- Associated infrastructure and public domain works; and
- Use of the supermarket tenancy.

The proposal includes the construction of three (3) public roads which will be dedicated to Council located centrally through the development (Road 1), along the eastern (side) boundary (Road 2) and adjoining the proposed public open space (Road 3). It may be noted that road 2 will only be constructed as a half width road due to the partial location of this road on the adjoining property to the east.

Attachment 3 shows the proposed DCP road layout.

The proposed works will be staged as follows:

- Stage 1 – subdivision, services and infrastructure, open space, road and drainage works;
- Stage 2 – all site 1 works with the exception of apartment blocks C1, C2 and D;
- Stage 3 – site 1 apartment blocks C1, C2 and D; and
- Stage 4 – all site 2 works.

Attachment 7 shows the proposed staging of the development and Attachment 10 shows the proposed ground floor plan.

The site is currently zoned as follows with details of the use within each zone area provided. All of the proposed uses are permissible in the relevant zone:

- B2 Local Centre – mixed use development;
- R2 Low Density Residential – no work proposed in this area – subject to future road;
- R3 Medium Density Residential - residential flat buildings;
- SP2 Infrastructure – road widening associated with the intersection of Barry Road and Withers Road;
- RE1 Public Recreation – proposed public park.

Attachment 4 shows the zoning of the site.

The proposal also includes the occupation and use of the supermarket tenant. The proposed hours of operation of the supermarket are:

7am – 12 midnight Monday – Saturday; and  
8am – midnight Sunday.

The specialty tenancies will be subject to a Development Application for the first use of the tenancy however approval is sought to establish the hours of operation as:

8.30am – 6pm Monday – Wednesday, Friday and Saturday;  
8.30am – 9pm Thursday; and  
10am – 4pm Sunday.

The proposal is defined as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the NSW Office of Water under the provisions of the Water Management Act, 2000.

## ISSUES FOR CONSIDERATION

### 1. SEPP State and Regional Development 2011

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

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

The proposed development has a capital investment value of \$137,575,000 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

### 2. Compliance with Requirements of SEPP (Sydney Region Growth Centres) 2006

The following addresses the principal development standards of the SEPP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1 Minimum subdivision lot size	1500m <sup>2</sup> (relates to Site 2 only)	There is no subdivision proposed with this application however in general terms the following will apply in the future: Site 1 – 19,325m <sup>2</sup> Site 2 – 8,140m <sup>2</sup> Site 3 – 4261m <sup>2</sup>	Yes
4.1A Minimum lot sizes for other development	Apartment buildings 4000m <sup>2</sup>	There is no subdivision proposed with this application however in general terms the following will apply in the future: Site 1 – 19,325m <sup>2</sup> Site 2 – 8,140m <sup>2</sup> Site 3 – 4261m <sup>2</sup>	Yes
4.1B Residential density	Subdivision of land must not occur unless a DCP has been prepared which will not impede the provision of 4500 dwellings in the precinct.	There is no subdivision proposed with this application.	Yes
4.3 Height of buildings	16 metres	Components of the buildings exceed 16 metres within a range of 1.87m to 6m.	No – see comments below.
4.4 Floor space ratio	1:1 (relates to Site 1 only and only applies to the commercial/retail component)	The proposed FSR on site 1 is 0.525:1.	Yes
4.5 Calculation of floor space ratio and site area	Sets criteria for calculation of floor space ratio and site area	Satisfactory.	Yes
4.5A Business, office and retail floor area	The total gross floor area used for the purposes of business, office and retail premises on all land in the Zone B2 Local Centre must not exceed 15,000m <sup>2</sup> .	The proposal exceeds a proportional split of floor area across the business zone however does not exceed the total gross floor area of 15,000m <sup>2</sup> across the two sites. In this regard the site opposite at 68-70 Hezlett Road has no approval for development works at this time.	Yes - however the proposal exceeds a proportional split of floor area across the business zone – see comments below.
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	Variations proposed to height and floor area are addressed below.	Yes

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.

**a. Variation to Height**

SEPP Sydney Region Growth Centres 2006 limits the height of the development to 16 metres. The following variations apply:

Building	Maximum Height	Variation
Block A1	18.19m	2.19m
Block A2	19.69m	3.69m
Block B	19.75m	3.75m
Block C1	22m	6m
Block C2	22m	6m
Block D	19.54m	3.54m
Block E	17.87m	1.87m
Block F1	18.36m	2.36m
Block F2	18.54m	2.54m

The applicant has reviewed this matter and has concluded that:

*'The proposal does not strictly comply with the maximum height standard prescribed by Clause 4.3(2) of the North Kellyville Precinct Plan. Having reviewed the possible effects arising from this non-compliance we are satisfied the objectives of clause 4.6 of the Precinct Plan are satisfied, as the buildings are largely compliant with the 16m height standard, requiring only limited flexibility in the application of that standard to accommodate minor elements of the project which exceed the height limit.*

*A number of competing issues combine to determine the overall height of the building, including site slope, existing road levels and the need to ensure that functional and viable floor plates are achieved, particularly for the retail component of the project. To avoid any breach of the height control would cause a loss of building levels or inflict inefficient and unworkable floor plates, the consequences of which would be a reduction retail floor space or residential unit numbers. Importantly, such adverse outcomes from strict compliance with the height standard would not be counterbalanced by achieving any improved environmental outcomes, as the parts of the buildings which exceed the height standard have been shown to have no adverse built form or environmental outcomes.*

*The subject site is strategically important for the development of the North Kellyville Precinct. The identified breaches of the height standard, with no identifiable environmental planning outcomes, must be balanced against the importance of establishing a community*



*'hub' from the earliest stages of this area's transition into a growth centre. This may be threatened if the viability of this project is compromised by reduced yields and inefficient design. Such a circumstance would therefore be contrary to the objectives of the Environmental Planning and Assessment Act which seeks the orderly and economic use of land.*

*Therefore it is reasonable to conclude that more adverse outcomes would actually accrue from strict compliance with the height standard, or conversely in the terms of clause 4.6(1)(b), a better outcome will be achieved for this development by allowing flexibility in the application the height standard in this particular instance".*

**Comment:**

The objectives of the SEPP are:

- (a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*
- (b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,*
- (c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,*
- (d) to provide appropriate height controls for commercial development,*
- (e) to restrict the height of buildings within the curtilage of heritage items.*

The objectives of the DCP are:

- 1. To ensure development is appropriately scaled to suit the dwellings context and its scale.*
- 2. To ensure building heights achieve built form outcomes that reinforce quality urban and building design.*

The proposed height of the buildings is considered satisfactory given that the site is surrounded by proposed and future roads. As such the development is separated from adjoining sites in terms of its location. The shadow impact from the development is considered reasonable given the form of the development. The separation to adjoining future development will reduce the potential for overlooking and privacy impacts.

A local heritage item ('Yalta') is located at 45 Hezlett Road however there is sufficient separation between the development site and the local heritage item to ensure that there will not be an adverse impact to the local heritage item.

The urban form is considered to be appropriate for the area and the development of a modern retail centre. The proposal incorporates a variety of finishes and colours and will result in an appropriate urban outcome.

The subject site generally slopes from the southern corner at the intersection of Barry Road and Withers Road with an approximate RL 75 to the north-eastern corner with an approximate RL 62. This is a fall of approximately 13 metres over a distance of approximately 257 metres.

In addition, the large format floor plate of the retail development and required car parking results in the need for development which is relatively flat to ensure adequate access for residents and customers. This building format has resulted in the need for variations to the height of the development, which on balance is a reasonable outcome for a retail development.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

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

**b. Floor Area**

Clause 4.5A of the SEPP states:

- (2) *The total gross floor area used for the purposes of business, office and retail premises on all land:*
- (a) *in Zone B1 Neighbourhood Centre must not exceed 4,000 square metres, and*
  - (b) *in Zone B2 Local Centre must not exceed 15,000 square metres.*

The subject site is partly zoned B2 Local Centre. In addition, the site opposite at 68-70 Hezlett Road and at 16-18 Withers Road are also zoned partly B2 Local Centre. Attachment 4 shows the zoning plan and Attachment 5 shows the DCP layout for the Local Centre area.

The part of the subject development site zoned B2 Local Centre has an area of 24,055m<sup>2</sup> which represents 58.5% of the area zoned for B2 Local Centre use. Based on a pro rata proportion across the 15,000m<sup>2</sup> of B2 Local Centre zoning, the subject development site would be 'allocated' 8775m<sup>2</sup> of gross floor area. The proposed development is for 10,375m<sup>2</sup> of GFA (which includes the 'retail street') and as such exceeds the floor area by 1600m<sup>2</sup> and represents 69.1% of the Local Centre zone.

The applicant has argued below that if the 'retail street' component is excluded that the gross floor area would be reduced to 9041m<sup>2</sup> which is represents a proportional area of 60.2%.

The applicant has provided the following justification to support the proposal:

*"The North Kellyville Local Centre is identified by land zoned 'B2 Local Centre' which encompasses part of the development site (being Site 1) and land opposite the site on the southern side of Withers Road.*

*This clause prescribes the North Kellyville Local Centre must not exceed 15,000m<sup>2</sup> of floor space, however it does not nominate whether that quantum is gross retail leasable floor area, or gross floor area. The clause also nominates, as one of its objectives, the equitable distribution of that floor space between the northern and southern parts of the local centre.*

*The development site includes 58.5% of land zoned B2 Local Centre. The "Glasshouse Village" project includes 8,777m<sup>2</sup> of gross retail leasable floor area (GRLFA) which is 58.51% of the total quantum of 15,000m<sup>2</sup> non-residential floor space. On this basis the proposal is consistent with the Precinct Plan.*



However, if the terms of this clause are to be considered by reference to gross floor area, (GFA) then the project exceeds a strict, proportional, floor space allocation by 1598m<sup>2</sup> (i.e. GFA = 10,375m<sup>2</sup>). That GFA calculation however includes the area of the 'retail street' (being 1334m<sup>2</sup>) which is the primary pedestrian connection across Site 1 linking Withers Road and Proposed Road 1. The requirement for this pedestrian connection is nominated at Figure 37 of the North Kellyville Precinct DCP 2008. If the 'retail street' element is excluded then the GFA calculation reduces to 9041m<sup>2</sup>, being 60.2% of the total quantum of the B2 land. This is a very minor departure from a strict, proportional, allocation of non-residential floor space, in the order of only 266m<sup>2</sup>.

The objective of clause 4.5A is to achieve the equitable distribution of B2 zoned land between the northern and southern parts of the centre. The reference to 'equitable' should be interpreted as meaning reasonable or non-prejudicial. We contend that excluding the 'retail street' element of the project from any GFA calculation is reasonable, and that the consequential resultant GFA of 9041m<sup>2</sup> is not prejudicial to future development of the balance of the B2 land on the southern side of Withers Road, for the following reasons:

- The 'retail' street is effectively an open pedestrian connection. The 'street' is provided with a lightweight roof element which fulfils a number of outcomes sought by Section 5.2 of the DCP, being:
  - It provides a high level of amenity and weather protection for pedestrians in a key location;
  - Its design and presentation contribute to the high quality built form of the development by giving the "Glasshouse Village" a defining design feature that promotes a 'sense of place' and a modern character; and
  - The roof provides a screen between the open pedestrian connection and the residential apartments above the podium. Such screening is appropriate to control noise, and limit views, between the commercial and residential elements of this mixed use complex.
- Excluding the 'retail street' the resulting additional 266m<sup>2</sup> of GFA reflects floor space allocated to public and staff amenities, which do not contribute to the intensity of use of the local centre. Even setting that aside, in simple terms an excess of 266m<sup>2</sup> of GFA can not be seen as an oversupply of retail floor space that could have any implications for the viability of established centres within the wider locality; and
- There are no operational impacts associated with the proposed quantum of retail floor space, noting the outcomes of the traffic assessment undertaken by Colston Budd Hunt and Kafes; and
- No adverse environmental outcomes accrue from the quantum of floor space proposed.

In conclusion we consider that clause 4.5A of the Precinct Plan can be interpreted as allowing for some flexibility in its application.

We contend that it would be anomalous to penalise this project by requiring the removal of this roof element to respond to the any concerns over the supply of non-residential floor space simply to reflect a strict interpretation of clause 4.5A of the Precinct Plan, relative to a GFA calculation, as such would not, in this instance:

- Achieve any public benefit;
- Result in a more orderly and efficient use of the site; or
- Achieve an outcome necessary to align the project with any planning matter of state or regional significance.

In addition to the above comments, the applicant provided a supplementary address of Clause 4.6 of the Growth Centres SEPP and concluded that:

*Clause 4.5A of the North Kellyville Precinct Plan, being Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006, provides that the B2 Local Centre is to comprise a quantum of 15,000m<sup>2</sup> of non-residential GFA.*

*Development Application 1336/2012/JP does not breach any development standard within that clause. However an objective within that clause requires Council to consider the equitable distribution of that non-residential GFA between the land comprising the northern and southern areas of the Local Centre.*

*This proposal exceeds a proportional allocation of that quantum of non-residential GFA for the whole B2 Local Centre by 1,598m<sup>2</sup> or 10.6%. Those figures reduce to 266m<sup>2</sup> or 1.7% if the 'retail street' element the development is excluded. That element of the proposal is effectively an open pedestrian connection provided with a lightweight roof which fulfils a number of outcomes sought by Section 5.2 of the North Kellyville DCP. The removal of this roof would solve concerns regarding the supply of non-residential floor space, however there is no sound planning or urban design outcome to warrant such an amendment.*

*The objective of clause 4.5A is to achieve the equitable distribution of B2 zoned land between the northern and southern parts of the centre. The reference to 'equitable' should be interpreted as meaning reasonable or non-prejudicial. We contend that excluding the 'retail street' element of the project from any GFA calculation is reasonable, and that the consequential resultant GFA of 9,041m<sup>2</sup> is not prejudicial to future development of the balance of the B2 land on the southern side of Withers Road.*

*The subject site is strategically important for the development of the North Kellyville Precinct.*

*Any minor inconsistency with the distribution of non-residential GFA across the B2 Local Centre must be balanced against the importance of establishing a community 'hub' from the earliest stages of this area's transition into a growth centre. This may be threatened if the viability of this project is compromised by reducing the non-residential element. Such a circumstance would therefore be contrary to the objectives of the Environmental Planning and Assessment Act which seeks the orderly and economic use of land.*

*Therefore it is reasonable to conclude that a better outcome will be achieved for this development by allowing flexibility in the proportional allocation of on-residential GFA in this particular instance, noting that the non-compliance relates to floor space allocation relates only to public and staff amenities.*

*Finally, we note that a variation under clause 4.6 of the Precinct Plan is not required as the development does not exceed any standard in clause 4.5A of that Plan.*

**Comment:**

Clause 4.5A of the SEPP in relation to business, office and retail floor area states:



- 
- (1) *The objectives of this clause are to provide for the equitable distribution of business, office and retail floor area:*
- (a) between land in Zone B1 Neighbourhood Centre and Zone B2 Local Centre, and*
  - (b) between land in the northern and southern areas of Zone B1 Neighbourhood Centre, and*
  - (c) between land in the northern and southern areas of Zone B2 Local Centre.*
- (2) *The total gross floor area used for the purposes of business, office and retail premises on all land:*
- (c) in Zone B1 Neighbourhood Centre must not exceed 4,000 square metres, and*
  - (d) in Zone B2 Local Centre must not exceed 15,000 square metres.*
- (3) *Development consent must not be granted to development on land in Zone B1 Neighbourhood Centre or Zone B2 Local Centre unless the consent authority has considered the objectives of this clause.*

The subject development itself does not exceed the proposed 15,000m<sup>2</sup> floor area in the B2 Local Centre zone, however the proposal does exceed the proportional split based on the area of the development site.

The objectives of the SEPP relate to the equitable distribution of floor area between the B1 and B2 zones and between the land within the B2 zone separated by Withers Road to establish a retail hierarchy. In regard to the B1 Neighbourhood Centre zone, there are two areas of land zoned for this purpose within the North Kellyville area which are located to the north (approximately 1.2 kilometres from the subject site) and south (approximately 1.5 kilometres from the subject site). The intent of the B1 zone is to provide a range of small scale retail/business uses.

In regard to distribution across the B2 Local Centre zone, there have been no Development Applications lodged for development on the opposite sites with the same zoning (See Attachment 4). The proponents of these sites may well not seek to maximise floor space take-up or may propose a non retail/commercial use. In any event these applications will be considered on merit. No objections have been lodged to the subject development Application on this basis by owners of these sites.

As outlined above, the gross floor area includes the 'retail street' which is an enclosed area. Given that this area is shown on the DCP layout plan for the centre as a 'public plaza' area, a condition has been recommended which limits the use of this area for civic and community uses and not for general retail use, with the exception of two small kiosks (See Condition 110 and comments in Section 3d). This approach results in a reduced 'general' GFA and supports the applicant's comments that the retail street is 'effectively an open pedestrian connection' and should not be included in the GFA calculations. On this basis the floor area allocation is reasonable and represents an equitable distribution across the B2 zone.

The proposed development is considered satisfactory in terms of the built form outcome and the provision of an appropriate level of services for future residents of the area.

The proposed development, whilst marginally exceeding the proportional split, is considered reasonable and provides an equitable distribution of floor area for this development.

### 3. Compliance with Development Control Plan North Kellyville

#### a. DCP North Kellyville Local Centre Requirements and Special Area Controls

The following table addresses the requirements of Section 5 - Special Area Controls and Section 5.2 – North Kellyville Local Centre.

DCP Requirement	Provided	Complies
<b>Function and Uses</b>		
A maximum of 15,000m <sup>2</sup> GFA for retail and commercial premises.	See comments in Section 2(b) regarding floor area.	See comments in Section 2(b) regarding floor area.
Incorporate a range of retail, commercial and community uses to serve the needs of the community.	A range of retail, commercial and open space use is provided. It may be noted that the sites opposite (across Withers Road) are required to provide retail uses and a supermarket in the future in accordance with the DCP layout.	Yes
Incorporate higher density housing and mixed use development.	Mixed use development and residential flat development is proposed.	Yes
Concentrate intensive retail uses along and fronting Withers Road and Hezlett Road.	Retail uses are appropriately located.	Yes
Locate active uses at ground floor, throughout the Local Centre, in particular fronting the Main Street and all open space.	Active uses are appropriately located.	Yes
Provide a mix of uses that promote an active and vibrant town centre.	A range of retail, commercial and open space use is provided.	Yes
<b>Built Form</b>		
Provide a range of building heights, up to a maximum of 4 storeys with a transition in heights to surrounding residential areas.	Site 1 comprises a lower level of residential parking, basement level of parking, ground floor of part parking and part retail, and three levels of residential units above. See comments in Section 3(g).	No - See comments in Section 3(g).
Relate building heights to street widths and functions to promote a comfortable urban scale of development.	The proposed urban scale is appropriate.	Yes
Define streets and open spaces with buildings that are generally built to the street edge, have a consistent street wall height and provide a continuous street frontage along all key streets.	The design of the centre is satisfactory.	Yes



Sleeve all large format retail premises and decked parking areas with active uses. Blank walls visible from the public domain are to be avoided.	Whilst the car parking area at the corner of proposed roads 1 and 2 is not sleeved, these areas are screened and the streetscape is satisfactory.	Yes
Promote diversity and activity along the main street with a variety of frontage widths for retail shops.	A range of uses and activities are provided.	Yes
Building heights are to take into account view lines and solar access to the public domain.	The proposed building heights allow views and solar access.	Yes
Residential and mixed use development is to be consistent with the guidelines and principles outlined in <i>SEPP No. 65 – Residential Flat Development</i> and the <i>Residential Flat Design Code</i> (Urban Design Advisory Service and Planning NSW 2002).	The proposal is satisfactory in regard to SEPP 65 – see Section 5.	Yes
A high quality built form and energy efficient architectural design that promotes a 'sense of place' and modern character for the Local Centre.	The built form and efficiency of the development is satisfactory.	Yes
Waste storage and collection areas are to be accommodated and designed appropriately to minimise impacts, in particular within mixed use development.	The proposed waste arrangements have been reviewed and are satisfactory.	Yes
<b>Parking and Access</b>		
Access to parking, loading docks and waste collection areas must not be provided from Withers Road nor Hezlett Road frontages.	There is no vehicle access from Withers Road.	Yes
Basement, semi-basement or decked parking is preferred over large expanses of at-grade parking.	Basement parking is proposed.	Yes
At grade parking areas are to be generally located behind building lines and within the centre of street blocks away from street corners. Notwithstanding	There is no at-grade parking proposed.	Yes

this, Council will consider transitional arrangements for parking where an application is supported by a staging plan that indicates compliance with the above desired parking location principles upon ultimate development.		
Parking is to be provided in accordance with Part D, Section 1 of BHSC DCP 2007. Opportunities for shared parking provision for complementary uses within the local centre are to be provided.	Parking has been provided in accordance with the North Kellyville DCP which contains specific parking rates for retail/commercial and residential uses.	Yes
On-street parking is to be provided on all streets within the Centre to contribute to street life and surveillance and designed in accordance with AS 2890.5-1993.	On-street parking will be provided on streets fronting the development.	Yes
<b>Public Domain</b>		
Parks and plazas are to act as a focal point for the Local Centre and community activities and are to be designed to ensure adaptability and flexibility in use and function over time.	The proposed park has the potential to act as a community focal point.	Yes
Incorporate a town square / civic plaza, adjacent to the main street which provides an urban landscape setting and a civic focus for the community.	The proposal incorporates a 'retail street' rather than a plaza.	No – see comments in Section 3(d) and Condition 110.
Provide high amenity, pedestrian streets with generous footpath widths.	The proposed streets are considered pedestrian friendly.	Yes
Incorporate the principles of Crime Prevention Through Environmental Design (CPTED) and Safer by Design (NSW Police) into all development within the Local Centre.	The proposal has been reviewed by the Police who have recommended conditions of consent.	Yes
Weather protection for pedestrians is to be provided in key locations.	Appropriate weather protection has been provided.	Yes



Provide a high quality landscape design including a co-ordinated package of street furniture and lighting that enhances the character of the Local Centre.	The proposed soft and hard landscape works are satisfactory.	Yes
Provide street tree and open space planting that establishes generous shade for pedestrians.	Appropriate street tree planting is proposed.	Yes
Design all signage and advertising in a co-ordinated manner.	Signage will be subject to a further Development Application.	NA
Site servicing and loading facilities, waste storage and other infrastructure is to be designed to minimise visual impact on the public domain and impacts on neighbours.	The location of servicing and loading facilities is satisfactory.	Yes

Section 5 also contains a number of general controls relating to the provision of active street frontages, street address, awnings, signage, parking and site servicing. The proposed development has active street frontages which promote pedestrian activity and casual surveillance. The design incorporates a number of features to provide an attractive street address with awnings and shop fronts provided to ensure passive and active use. The application does not include any signage and as such a condition of consent has been recommended requiring a further application for signage. Adequate parking and servicing arrangements have also been provided for the development.

**b. DCP Residential Development Requirements**

The following table addresses the requirements of Section 4 - Residential Development where it relates to the mixed use and residential flat building component.

Clause	Required	Provided	Satisfactory
4.1 Housing Types	4000m <sup>2</sup> lot size and minimum frontage of 50m	The site has an area of 41,120m <sup>2</sup> and a frontage of 202m to Barry Road and 183m to Withers Road.	Yes
4.2.1 Front Setbacks	All retail and commercial buildings in the centres are to have a zero front setback.	Nil setback to retail/commercial component on Barry Road and 2.5m setback to Withers Road.	Yes
	In mixed use buildings the residential floors must be set back as shown in Figure 26, being 4m.	The residential component in the mixed use building is set back 4m however it may be noted that balconies, stairs and corridors are located in this area.	No – see comments below in Section 3(e).

	Apartment buildings in the 'Ridge' character area (Site 2) are to have a 4.5m setback to the building façade line with a 3.5m setback for the articulation zone.	The building façade is set back 4.5m however the articulation zone setbacks vary down to 1.2 metres.	No – see comments below in Section 3(f).
4.2.2 Side and Rear Setbacks	Two-storey and above - 0m setback for a mixed use development.	N/A as all buildings have frontage to existing or proposed roads.	NA
	Two storey and above – 6m for a residential flat building.	N/A as all buildings have frontage to existing or proposed roads.	NA
4.2.3 Dwelling Massing and Siting	Building heights must be in accordance with Clause 4.3 of Appendix 2 of the State Environmental Planning Policy (Sydney Region Growth Centres 2006 (Amendment No 3). The height limit is 16m.	Variation requested – see comments above in Section 2(a).	No – see comments above in Section 2(a).
4.2.4 Site Coverage and Landscape Area for Residential Flat Buildings	Maximum site coverage of 50% and minimum landscape area of 50%.	The proposed site coverage is 43% and landscaped area is 54%.	Yes
4.3 Architectural Design and Streetscape	All provisions relate to single dwellings.	N/A as all provisions relate to single dwellings.	NA
4.4.1 Private Open Space for Residential Flat Buildings and Mixed Use Development	For dwellings with ground level access, private open space shall be provided with a minimum width of 4m and depth of 3m. This private open space shall be provided within one metre of natural ground and may be included as part of the minimum landscape area requirements.	All ground floor units have a private open space area which meets these requirements.	Yes
	Private (ground level) open space areas shall be enclosed with a landscape screen with an effective height of 1.8 metres from the finished ground level.	The proposed landscape plan has been reviewed and adequate privacy will be provided to ground level courtyards.	Yes
	Where direct access to the ground level open space is not possible, provide at least one balcony or terrace for each dwelling, directly	All upper floor units have a private open space area which meets these requirements.	Yes

	accessible from the main living area. Provide an area of private outdoor space of 10m <sup>2</sup> min. per dwelling with a minimum horizontal dimension of 2.4m.		
	At least 50% of all private outdoor space is to receive at least 3 hours of sunlight between 9am and 3pm at the winter solstice (21 June).	More than 50% of private outdoor space receives at least 3 hours sunlight between 9am and 3pm.	Yes
4.4.2 Communal open Space for Residential Flat Buildings	Communal open spaces should be located so as to form a focus of the development and provide a landscape buffer between buildings.	The common open space is centrally located and provides a buffer between the development on the site.	Yes
	Communal open spaces shall be private spaces and only accessible to the residents and visitors of the building.	The common open space area is private and for use of residents and visitors.	Yes
	Communal open spaces should provide places and equipment for children's play.	Play equipment, seating and covered areas are provided in the common open space.	Yes
	A minimum of 30% of the site area is to be communal open space.	Site 2 has 2,446m <sup>2</sup> which is 30%.	Yes
	50% of the communal open space must receive a minimum of 3 hours of sunlight between 9am and 3pm at the winter solstice (21 June).	68% of the common open space achieves the required sunlight.	Yes
	To contribute to passive surveillance of communal open space, fences or other boundary treatments from a dwellings private open space facing into communal open space are to have a maximum total height of 1.4m. The solid component of the boundary treatment is to be a maximum of 1m. Above this, boundary treatments are to be at least 50% visually transparent.	A condition has been recommended regarding the provision of fencing to ensure compliance with this standard – see Condition 45.	Yes
4.5.2 Vehicle Access for Residential Flat Buildings and Mixed	Driveways are to be provided from lanes and secondary streets rather than primary streets, wherever practical. Where access to parking is located	The proposed vehicle access points are from the secondary roads. There is no vehicle access from Withers Road or Barry Road.	Yes



Use Development	on the primary or secondary street frontage, driveways, garaging and entries to carparks are not to exceed 35% of the site frontage.		
	Driveways to underground parking are to be designed to ensure minimal visual impact on the street and maximum pedestrian safety. They should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.	The proposed vehicle access points are considered appropriate in number and location and will not unreasonably impact on the residential component.	Yes
	Separate and clearly defined pedestrian access is to be provided to each development.	Appropriate pedestrian access is provided to the development.	Yes
4.5.4 Parking for Residential Flat Buildings	On-site vehicle parking to be provided at rate of: 1 space per 1 bedroom unit; 2 spaces per 2-3 bedroom unit; Visitor parking: add 2 spaces per every 5 units. A minimum of one disabled car space is to be provided for each adaptable dwelling and must comply with the relevant Australian Standard.	Adequate parking provided in accordance with the NKDCP. See Section 4.	Yes
	On site bicycle parking: 1 space per 2 units. Visitors: 1 space per 12 units.	Adequate bicycle parking provided in accordance with the NKDCP. See Section 4.	Yes
	Basement parking must be provided for Residential Flat Buildings and is encouraged for multi-dwelling developments. Basements are not to be raised more than 1m above ground level.	Basement parking is provided for both the residential flat buildings and mixed use development.	Yes
	In the local centre and neighbourhood centres, parking and servicing is to be located to the rear of buildings, or below grade, to minimise impacts on the streetscape and pedestrian amenity.	The car parking areas are provided in basement areas and servicing is provided off a secondary road.	Yes

4.5.5 Site Servicing for Residential Flat Buildings	Garbage, mail box structures, service meters and the like are to be integrated with the overall design of the buildings and/or landscaping. Garbage storage areas are not permitted in front setbacks.	All ancillary services are provided and are satisfactory.	Yes
	Provide communal or individual laundries to every dwelling and at least one external clothes drying area per building.	All units are provided with an internal laundry. Two common clothes lines locations have been provided.	Yes
	Loading facilities must be at the rear of each development.	There is no requirement for loading for the residential flat buildings.	NA
	Service access is permitted from rear lanes, side streets or right of ways.	All access is from secondary roads.	Yes
4.6 Adaptable Housing	10% of all apartments are to be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995).	There are 15 adaptable units on Site 1 being 10% and 13 units on Site 2 being 10.5%.	Yes
	Where possible, adaptable dwellings are to be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.	The accessible units are provided on all levels however lift access is provided to allow access to both residential levels and basement levels.	Yes
	The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).	An Accessibility and DDA Report has been submitted which confirms that the adaptable units can be modified.	Yes

	Car parking and garages allocated to adaptable dwellings must comply with the requirements of the relevant Australian Standard for disabled parking spaces.	The car parking for the adaptable units will comply with AS 4299-1995.	Yes
4.7 Cut and Fill	DAs are to illustrate where it is necessary to cut and/or fill land and provide justification for the proposed changes to the land levels.	The proposed cut and fill is considered appropriate and satisfactory for the form of development.	Yes
4.8 Fencing	On corner lots the preferred outcome is for the dwelling to front both street frontages providing a better overall streetscape presentation. Where fencing to the secondary street frontage is proposed, it is not to exceed 1.8m high for more than one third of the length of the secondary road frontage, if relevant.	A condition has been recommended regarding the provision of fencing to ensure compliance with this standard – see Condition 45.	Yes
4.9 Safety and Surveillance	Dwellings should be designed to overlook streets, lanes and other public or communal areas to provide casual surveillance. In the case of corner lots habitable windows are to be oriented to overlook the side street.	The design of units will allow passive surveillance. The proposal was referred to castle Hill Police who raised no objection to the proposal – see Section 8.	Yes
4.10 Visual and Acoustic Privacy	Direct overlooking of main habitable areas and private open spaces should be minimised through building layout, window and balcony location and design, and the use of screening devices, including landscaping.	The proposed apartment units have been designed with adequate regard to visual and acoustic privacy.	Yes
4.11 Sustainable Building Design	New residential dwellings, including a residential component within a mixed use building and serviced apartments intended or capable of being strata titled are to be accompanied by a BASIX Certificate and are to incorporate all commitments stipulated in the BASIX Certificate.	A BASIX Certificate has been submitted and is satisfactory.	Yes



**c. Character Areas**

The North Kellyville Local Centre (mixed use development) sits within the 'Centres' character area and the apartment development sits within the 'Ridge' character area under the DCP. The character areas are shown on Attachment 6. The character areas are described, in part, as follows:

**(i) North Kellyville Local Centre Character Area**

*Shopping will be focussed around a traditional 'Main Street' setting rather than an internalised shopping mall, with fine grained specialty shops lining the supermarkets so that an active street edge is presented to the public domain. In order to maintain a pleasant main street character, a bypass route linking Hezlett Road and Barry Road, around the southern part of the local centre, will divert traffic away from the main local centre street. A pleasant and comfortable pedestrian environment will be created through wide shaded tree-lined footpaths, active traffic calmed streets and a maximum 40km/hr speed limit.*

*The form of the buildings in the local centre will be urban and compact in character with no front or side setbacks. Ground floor premises will be characterised by shops, restaurants, cafes, and commercial uses that encourage street interaction and contribute to vitality of the streets and public spaces. Commercial uses and/or apartments will be located on the upper floors. A street edge of 2 storeys will form well framed streetscapes and a neighbourhood centre presence. Buildings up to 4 storeys in total height are permitted.*

*Outside of the core retail area development will become more residential in character with residential flat buildings or multi dwelling housing.*

**Comment:**

The proposal satisfies the DCP requirements through the provision of an attractive main street framed with retail shops, active footpaths and appropriate streetscape planting. The retail component is supported by residential units above to encourage passive surveillance and a vital community. The site is adjoined to the north, outside of the core area, by apartment buildings.

**(ii) Ridge Character Area**

*The Ridge Character Area is a suburban residential area located along the ridgeline where land is gently inclined. The Ridge Character Area provides an east-west transition between the gentler slopes along Smalls Creek Character Area and the steeper slopes and denser vegetation in the Environmental Living Character Area. It has good access to main roads and provides views overlooking rural landscapes to the east, and urban areas and the Blue Mountains to the west. The area will have a predominantly low residential density, characterised by one to two storey detached housing with wider setbacks.*

*The public and private domain features include informal native and non-native planting that requires little watering, and attracts native flora and fauna. Verges in the public streetscape are soft landscaped, containing low level ground cover and multiple tree species spaced evenly apart, and often in clusters.*

**Comment:**

The site adjoins both existing and proposed roads and has direct access to the adjoining local centre development on Site 1. The site is centrally located in regard to retail/commercial development, open space and a future school. It may be noted that this

part of the site is zoned R3 Medium Density Residential which permits residential flat building development. In this regard the R3 Medium Density Residential zoning is provided around the local centre to provide a high level of access to retail shops and commercial premises for future residents. Views from the residential flat buildings to the surrounding areas will be achieved.

**d. Town Square/Civic Plaza**

The DCP requires the incorporation a town square / civic plaza, adjacent to the main street which provides an urban landscape setting and a civic focus for the community. The proposal provides a 'retail street' rather than a town square or civic plaza area.

The applicant has addressed the proposed retail street and has stated the following as justification for the design:

*The provision of a Retail Street as an alternative to the Public Plaza stipulated in Fig. 37 of Part 5 of the NKDCP is intended to achieve the Plazas objectives in providing a "Through Site Link" from Withers Road right through to Proposed Road No.2 and to be a "People Place" framed by active frontages with a variety of retail offers. The "street" as a public place contrasts to a plaza with the specific intent of providing a more intimate space involving more immediate and contained spaces reminiscent of the narrow mercantile lanes that are so much a positive part of the Melbourne CBD urban fabric as an example.*

*The street is also better placed to have a translucent roof structure erected over to provide for an all year – all weather pedestrian environment. The Plaza with its south facing orientation provides a more restricted external environment especially when open to the sky. We want to particularly capitalise on people's behaviour patterns of being more comfortable in more restricted "Human" scaled spaces that a street affords as opposed to an open single sided Plaza.*

*The primary feature of the development is the "Retail Street" which is the main pedestrian spine of the development. This "Retail Street" is not an enclosed air conditioned mall but a pedestrian walkway flanked on both sides with retail shops and covered with a "translucent" roof canopy above to afford pedestrian protection from inclement weather. The entries to the Retail Street from Withers Road and Proposed Road No.1 will be open during normal trading and fitted with "fold-down" type doors for after hour's security. This space will serve as a community venue for activities/displays etc typical of any shopping centre.*

**Comment:**

The objectives of the DCP are:

1. *To create a vibrant local centre that provides amenity to the North Kellyville Precinct.*
2. *To ensure that the detailed design of the Local Centre is undertaken in a coordinated manner in order to achieve a high quality urban design outcome.*
3. *To ensure that the North Kellyville Local Centre is well served by public transport.*
4. *To provide a good range of retail and commercial services for the local population whilst minimising risk of oversupply and adverse economic impact on existing centres.*



The proposed layout and design will result in a vibrant and active local centre which serves the needs of future residents. Whilst the area is enclosed and it is acknowledged that this area will not contribute to the urban landscape setting, the applicant has confirmed that the 'retail street' will act in the same manner as a civic area and will be utilised for similar activities. As such the proposal will contribute to the civic focus of the community.

In order to ensure that the 'retail street' is used in an appropriate manner a condition of consent has been recommended which requires its civic use (See Condition 110).

**e. Protrusion of balconies into 4 metre setback area for the Mixed Use Development**

The DCP requires that the retail and commercial component may have a zero front setback however the residential component must be set back 4m. The proposed setback varies between 0 – 3.4 metres for the stairs, corridors and balcony areas.

The applicant has sought a variation to the DCP and has stated the following as justification:

*The protrusion of balconies into the required setback are part of the "articulation zone" intended provide visual relief to the façade by breaking up the elements not only materially but in stepping the form into smaller more diverse elements.*

*The DCP called up zero setbacks for the 2 level podium section then a 4 metre setback to the residential above. Therefore having no stepped articulation at the podium level the balconies being set forward as an articulation zone as per the Ridge Character Area allowance on the upper levels adds to the richness of texture of these facades.*

**Comment:**

The objectives of the DCP are as follows:

1. *To provide a variety of streetscapes that reflect the character areas, environmental constraints, house types and road hierarchies.*
2. *To encourage attractive and cohesive streetscapes.*
3. *To reduce the visual dominance of garages on the streetscape.*
4. *To encourage the use of eaves, verandas, balconies and feature elements on the front facades of dwellings.*

The proposed setbacks are considered satisfactory as the setbacks will provide satisfactory articulation to the mixed use buildings. This area of the site is self-contained in that it is surrounded by existing and proposed roads and therefore there will be little opportunity for impact on privacy or amenity to adjoining properties. The external design, colours and finishes chosen for the development will assist in ensuring that the proposal, when completed, will have an appropriate modern appearance in keeping with the future character of the area.

Accordingly, the proposed variation is considered satisfactory and can be supported.

**f. Protrusion of balconies into 4 metre setback area for the Residential Flat Development**

The DCP requires that setbacks for Site 2 (within the Ridge Character Area) be 4.5 metres to the building façade line and 3.5 metres to the articulation zone. The proposed setbacks are as follows:

- 4.5 metres to the main building façade to Site 2 buildings with the exception of a minor point encroachment at the corner of Barry Road and the future road; and
- Balconies located within the setback with a minimum setback of 1.2 metres to the northern boundary.

The applicant has submitted the following as justification:

*In accordance with Table 8 of Part 4.2.1 of the NKDCP Site 2 is within the "Ridge Character Area which requires a Front Setback of 4.5 metres from the street boundary to the face of the external wall. Also in accordance with Figure 25 there is an articulation zone adjoining the external building facade within the front setback. Table 8 defines that articulation zone as 3.5 metre (which we assume is a maximum allowance) whereas our balconies are 2.5 metres wide as per the minimum SEPP 65 requirements. Drawing no. DA09 rev.1 shows the 4.5 m wide setback line to Site 2 and the external building façade lines outside this setback and the balconies within the "articulation zone" inside the Front Setback line.*

**Comment:**

The objectives of the DCP are:

- (i) *To provide a variety of streetscapes that reflect the character areas, environmental constraints, house types and road hierarchies.*
- (ii) *To encourage attractive and cohesive streetscapes.*
- (iii) *To reduce the visual dominance of garages on the streetscape.*
- (iv) *To encourage the use of eaves, verandas, balconies and feature elements on the front facades of dwellings.*

The proposed setbacks are considered reasonable given the location of the site. Site 2 is surrounded by proposed or future roads and as such there is little opportunity for impact to adjoining properties. The proposed balconies provide articulation to the façade and result in a modern design with area for outdoor living.

The proposal is considered to be consistent with the intent of the Ridge Character which is described in part as being:

*The Ridge Character Area is a suburban residential area located along the ridgeline where land is gently inclined. The Ridge Character Area provides an east-west transition between the gentler slopes along Smalls Creek Character Area and the steeper slopes and denser vegetation in the Environmental Living Character Area. It has good access to main roads and provides views overlooking rural landscapes to the east, and urban areas and the Blue Mountains to the west.*



In this regard the balconies allow views to the surrounding land and provides good internal amenity for residents.

Based on the above, the proposed setbacks are considered satisfactory in this instance.

**g. Height**

The NKDCP requires that development on Site 1 provide a range of building heights, up to a maximum of 4 storeys with a transition in heights to surrounding residential areas. Site 1 comprises a lower level of residential parking, basement level of parking, ground floor of part parking and part retail, and three levels of residential units above.

The applicant has submitted the following as justification for the proposed number of storeys:

*The Precinct Plan building height map shows that all land the subject of this application (not just the land zoned B2) has a maximum height limit of 16m. That control also extends northeast over Nos 5, 7, and 9 Barry Road. In other words, the height control does not reflect the zone pattern which indicates the Precinct Plan does not contemplate a transition in building heights from Site 1 to any adjoining residentially zoned land, whether it is part of the land the subject of this application or adjoining land. Building heights across Site 1 comprises 3 storeys of residential on a podium above ground floor retail and parking.*

*The development achieves a 4 storey presentation to the external edges of the site, that is to Barry and Withers Roads consistent with the DCP. However site topography has dictated that the building presents as 5 storeys to Roads 1 and 2.*

*This is addressed in the architectural design statement accompanying the application which noted the following relative to site 1 built form:*

*"The North Kellyville DCP calls for 4 storeys for these sites whereas the LEP allows a maximum building height of 16m defined as "the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns".*

*This issue has been discussed with Council officers and the approach adapted is to design to the 16 metre limit. However in order to achieve a urban form that is well proportioned between podium and residential forms for site 1 particularly with reference to the existing topography which has a 6 metre diagonal cross fall from the south-west to north-east corners.*

*Given these constraints dictating the podium heights and in keeping with the urban design principals of podiums being a maximum of 50% of the building heights the resulting 3 levels of residential are generally within the 16 metre height limit except for the lift overruns and plant room. Moreover the lift overruns are part of the building entry statements enhancing their prominence as well as giving relief to the façade and parapet lines.*

*There are 4 levels above ground to Barry and Withers Road frontages and by virtue of 2-3 levels of podium parking structure (top level being at the ground level retail/commercial floor level) being 5 levels to Proposed Road Nos 1+2".*

*With regards to those parking levels the design statement notes:*

*"Due to the existing land topography with a 6 metre diagonal fall from the southwest corner to the north-east corner of Site 1, the car-parking levels are sleeved into this fall so that it is all underground to the west end at Barry Road but 2.5 levels above the Proposed Roads No.1+ 2 intersection".*

*We have further addressed the suitability the built form if the Site 1 element, in terms of the height control in Clause 4.3(2) of the North Kellyville Precinct Plan within our clause 4.6 variation dated June 2012.*

**Comment:**

The objectives of the DCP are:

1. *To create a vibrant local centre that provides amenity to the North Kellyville Precinct.*
2. *To ensure that the detailed design of the Local Centre is undertaken in a coordinated manner in order to achieve a high quality urban design outcome.*
3. *To ensure that the North Kellyville Local Centre is well served by public transport.*
4. *To provide a good range of retail and commercial services for the local population whilst minimising risk of oversupply and adverse economic impact on existing centres.*

The proposed height of the buildings is considered satisfactory given that the site is surrounded by proposed and future roads. As such the development is separated from adjoining sites in terms of its location. The shadow impact from the development is considered reasonable given the form of the development. The separation to adjoining future development will reduce the potential for overlooking and privacy impacts.

The urban form is considered to be appropriate for the area and the development of a modern retail centre. The proposal incorporates a variety of finishes and colours and will result in an appropriate urban outcome.

The subject site has a slope from the southern corner at the intersection of Barry Road and Withers Road with an approximate RL 75 to the south-eastern corner at Withers Road with an approximate RL 71 - 73.1. This is a fall of approximately 1.9-4 metres over a distance of approximately 180 metres.

The development, when viewed from the proposed roads, will have an appropriate streetscape outcome. In this regard, the proposed when viewed from proposed road 1 will have the appearance of five levels of development. The use of landscape planting along the street frontage will assist in screening and softening the appearance of the building.

Accordingly, the proposed number of storeys is considered satisfactory and can be supported in this instance.

#### **4. Parking and Bicycle Spaces**

##### **(a) Parking**

The North Kellyville DCP contains the following parking rates:

Residential Component:

- 1 space per 1 bedroom unit;
- 2 spaces per 2-3 bedroom unit;
- Visitor parking: add 2 spaces per every 5 units.



Retail Component:

1 space per 25m<sup>2</sup> GFA for supermarkets and discount department stores;  
1 space per 50m<sup>2</sup> GFA for main street, village centre and other retail.

Commercial Component:

1 space per 50m<sup>2</sup> GFA.

COMPONENT	CARPARKING RATE	REQUIRED
41 one bedroom apartments	1 space	41 spaces
163 two bedroom apartments	2 spaces	324 spaces
70 three bedroom apartments	2 spaces	142 spaces
Visitor Parking	2 spaces per 5 units	110 spaces
<b>TOTAL RESIDENTIAL SPACES REQUIRED 617 SPACES</b>		
4,260m <sup>2</sup> supermarket	1 space per 25m <sup>2</sup> GFA	170.4 spaces
4,517m <sup>2</sup> other retail and commercial	1 space per 50m <sup>2</sup> GFA	90.34 spaces
1598m <sup>2</sup> other GFA (toilets and covered 'street')	1 space per 50m <sup>2</sup> GFA	31.96 spaces
<b>TOTAL RETAIL/COMMERCIAL SPACES REQUIRED 293 SPACES</b>		
<b>TOTAL SPACES REQUIRED - 910 SPACES</b>		
<b>TOTAL SPACES PROVIDED - 930 SPACES</b>		

As can be seen above, the total number of spaces proposed across the development site as a whole satisfies the DCP requirements.

In addition to the above which calculates the total number of spaces required for the development as a whole, consideration needs to be given to the parking provided on each site. The following table addresses parking on each site:

SITE 1	REQUIRED
Supermarket, retail and commercial	293 spaces
Residential:	
21 x 1 bedroom units	21 spaces
129 x 2/3 bedroom units	258 spaces
Visitor parking	60 spaces
<b>TOTAL SITE 1 SPACES REQUIRED 632 SPACES</b>	
<b>TOTAL SITE 1 SPACES PROVIDED 688 SPACES</b>	
SITE 2	
Residential:	
20 x 1 bedroom units	20 spaces
104 x 2/3 bedroom units	208 spaces
Visitor parking	50 spaces
<b>TOTAL SITE 2 SPACES REQUIRED 278 SPACES</b>	
<b>TOTAL SITE 2 SPACES PROVIDED 242 SPACES</b>	

As detailed in the table above, the parking spaces, when considered on a site by site basis, does not satisfy the DCP requirement for Site 2.

The applicant has submitted the following comments to justify the parking layout:

Site 2 with 124 apartments generates the requirement for 228 residents allocated parking spaces and 50 visitors spaces generating a total requirement for 278 spaces. However due to the sites constraints only 242 spaces can be realistically accommodated on the site within a single basement level. This means that the full requirement for allocated residents parking spaces can be accommodated on the site but in keeping with the approach we have adopted for site 1 residential car park, the visitors parking provision is split between the residential and retail car park. Therefore the Site 2 basement would house 228 allocated residents vehicles and 14 visitors spaces with the other 36 visitors parks becoming part of the retail parking provision on Site 1.

**Comment:**

As detailed above, the parking requirements across the site for the development as a whole are provided in accordance with the DCP provisions. However, when the parking on site is considered on a site by site basis there is a parking shortfall for Site 2.

The objectives of the DCP in regard to parking for residential flat buildings are:

1. To provide an appropriate level of on-site car and bicycle parking provision in North Kellyville to cater for a mix of development types and location.
2. To minimise the visual impact of on-site parking.
3. To integrate parking facilities with the overall site planning and landscape.
4. To encourage the use of bicycles.

Given that the proposed parking across the site satisfies the DCP requirements, and given that adequate parking is also provided for the mixed use development, it is considered appropriate to support the proposed layout subject to a condition requiring that all Site 2 spaces be allocated for resident parking (See Condition 3).

**b) Bicycle Parking**

The DCP contains the following rates for bicycle parking for both the mixed use and residential flat building use.

Use	Rate	Required
Supermarket	4260m <sup>2</sup> at 1 space per 750m <sup>2</sup> (employees)	5.68
	4260m <sup>2</sup> at 1 spacer per 1000m <sup>2</sup> (visitors)	4.26
	Total	10
Retail	6115m <sup>2</sup> at 1 space per 300m <sup>2</sup> (employees)	20.38
	6115m <sup>2</sup> at 1 space per 300m <sup>2</sup> (employees)	20.38
	Total	41
	<b>TOTAL REQUIRED FOR RETAIL COMPONENT</b>	<b>51</b>
Residential Flat Building	274 units at 1 space per 2 units (residents)	137
	274 units at 1 space per 12 units (visitors)	23
	<b>TOTAL REQUIRED FOR RESIDENTIAL COMPONENT</b>	<b>160</b>



The applicant has advised that bicycle parking can be provided within the storage cages in the basement levels and adjacent to the lobby entrances for the residential component and within the retail car parking area. This satisfies the DCP requirement (See Condition 46).

**c) Dual Use of Parking Spaces**

The applicant has requested a dual parking arrangement of residential visitor parking spaces during the day for retail parking. The following has been provided by the applicant to justify the request:

*The DCP parking rate for the other retail uses of two spaces per 100m<sup>2</sup> is relatively low. By comparison, the RTA's "Guide to Traffic Generating Developments" indicates that the parking demand for specialty retail is some 4.5 spaces per 100m<sup>2</sup>. Conversely, the DCP parking rate for residential visitors of two spaces per five apartments is relatively high. By comparison, the RTA guidelines suggest a provision of one space per five dwellings for medium density residential.*

*The overall parking provision for the site is proposed to be 930 spaces, which satisfies the DCP requirement. To make more efficient use of the parking, it is proposed to provide 60 of the residential visitor parking spaces as additional parking in the retail car park, to cater for likely retail parking demands. At times when the residential component generates more visitors, and when the retail is less busy (such as in the evenings), these spaces would be available for use by residential visitors. Appropriate access will be provided from the retail car park for visitors to the residential component.*

*To make more efficient use of the parking, it is proposed to provide 53 of the residential visitor parking spaces to supplement parking in the retail car park, to cater for likely retail parking demands. At times when the residential component generates more visitors, and when the retail is less busy (such as in the evenings), these spaces would be available for use by residential visitors. Appropriate access will be provided from the retail car park for visitors to the residential component.*

*A proportion of the residential visitor parking spaces will supplement the retail car park, in addition to the parking required for the retail component. The architect's drawings show that residential visitors will be able to park in this car park and access the residential apartments via lifts and stairs. During the day, the retail car park will be open and therefore accessible to residential visitors. At night, visitors will be able to access the car park via the intercom at the access from proposed Road 1.*

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

A Design Verification Statement has been prepared. This statement has addressed the ten (10) matters for consideration under SEPP 65. The relevant rules of thumb of the Residential Flat Design Code are addressed below:

<b>Primary Controls Part 1 – Local Context</b>	<b>Guideline</b>	<b>Compliance</b>
Building Height	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.  Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	Compliance with FSR provided. The submitted design exceeds the SEPP height limit – see Section 2(a) and 3(g) above however is considered satisfactory.
Building Depth	In general, an apartment building depth of 10-18m is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day light and natural ventilation are to be achieved.	The dual aspect units have a depth of 17m and single aspect units 8m. The proposal allows for sufficient day lighting and solar access and through the use of roof top gardens. Natural ventilation will occur throughout the site and accordingly satisfy the aim of the building depth control.
Building Separation	Design and test building separation controls in plan and section.  9 storeys and above: 24m between habitable rooms/balconies 18m between habitable rooms/balconies and non habitable rooms 12m between non habitable rooms.  5 to 8 storeys 18m between habitable rooms/balconies. 13m between habitable rooms/balconies and non-habitable rooms. 9m between non-habitable rooms  Up to 4 storey: 12m between habitable rooms/balconies 9m between habitable/balconies and non-habitable rooms 6m between non-habitable.	A minimum of 18 metres is provided which is adequate separation between buildings.
Street Setbacks	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	See compliance table in Section 3 above. The proposed setback are considered satisfactory.  Buildings are well articulated and in



	<p>Test street setbacks with building envelopes and street sections.</p> <p>Test controls for their impact on the scale, proportion and shape of building facades.</p>	<p>proportion with respect to the locality of the development.</p>
Side and rear setbacks	<p>Relate side setbacks to existing streetscape patterns.</p>	<p>See compliance table in Section 3 above.</p> <p>The area adjoining the site has not been developed however the proposal will be in keeping with future development. Perimeter landscaping is of a high quality. The scale and proportion of the development is satisfactory.</p>
Floor Space ratio	<p>Test and desired built form outcome against proposed floor space ratio to ensure consistency with building height – building footprint and three dimensional building envelope open space requirements.</p>	<p>The proposal satisfies the required floor space ratio.</p>
<b>Part 2 – Site Design</b>		
<b>Site Configuration</b>		
Deep Soil Zones	<p>A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.</p>	<p>There are no deep soil zones due to the location of the basement parking under however Site 1 contains 30% landscaping and Site 2 contains 27% landscaping on top the basement which is considered adequate. In this regard the landscape species chosen comprise a mix of tree, shrub and groundcover planting which will provide a suitable streetscape outcome. The development has adequate stormwater detention tanks and rainwater tanks below ground to cater for run-off.</p>
Open Space	<p>The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brownfield sites may have potential for more than 30 percent.</p>	<p>Site 1 provides 32.7% and Site 2 contains 25.9% of common open space is provided.</p>

Planting on structures	<p>In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:</p> <p>Large trees such as figs (canopy diameter of up to 16m at maturity) – minimum soil volume 150 cubic metres – minimum soil depth 1.3m – minimum soil area 10mx 10m area or equivalent.</p> <p>Medium trees (8m canopy diameter at maturity) – minimum soil volume 35 cubic metres – minimum soil depth 1m – approximate soil area 6m x 6m or equivalent.</p> <p>Small trees (4m canopy diameter at maturity) – minimum soil volume 9 cubic metres – minimum soil depth 800mm – approximate soil area 3.5m x 3.5m or equivalent.</p> <p>Shrubs – minimum soil depths 500-600mm.</p> <p>Ground cover – minimum soil depths 300- 450mm.</p> <p>Turf – minimum soil depths 100-300mm.</p> <p>Any subsurface drainage requirements are in addition to the minimum soil depths.</p>	Adequate site landscaping is provided.
<b>Site Amenity</b>		
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	Risk assessment carried out and Police have assessed the proposal and made recommendations. See Section 8.
Visual privacy	Refer to building separation minimum standard.	See above.

<b>Site Access</b>		
Pedestrian access	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p> <p>Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	<p>Ground level entrances provided and lift access to each floor is available from basement level.</p> <p>All works will be carried out in accordance with the BCA.</p> <p>All units are accessible by lift.</p>
Vehicle access	<p>Generally limit the width of driveways to a maximum of 6m.</p> <p>Locate vehicle entries away from main pedestrian entries and on secondary frontages.</p>	<p>Adequate vehicle entry points are provided in accordance with Australian Standards which will not conflict with pedestrian access. Vehicle access is from secondary roads.</p>
<b>Part 3 – Building Design</b>		
<b>Building Configuration</b>		
Apartment layout	<p>Single-aspect apartments should be limited in depth to 8m from a window.</p> <p>The back of a kitchen should be no more than 8m from a window.</p> <p>Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory day light and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation).</p>	<p>Single aspect units are 8m deep and dual aspect units are 17m deep.</p> <p>Satisfactory kitchen locations.</p> <p>Satisfactory day light and natural ventilation provided.</p>
Apartment mix	<p>If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability; (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> <li>• 1 bedroom apartment 50 m<sup>2</sup></li> <li>• 2 bedroom apartment 70m<sup>2</sup></li> <li>• 3 bedroom apartment 95m<sup>2</sup></li> </ul>	<p>A variety of unit sizes has been provided as follows:</p> <p>1 bedroom 70m<sup>2</sup></p> <p>2 bedroom 100m<sup>2</sup></p> <p>3 bedroom 130m<sup>2</sup></p>



Balconies	Provide primary balconies for all apartments with a minimum depth of 2m.	Provided.
Ceiling Heights	Finished floor level to finished ceiling level of 2.7m for living areas and 2.4m to non-habitable areas. These are minimums only and do not preclude higher ceilings, if desired.	Provided.
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.  Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	Satisfactory ground floor layouts provided.
Internal Circulation	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: for adaptive reuse buildings where developments can demonstrate the achievement of the desired streetscape character and entry response; where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	Proposal designed to maximise residential amenity.
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:  studio apartments 6m <sup>3</sup> ; one-bedroom apartments 6m <sup>3</sup> ; two-bedroom apartments 8m <sup>3</sup> ; three plus bedroom apartments 10m <sup>3</sup> .	Provided as required in units with 50% internal to the unit and 50% within storage areas in the basement parking.
<b>Building Amenity</b>		
Daylight Access	Living rooms and private open space for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.	70.4% of units receive 3 hours.  Northern orientation has been maximised.  9.3% of units on Site 1 and 8% of units on Site 2 are single aspect units.

	Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).	
Natural Ventilation	Building depths, which support natural ventilation typically range from 10m to 18m.  Sixty percent (60%) of residential units should be naturally cross-ventilated.	The proposed depths are satisfactory as the development is of a scale that is consistent with the desired existing and future context. The proposal will achieve 60% of units with cross-flow ventilation.
<b>Building Performance</b>		
Waste Management	Supply waste management plan as part of the development application submission as per the NSW Waste Board.	Satisfactory waste management details provided.
Water Conservation	Rainwater is not to be collected from roofs coated with lead or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Satisfactory.

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

**(i) Context**

The development responds and reflect the context into which it is placed. The site is located at the corner of two main rural roads. The site is one of the first to be developed within this area of the Precinct and will form the basis of the redevelopment of the previous rural land. Currently the immediate area is characterized by single rural style dwellings, market gardens, plant nurseries and similar low scale activities. The context is likely to change over the coming years as further development occurs in the Precinct.

**(ii) Scale**

The height of the development overall is acceptable in terms of solar access and residential amenity impacts. The proposal complies with floor space requirements. The proposal responds to the existing topography of the site within its context. The height generally ensures that the development responds to the desired future scale and character of the site. The proposed development adopts the principles found within the Development Control Plan provisions.



The spatial relationship of buildings has been considered. The proposed buildings will maintain adequate separation with appropriate distances between buildings. The building separations and setbacks will provide a sufficient degree of separation and landscaping to ensure privacy and solar access is maintained.

The proposed street setbacks establish the front building alignment and contribute to the public domain by enhancing the streetscape. The street setbacks provide for continuity of the street facades and enhance the setting for the building.

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

**(iii) Built Form**

The design of the building elements are of a contemporary style with a number of elements being used to provide an architectural character. The ultimate form of development is achieved in the articulation of the elevations by creating a strong base or podium with retail uses, with the residential floors above. The selection of colours and materials enhances the segmented appearance and provides distinct yet harmonious building facades.

**(iv) Density**

The proposed density has been determined by a number of design factors contained in the planning controls. The main controls provide the limits of height, floor space ratio, setbacks and landscaping areas to provide a scale of development which is proportional to the characteristics of the site.

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

The demolition and building construction phase will utilize appropriate waste management controls. The design achieves natural ventilation and insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

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

**(vi) Landscape**

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

**(vii) Amenity**

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

**(viii) Safety and Security**

The development has been designed with safety and security concerns in mind. The common open spaces is 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 NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected.

**(ix) Social Dimensions**

The location of this development provides dwellings with architectural style and character within a precinct that will provide in the future, a range of retail and support services.

**(x) Aesthetics**

The proposal integrates a number of recesses and projections into the facades of the structure to articulate the overall mass and form into smaller segments. The bulk of the overall building works and height is reduced by the articulation of the facades, creating smaller segments in order to minimise the overall bulk and scale of the development. The design is modern in style and appropriate for the area.

**6. Submissions**

The proposal was advertised and notified to adjoining property owners for a period of thirty days. One submission was received. The table below summaries the issues raised in the submission.

Issue	Comment	Outcome
Proposed Road 4 which connects to 6 Barry Road has not been shown on the plans and this is an important road connection. This road is in close proximity to the proposed basement carpark within Site 2.	Proposed Road 4 is partially located within the site at the north-west corner of Barry Road (See Attachments 3 and 10). A condition has been recommended which requires that, should the property to the north not develop and the road not be constructed concurrently, that a bond be submitted and held pending the roadworks.	Condition imposed – see Condition 58(ii).
Proposed Road 3 should be available to enable development to 6 Barry Road. The temporary turning head should be removed when the connection is in place.	Proposed Road 3 will include a temporary turning head which will be removed upon construction of a link road.	Condition imposed – see Condition 21.
The site analysis is inadequate and does not consider all elements in context or consider adjoining land zones and uses, future roads or desired future character.	The site analysis undertaken is considered satisfactory and adequately addresses adjoining land uses.	Issue addressed.



The proposal does not adequately address S. 79C of the EP and A Act, 1979.	The proposal has adequately considered matters under S. 79C of the EP and A Act, 1979.	Issue addressed.
The proposal does not address Site 2 as a 'Ridge Character' area.	The proposal adequately considers the Ridge Character area. See comments in Section 3 above.	Issue addressed.
Setbacks to Site 2 do not comply with the DCP. This will result in overlooking of 6 Barry Road and will impact upon the character and privacy of the adjoining low density area.	The proposed setbacks have been reviewed and are considered satisfactory. See Section 3 above.	Issue addressed.
The development on Site 2 should provide a transition to the low density residential area at 6 Barry Road. The design would benefit from increased modulation, a mix of dwelling types such as townhouses and variations in form which support a transition from town centre to low density residential. It would be preferred if a greater density and height was provided on the southern side of the site with an appropriate scale of 2-3 storeys adjoining 6 Barry Road.	The proposed apartments are a permissible use within the zone. Given the separation between the subject site and properties to both the west and north by existing/future it is considered that an adequate transition occurs.	Issue addressed.
Relationship between Site 1 and Site 2 should be considered as it would be appropriate that the defining element be located on the corner of Barry Road and Withers Road. The design results in the Site 2 buildings appearing dominant and, when approaching the site from the north, the commercial buildings will not be visible from Barry Road.	The relationship between building forms on the site is considered a reasonable design outcome and will result in a satisfactory streetscape.	Issue addressed.
Within Site 2 for the ground floor units, any fencing of height greater than 1.2m of solid construction is strongly objected to. These courtyards need to have a relationship with the street.	The DCP requires that private (ground level) open space areas be enclosed with a landscape screen with an effective height of 1.8 metres from the finished ground level. The typical fencing details indicate a mix of masonry retaining wall, planting on top of and a part masonry and wooden slat fencing behind to a height of 1.8m. the fencing is considered to provide an appropriate streetscape whilst providing privacy to residents.	Issue addressed.

There is no opportunity for deep soil planting on Site 1 and little opportunity on Site 2, with only the public reserve area providing deep soil planting. It is not appropriate for the site to rely on a public area to satisfy the deep soil planting.	There are no deep soil zones due to the location of the basement parking under however Site 1 contains 30% landscaping and Site 2 contains 27% landscaping atop the basement which is considered adequate.	Issue addressed.
The landscape report submitted does not address Site 2.	The Landscape Report specifically addresses Site 1 however adequate landscape details and plans have been provided for Site 2.	Issue addressed.
The main focus of the design is on the town centre and Site 2 is, by comparison, an inferior development. There is opportunity to differentiate the sites, and it is considered that an opportunity has been missed to create a distinctly different residential precinct adjoining the town centre.	The proposed design and built form outcome of the development as a whole is considered satisfactory.	Issue addressed.
The residential development on Site 2 should not be approved as it does not satisfy the setback requirements, will result in overlooking and privacy impacts to 6 Barry Road and does not address Road 4.	The proposed setbacks are addressed in Section 3 above. The separation between the proposed apartments and the future development to the north at 6 Barry Road is considered appropriate to ensure that there is minimal impact in regard to privacy and overlooking.	Issue addressed.
While not objecting to the overall density or height of the proposal, it is considered that there is opportunity to design the site in a manner that reduces the impact on the adjoining low density residential development through the appropriate siting of buildings.	The proposed design and built form outcome of the development as a whole is considered satisfactory.	Issue addressed.
The provision of 5 storey "walls" along a minor street (proposed road 4) will create a very uncomfortable transition to the adjoining development, which will be a maximum of 2 storey.	The proposed apartments are a permissible use within the zone. Given the separation between the subject site and properties to both the west and north by existing/future development it is considered that an adequate transition occurs. There is adequate articulation and use of colours in the apartment buildings to provide an appropriate streetscape.	Issue addressed.

## 7. RMS Comments

The proposal was referred to RMS for review under the provisions of SEPP Infrastructure 2007 as the proposal provides more than 200 parking spaces. The following comments were provided for consideration:



- 
- a. Consideration should be given to improve bus amenity along Withers Road via provision of allocated space along the frontage of the development.
  - b. The proponent shall investigate the provision of safe access pedestrian from the site to the surrounding land uses planned.
  - c. The proposed signalised intersections at Barry Road and Withers Road and also at the intersection of Withers Road and Hezlett Road shall be designed and constructed in accordance with Austroads, RMS's supplements, RMS's Traffic Signal Design Manual and other Australian standards and endorsed by a suitably qualified practitioner. The certified copies of traffic signal design and civil design plans as well as swept path analysis shall be submitted to RMS for consideration and approval prior to the release of any relevant Construction Certificate by the Certifying Authority and commencement of any road or traffic signal works. RMS fees for administration, plan checking, signal works inspection and project management shall be paid by the developer prior to the commencement of works. An upfront ten (10) year maintenance fee (payable to RMS) will apply to the new signalised intersection.

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned traffic signal and civil works. The Works Authorisation Deed (WAD) will need to be executed prior to RMS assessment of the detailed traffic signal design plans.

No Occupation Certificate shall be released until the traffic signals and associated road works are fully constructed and operational.

- d. Shared pathways along the frontages of the site should be provided in accordance with Council's requirements.
- e. The provision of off-street car parking shall be provided to the satisfaction of Council.
- f. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- g. The proposed turning areas within the car park are to be kept clear of any obstacles, including parked cars, at all times.
- h. The proposed development proposes the placement of a marked foot crossing midway along Withers Road. This pedestrian crossing facility is not considered appropriate as it will compromise the viability of the road to operate as a four lane road. It is RMS practice for pedestrian crossing facilities not to be placed at four lane roads.
- i. All pedestrian crossings on the subject site are to be clearly sign posted and marked on the road to ensure safety for pedestrians.
- j. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the proposed access driveways to motorists, pedestrians and cyclists.
- k. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) are to be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.



- l. The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site and loading area, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- m. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.
- n. All demolition and construction vehicles are to be contained wholly within the site.
- o. All vehicles are to enter and leave the site in a forward direction.
- p. All work associated with the proposed development is to be at no cost to the RMS or Council.

**Comment:**

In regard to the above comments made by the RMS, the proposed parking, footpaths and loading facilities have been provided to the satisfaction of Council and will be designed in accordance with the relevant Australian Standards. The provision of bus parking and safe pedestrian access across local roads will be subject to later consideration by the Local Traffic Committee who will review this matter and the Police request for an emergency vehicle set-down area. It is noted that the marked foot crossing across Withers Road is a requirement of the DCP and is considered satisfactory.

In regard to 'c' above, the RMS have requested that the applicant design and construct signalised intersections at Barry Road and Withers Road and also at the intersection of Withers Road and Hezlett Road. The Section 94 Plan currently in place does not include signals in these locations. The construction of the traffic lights cannot be reasonably imposed on this developer for two reasons:

- 1. The applicant cannot physically build the lights because the applicant does not control both sides of the road at either location. As such property acquisition would be required and Council cannot require the applicant to acquire land for the purposes of road widening from a third party.
- 2. The development will not generate the demand for the traffic signals. The demand will be a combination of the development sites in this location that generate the ultimate warrant for the signals.

In this regard Council's Manager Infrastructure and Transport Planning will review the funding of the signals as further development in this retail area progresses over the next 18 months.

A condition has been recommended requiring compliance with the RMS requirements with the deletion of 'a', 'b', 'c' and 'h' (See Condition 41).

**8. Police Comments**

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

- a) Natural surveillance is to be maximised and physical barriers installed to secure the property from trespassers.
- b) High resolution CCTV is to be installed to monitor common open spaces and the car park access/egress points, entrances to the unit blocks and loading docks.
- c) Lighting is required to meet Australian Standards. In particular, lighting is to be installed at the entry and exit points of the buildings, driveways and within the carparking areas.
- d) All landscape works are to be maintained to ensure adequate sight lines are available and reduce opportunity for concealment and entrapment. Pedestrian pathways are to be maintained with low landscaping for 3-5m either side to prevent concealment.
- e) Bicycle parking is to be lockable and covered and be within sight of capable guardians.
- f) All public access points are to be clearly marked.
- g) The site is to be maintained at all times, including repair of vandalism and graffiti, the replacement of lighting and general site cleanliness.
- h) The installation of gates or a similar form of access control within the carparking areas to restrict access to the residential carparks and retail/commercial after hours.
- i) Offenders often target this type of development, including in the construction phase. Security sensor lights and a security company to monitor the site is to be used while construction is in progress.
- j) The installation of signage at fire exits and stairs to ensure that these exits/stairs are kept closed.
- k) Avoid the creation of 'natural ladders' such as ledges, capable of supporting hands/feet and use of balustrades that will not provide an anchor point for ropes.
- l) The use/installation of all measures outlined in Section 7.2.14 of the Statement of Environmental Effects prepared by City Plan Services.

In addition to the above Safer by Design matters, the Police have raised concern with the adequacy of parking for the retail/commercial component and have requested that parking bays in close proximity to the entrance to the centre on Withers Road and Proposed Road 1 be for the exclusive use of emergency vehicles. In this regard, the proposal provides adequate parking in accordance with the DCP requirements (See Section 4 above). In regard to the use of public spaces for emergency vehicles, Council's Manager Infrastructure and Transport Planning has advised that this matter will be considered by the Local Traffic Committee when the shopping precinct develops.

A condition has been recommended requiring compliance with the NSW Police requirements (See Condition 40).

#### **9. Office of Water Comments**

The proposal is defined as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the NSW Office of Water under the provisions of the Water Management Act, 2000. The Office of Water have advised that they raise no objection to the proposal and have issued General Terms of Approval (See Condition 43 and Appendix 1).



**10. Rural Fire service Requirements**

The site is partially bushfire prone and contains both Category 1 Vegetation and 100m buffer. The proposal was assessed as requiring some construction at BAL 40 and as such the proposal was referred to RFS for review. RFS have raised no objection to the proposal subject to the imposition of a condition requiring, in part, certain construction levels and asset protection zones (See Condition 42).

**TRAFFIC MANAGEMENT COMMENTS**

This application proposes to construct 274 (mix of 1-3 bedroom) residential apartments and 8,777m<sup>2</sup> of retail and commercial floorspace on the north/eastern corner of Barry Road and Withers Road, Kellyville. The site of this proposal forms approx 60% of the total 15,000m<sup>2</sup> retail and commercial facilities for the town centre located on both sides of Withers Road within the North Kellyville Precinct.

A transport study has previously been undertaken by Maunsell Aecom on behalf of the Growth Centre's Commission as part of the North Kellyville Precinct Planning process. This transport study was used to determine the required infrastructure improvements for inclusion in the Contributions Plan 13.

The consultant has indicated that the applicant is prepared to make the appropriate contributions towards the cost of the identified upgrade works including traffic signals within the local area.

There are no objections raised from a traffic engineering perspective to the proposed development provided the appropriate contributions in accordance with Contributions Plan 13 are made for traffic improvements in the local area (See Condition 48).

**SUBDIVISION ENGINEERING COMMENTS**

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

**TREE MANAGEMENT COMMENTS**

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

**HEALTH & ENVIRONMENTAL PROTECTION COMMENTS**Acoustics

The acoustic report submitted as part of the development application satisfies the requirements to ensure both internal and external noise levels do not exceed the acceptable criteria. Principal acoustic treatments have been provided to ensure that noise levels from surrounding noise sources comply with the requirements. Certification is required to be submitted by the acoustic consultant upon their installation.

Contamination

The environmental site assessment submitted as part of the development application has indicated that there are no contaminants located within the subject site following laboratory analysis. A number of bore holes were sampled for common contaminants including hydrocarbons, metals and asbestos materials. The site is considered suitable for its intended use. Further samples are required under footprints of existing structures.

**Salinity**

The site is located within a non-saline in the *Salinity Potential in Western Sydney 2002* map. There is no need for the implementation of a salinity management plan. Any imported fill material must be VENM and non-saline as conditioned below.

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

**WASTE MANAGEMENT COMMENTS**

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

**WATERWAYS COMMENTS**

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

**LAND INFORMATION MANAGEMENT COMMENTS**

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

**CONCLUSION**

The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2012, SEPP Sydney Region Growth Centres and the North Kellyville Development Control Plan and is considered satisfactory.

The issues raised in the submission have been addressed in the report.

Accordingly approval subject to conditions is recommended.

**IMPACTS:****Financial**

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

**Hills 2026**

The social and environmental impacts have been addressed in the report. The proposal will add to retail shopping and housing choice within the Shire and is a satisfactory built form outcome.

**RECOMMENDATION**

The Development Application be approved subject to the following conditions.

**GENERAL MATTERS****1. Development in Accordance with Submitted Plans**

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



## REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	DATE
DA00	Cover Sheet	Issue 2
DA01	Site Analysis	Issue 2
DA02	Residential Parking – Lower Level	Issue 3
DA03	Basement Plan	Issue 3
DA04	Ground Floor Plan	Issue 4
DA05	Podium Level Plan	Issue 3
DA06	Typical Residential Plan	Issue 2
DA07	Typical Residential Level	Issue 2
DA07A	Typical Residential Level Site 2	Issue 1
DA08	Roof Plan	Issue 2
DA09	Setback Plan	Issue 2
DA10	Site 1 Withers Road Elevation	Issue 3
DA11	Site 1 Barry Road/Prop Road 1 Elevations	Issue 2
DA12	Site 1 Proposed Road 1 Elevation	Issue 2
DA13	Block F1 and F2 External Elevations	Issue 3
DA14	Site 2 Block E External Elevations	Issue 2
DA15	External Elevations Site 1	Issue 2
DA16	External Elevations Site 2	Issue 2
DA20	Site 1 Section Looking South	Issue 2
DA21	Site 1 Section Looking South	Issue 2
DA22	Site 1 Section Looking East/West	Issue 2
DA23	Site 1 Section Block B, C1, C2	Issue 2
DA24	Site 1 Section Block A2,D	Issue 2
DA25	Site 2 Sections Block E	Issue 2
DA26	Site 2 Section Block F1 and F2	Issue 2
DA50	Typical Apartments	Issue 2
DA51	Typical Accessible Apartments	Issue 2
DA52	Typical Driveway and Ramps	Issue 2
DA53	Typical Loading Dock	Issue 2
DA100	Shadow Analysis – Winter Solstice Sheet 1	Issue 2
DA101	Shadow Analysis – Winter Solstice Sheet 2	Issue 2
DA102	Shadow Analysis – Winter Solstice Sheet 3	Issue 2
DA103	Shadow Analysis – Winter Solstice Sheet 4	Issue 2
DA104	Shadow Analysis – Winter Solstice Sheet 5	Issue 2
DA110	Staging Diagrams	Issue 2
DA120	Perspective Views	Issue 2
---	Plan of Detail and Levels	Sheet 1 of 2 Sheets
---	Plan of Detail and Levels	Sheet 2 of 2 Sheets
001	Landscape Masterplan	Issue D
100	Landscape Masterplan Ground Level	Issue F
101	Landscape Detail Plan Ground Level	Issue F
200	Landscape Masterplan Podium Level	Issue E
201	Landscape Detail Plan Podium Level	Issue E
202	Landscape Detail Plan Podium Level	Issue E
502	Landscape Masterplan	Issue B
501	Landscape Masterplan	Issue C
601	Landscape Cross Sections Roadway Types	Issue D

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



**2. Staging of Works**

The proposed works will be staged as follows in accordance with the approved 'staging diagrams':

- Stage 1 – subdivision, services and infrastructure, public park, road and drainage works;
- Stage 2 – all site 1 works with the exception of apartment blocks C1, C2 and D;
- Stage 3 – site 1 apartment blocks C1, C2 and D; and
- Stage 4 – all site 2 works.

**3. Provision of Parking Spaces and Use**

The development is required to be provided with 930 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times. These spaces are to comprise:

- (i) 688 spaces for Site 1, including one accessible parking space per accessible residential unit (15 accessible units).
- (ii) 242 spaces for Site 2, including one accessible parking space per accessible residential unit (13 accessible units).
- (iii) All spaces within Site 2 are to be allocated for resident parking.
- (iv) 53 of the residential visitor spaces within Site 1 are permitted to be used as 'dual use spaces', being spaces which are available for retail parking use during the day and available for residential visitor parking during the evening and overnight.

**4. Separate application for signs**

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

**5. Supermarket Tenancy**

Approval is granted for the use of the supermarket tenancy.

**6. Separate Development Application for Occupations**

A separate Development Application is required for the first use and occupation of the approved tenancies (not including the supermarket). This application is required to provide assessment against:

- Local Environmental Plan 2012; and
- Baulkham Hills Development Control Plan 2011.

The above assessment should specifically address the following:

- Proposed use and its Permissibility
- Hours of Operation
- Delivery Details
- Staff Numbers
- Signage, and
- Parking Provision

**7. External Finishes**

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

**8. Construction Certificate**

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

**9. Building Work to be in Accordance with BCA**

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

**10. Separate Application for Subdivision**

A separate application must be submitted for the subdivision of the approved development.

The subdivision application must provide for the following:

- The new public roads and road widening along Withers Road within the development site must be dedicated to Council at no cost prior to the issuing of an Occupation Certificate.
- The SP2 zoned land at the intersection of Withers Road and Barry Road must be excised and created as a separate lot so that it may be acquired by Council as part of a separate process.
- The RE1 zoned land at the northern part of the site must be excised and created as a separate lot so that it may be acquired by Council as part of a separate process.

The strata subdivision of either building cannot occur as complying development as the individual parking spaces have not been allocated to residential or retail units as part of the subject application. A development application for any proposed strata subdivision of either building is required.

**11. Protection of Public Infrastructure**

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

**12. Vehicular Access and Parking**

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

- i. All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- ii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- iii. All driveways and car parking areas must be concrete or bitumen. The pavement design must consider the largest design service vehicle expected to enter the site.
- iv. All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.



**13. Gutter and Footpath Crossing Application**

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

**14. Minor Engineering Works**

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

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

Any variance from these documents requires separate approval from Council.

Works on existing public roads or any other land under the care and control of Council must be approved and inspected by Council in accordance with the Roads Act 1993 or the Local Government Act 1993.

**i. Driveway Requirements**

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

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

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

The width of each proposed driveway must be generally consistent with the approved plans. With respect to driveways for service vehicles, compliance with AS/ NZS 2890 based on the largest service vehicle permitted to enter that part of the development is required, as conditioned earlier in this consent. On high level sites a grated drain must be provided on the driveway at the property boundary.

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

**ii. Site Stormwater Drainage**

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge based on a 1 in 10 year ARI storm event.

**15. Supervision of Works**

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

**16. Public Liability Insurance**

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

**17. Street Naming**

Street naming must comply with Council's approved road names map. A copy of this map can be accessed from Council's website:

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

**18. Street Trees (North Kellyville)**

Street trees must be provided for the section of Withers Road, Barry Road, Nullabor Street (proposed road two), Sandbanks Avenue (proposed road one), Indwarra Avenue (proposed road three) and Culgoa Street (minor street adjacent to northern site boundary) within or

fronting the development site at a spacing of between 7m and 10m. The location of street trees must compliment driveway locations. Corner lots must have a minimum of two trees. The species and size of all street trees must comply with Council's requirements and Section 3.5 and Appendix B from the North Kellyville DCP. Street trees can be provided by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

#### **19. Upgrading of Existing Water and Sewerage Services**

Should the development necessitate the installation or upgrade of water or sewerage services within an area that is either heavily vegetated or traversed by a natural watercourse, services must be located in a route that causes the least amount of impact on the natural environment. Excavation by hand or small machinery is required where the ecological impact would otherwise be considered excessive.

#### **20. Recycled Water**

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

#### **21. Temporary Turning Heads**

A temporary cul-de-sac turning head with a minimum diameter of 19m is required at the termination point in all public roads. Where the cul-de-sac head cannot be accommodated wholly within the road reserve:

- a) Additional adjacent land is to be dedicated as temporary public road; or
- b) An easement for public access and services must be created over an appropriate part of the adjacent land.

A temporary turning head is required at the northern end of Indwarra Avenue (proposed road three) extending into the development site adjacent, not the reserve opposite.

A security bond must be provided in order to guarantee the maintenance, removal, restoration and closure of the temporary cul-de-sac turning head. The bond amount must be based on 150% of the total value of carrying out such works or \$20,000.00, whichever is the greater. The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being removed, restored and documentary evidence being provided confirming closure of the temporary public road or removal of the easement for public access and services. The bond release application form is available on Council's website. Should Council be required to maintain, remove, restore or close the temporary cul-de-sac head, costs will be deducted from the security bond. Should costs exceed the value of the bond, Council will issue an invoice for the recovery of these remaining costs.

A temporary turning head is not required where the extension of a proposed road into an adjoining property, as part of a separate development application, is constructed and dedicated concurrently. This will require the concurrent issuing of a Subdivision Certificate and plan registration for both subdivisions.

#### **22. Separate Approval Open Space Works**

Written consent from Council is required for any proposed works in the open space or park areas created by this subdivision.

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

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



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

All constructed WSUD elements within public areas, being roads or drainage reserves, are to be transferred to Council at the end of the project. The following is required in order to facilitate this handover process:

- n) The developer will be responsible for the maintenance of the item for a one year maintenance period.
- o) The operations and maintenance plan for this element (above) is submitted to Council for review/ revision and subsequent approval.
- p) Council staff inspects the WSUD measure to confirm that it is being maintained in accordance with the approved maintenance plan.
- q) A whole of life assessment is provided for the WSUD measure which is based upon the expenses incurred during the maintenance period, and documentation is provided to confirm these expenses.
- r) WAE drawings and any required engineering certifications are provided to Council.
- s) Where water quality monitoring has been determined by Council as being required, monitoring results must be submitted to Council for review.
- t) Details of all incidents including OHS incidents, public safety, WSUD performance and complaints received should be provided.

If Council determines that the WSUD measure is not complying with the conditions of this approval or monitoring identifies that it is not performing as anticipated, Council may request that alterations be made to the WSUD element prior to transfer.

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

Refer to the consultation draft document entitled Managing Urban Stormwater: Urban Design (October 2007) prepared by the SMCMA and the then NSW DECCW for more information.

**24. Road Opening Permit**

Should the subdivision/ development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a separate Engineering Construction Certificate required to be obtained by Council, as outlined elsewhere in this consent, then a separate road opening permit must be applied for and the works inspected by Council's Restorations Coordinator.

The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction Engineer if it is unclear whether a separate road opening permit is required or not.

**25. Sound Level Output**

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

**26. Washing of Vehicles**

Washing of vehicles/boats is to be conducted in a car wash bay, which is roofed and bunded to exclude rainwater. All wastewater from car washing is to be discharged to the sewer under a trade waste agreement from Sydney Water. Alternative water management and disposal options may be possible where water is recycled, minimised or reused on the site. Any such option is to comply with:

- a) Council's *Stormwater Management Plan*
- b) Environmental Protection Authority's *Environment Protection Manual for Authorised Officer's: Technical Section (Car Washing Waste)*
- c) Environmental Protection Authority's *Managing Urban Stormwater: treatment techniques*.

**27. Stockpiles**

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

**28. Acoustic Requirements**

The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic Pty Ltd, referenced as 20110663.1/2305A/R2/BW, dated 14 September 2012 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Section 6: Internal Noise Levels
- Section 7: Mechanical Plant
- Section 9: Loading dock

**29. Contamination Assessment & Site Remediation**

The recommendations of the Site Assessment and Report prepared by Environmental Investigation Services Pty Ltd, referenced as E25160KHrpt2, dated November 2011 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- additional sampling is to be carried out in footprints of the existing structures. Appropriate validation is required if any contaminants are found within the soil or surrounding areas.
- submission of a dam dewatering management plan.



### **30. Fill Material - Prior to the importation and/or placement of any fill material on the subject site**

A validation report and sampling location plan for such material must be submitted to and approved by the Principal Certifying Authority.

The validation report and associated sampling location plan must: -

- i) be prepared by a person with experience in the geotechnical aspects of earthworks, and
- ii) be endorsed by a practicing engineer with Specific Area of Practice in Subdivisional Geotechnics, and
- iii) be prepared in accordance with:
  - a) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity", and
  - b) the Department of Environment and Conservation - Contaminated es "Guidelines for the NSW Site Auditor Scheme (Second Edition) - Soil Levels for Urban Development Sites in NSW".
- iv) confirm that the fill material:
  - a) provides no unacceptable risk to human health and the environment;
  - b) is free of contaminants;
  - c) has had salinity characteristics identified in the report, specifically the aggressiveness of salts to concrete and steel (refer Department of Land and Water Conservation publication "Site investigation for Urban Salinity");
  - d) is suitable for its intended purpose and land use, and
  - e) has been lawfully obtained.

Sampling of VENM for salinity of fill volumes: -

- v) less than 6000m<sup>3</sup> - 3 sampling locations,
- vi) greater than 6000m<sup>3</sup> - 3 sampling locations with 1 extra location for each additional 2000m<sup>3</sup> or part thereof.

For (v) and (vi) a minimum of 1 sample from each sampling location must be provided for assessment.

Sampling of Contamination should be undertaken in accordance with the following table:-

<b>Classification of Fill Material</b>	<b>No of Samples Per Volume</b>	<b>Volume of Fill (m<sup>3</sup>)</b>
Virgin Excavated Natural Material	1 (see Note 1)	1000

*\*Note 1: Where the volume of each fill classification is less than that required above, a minimum of 2 separate samples from different locations must be taken.*

### **31. Adherence to Approved Waste Management Plan**

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

facility. Dockets/receipts verifying recycling/disposal must be kept and presented to Council when required.

### **32. Waste Collection**

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

### **33. Garbage Storage – Odour Control**

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

### **34. Waste Management- Commercial**

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

The waste storage area must be:

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

### **35. Waste Storage and Separation - Construction and Demolition**

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

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

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

### **36. Surplus Excavated Material**

The disposal/landfill of surplus excavated material, other than to a DECC licensed facility, is not permitted without formal approval from Council prior to the commencement of works. Any unauthorised disposal of waste, which includes excavated material, is a breach of the *Protection of the Environment Operations Act 1997* and subject to substantial penalties.



Unless Council approves an alternate site, then all surplus excavated material must be disposed of at a licensed waste facility. Copies of actual receipts verifying recycling/disposal must be kept and presented to Council when required.

**37. Commencement of Domestic Waste Services**

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

**38. Domestic Waste Management**

Construction of the garbage and recycling bin storage areas is to be in accordance with the "Bin Storage Facility Design Specifications" as attached to this consent. Storage facility is to be provided for a minimum of 35 x 660L bulk garbage bins, 137 recycling bins (fortnightly) and 18 x garden organics (fortnightly).

**39. Garbage Collection – Commercial**

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

**40. NSW Police Requirements**

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

- b) Natural surveillance is to be maximised and physical barriers installed to secure the property from trespassers.
- b) High resolution CCTV is to be installed to monitor common open spaces and the car park access/egress points, entrances to the unit blocks and loading docks.
- (c) Lighting is required to meet Australian Standards. In particular, lighting is to be installed at the entry and exit points of the buildings, driveways and within the carparking areas.
- (d) All landscape works are to be maintained to ensure adequate sight lines are available and reduce opportunity for concealment and entrapment. Pedestrian pathways are to be maintained with low landscaping for 3-5m either side to prevent concealment.
- (e) Bicycle parking is to be lockable and covered and be within sight of capable guardians.
- (f) All public access points are to be clearly marked.
- (g) The site is to be maintained at all times, including repair of vandalism and graffiti, the replacement of lighting and general site cleanliness.
- (h) The installation of gates or a similar form of access control within the carparking areas to restrict access to the residential carparks and retail/commercial after hours.
- (i) Offenders often target this type of development, including in the construction phase. Security sensor lights and a security company to monitor the site is to be used while construction is in progress.
- (j) The installation of signage at fire exits and stairs to ensure that these exits/stairs are kept closed.

- (k) Avoid the creation of 'natural ladders' such as ledges, capable of supporting hands/feet and use of balustrades that will not provide an anchor point for ropes.
- (l) The use/installation of all measures outlined in Section 7.2.14 of the Statement of Environmental Effects prepared by City Plan Services.

**41. Roads and Maritime Services Requirements**

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

- a. Shared pathways along the frontages of the site should be provided in accordance with Council's requirements.
- b. The provision of off-street car parking shall be provided to the satisfaction of Council.
- c. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- d. The proposed turning areas within the car park are to be kept clear of any obstacles, including parked cars, at all times.
- e. All pedestrian crossings on the subject site are to be clearly sign posted and marked on the road to ensure safety for pedestrians.
- f. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the proposed access driveways to motorists, pedestrians and cyclists.
- g. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) are to be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.
- h. The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site and loading area, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- i. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.
- j. All demolition and construction vehicles are to be contained wholly within the site.
- k. All vehicles are to enter and leave the site in a forward direction.
- l. All work associated with the proposed development is to be at no cost to the RMS or Council.



**42. Compliance with Rural Fire Service Requirements****Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

i. At the commencement of building works and in perpetuity the property around the building shall be managed as follows:

- East up to property boundary as an Inner Protection Area, and
- North east for a distance of 25 metres as an Inner Protection Area, until the bush fire hazard on the eastern and north eastern aspects of the subject site are removed as part of any future development. Requirements for an Inner Protection Area are outlined within section 4.1.3 and appendix 5 of 'Planning for Bush Fire Protection 2006' (PBP) and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

ii. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

iii. The proposed public access roads shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except the requirement for a perimeter road.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

iv. New construction on the northern and eastern elevations of the proposed Tower Block C1/C2 shall comply with section 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 of Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

v. New construction on the southern and western elevations of the proposed Tower Block C1/C2 shall comply with section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 of Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

vi. New construction on the northern, eastern, southern and western elevations of proposed Tower Block D shall comply with Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' section 5 (BAL 12.5) and section A3.7 of Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

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

Compliance with the requirements of the NSW Office of Water requirements attached as Appendix A to this consent and dated 29 November 2012.



**PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE****44. Accessibility and Adaptability**

- (i) Fifteen adaptable units are required to be provided on Site 1 and thirteen adaptable units on Site 2.
- (ii) Prior to issue of the Construction Certificate, a suitable qualified access consultant is required to confirm that the adaptable dwellings are capable of being modified to comply with the Australian Adaptable housing Standard AS 4299-1995.

**45. Fencing**

Prior to issue of the Construction Certificate, plans shall be amended to provide the following fencing/screening:

- (i) Front fencing shall be in harmony with the street, consistent in design and style with the building and a maximum of 1m high. Private (ground level) open space areas shall be enclosed with a landscape screen with an effective height of 1.8 metres from the finished ground level.
- (ii) Fences or other boundary treatments from a dwellings private open space facing into communal open space are to have a maximum total height of 1.4m. The solid component of the boundary treatment is to be a maximum of 1m. Above this, boundary treatments are to be at least 50% visually transparent.

**46. Bicycle Parking**

- (i) The provision and maintenance thereafter of bicycle racks to hold a minimum of 51 bikes within the retail parking area.
- (ii) Each residential unit is to be provided with a minimum of 1 bike rack space within the basement carpark for the exclusive use of that unit.
- (iii) Adjacent to each lobby area, bike racks to hold a minimum 25 bikes are to be provided in the following locations:

**Site 1**

Block A1 - 3 racks  
Block A2 - 2 racks  
Block B - 2 racks  
Block C1 - 2 racks  
Block C - 2 racks  
Block D - 3 racks

**Site 2**

Block E - 4 racks  
Block F1 - 3 racks  
Block F2 - 4 racks

**47. Mail Box Locations**

The submission of the following information to the satisfaction of Council's Manager, Forward Planning, prior to issue of the Construction Certificate.

- Detailed information of approved location of mailboxes from Australia Post for all residential units.
- Details of mail delivery points or location of mailboxes for retail units that have frontage to a road.
- Marked plans showing proposed internal unit numbers to all residential units.

Please note the following guidelines in relation to numbering:

- The location of the mailbox will be the primary address for the properties regardless of the location of access to the property;
- There are to be no duplicate unit numbers within the one property address eg. Shop 1 / 2 Barry Road and Unit 1 / 2 Barry Road is not permitted;
- All residential units are to be numbered in sequential order from the ground up within each section of a block;
- Suffixes are to be avoided.

#### 48. Section 94 Contribution –North Kellyville

The following monetary contributions must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development. The following payments are required to be paid prior to the issue of the first Construction Certificate for each stage of the development.

Payments comprise of the following:-

STAGE 2	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 12	No. of 2 Bedroom Units: 39	No. of 3 Bedroom Units: 21	Sum of Units	No. of Credits: 1	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.39	\$ 13,908.39	\$ 70,298.32	\$ 299,095.01	\$ 292,076.19	\$ 262,030.72	\$ 13,908.39	\$ 748,123.33
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 10,976.16	\$ 62,441.73	\$ 45,629.91	\$ 119,046.90	\$ 2,172.81	\$ 116,874.09
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 5,553.24	\$ 31,501.17	\$ 23,085.30	\$ 60,229.71	\$ 1,099.30	\$ 59,130.41
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 41,340.00	\$ 235,179.75	\$ 171,857.07	\$ 448,377.42	\$ 8,183.67	\$ 440,193.75
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 10,263.68	\$ 58,303.12	\$ 42,720.96	\$ 111,337.96	\$ 2,035.76	\$ 109,302.20
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 4,519.92	\$ 25,713.09	\$ 18,789.75	\$ 49,022.76	\$ 894.75	\$ 48,128.01
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 2,345.88	\$ 13,345.02	\$ 9,751.98	\$ 25,442.88	\$ 464.38	\$ 24,978.50
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.32	\$ 1,131.32	\$ 5,715.00	\$ 32,511.57	\$ 23,757.72	\$ 61,984.29	\$ 1,131.32	\$ 60,852.97
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 553.80	\$ 3,120.41	\$ 2,302.02	\$ 6,096.21	\$ 109.62	\$ 5,986.62
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 151,548.00</b>	<b>\$ 862,130.88</b>	<b>\$ 630,000.00</b>	<b>\$ 1,643,678.88</b>	<b>\$ 30,000.00</b>	<b>\$ 1,613,678.88</b>

STAGE 3	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 9	No. of 2 Bedroom Units: 90	No. of 3 Bedroom Units: 19	Sum of Units	No. of Credits: 0	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.39	\$ 13,908.39	\$ 52,694.64	\$ 512,429.50	\$ 264,259.41	\$ 829,383.55	\$ -	\$ 829,383.55
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 8,232.12	\$ 80,053.50	\$ 41,363.39	\$ 129,549.01	\$ -	\$ 129,549.01
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 4,164.93	\$ 40,501.50	\$ 20,886.70	\$ 65,553.13	\$ -	\$ 65,553.13
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 31,005.45	\$ 301,512.50	\$ 155,489.73	\$ 488,007.68	\$ -	\$ 488,007.68
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 7,712.91	\$ 75,004.00	\$ 36,679.44	\$ 121,396.35	\$ -	\$ 121,396.35
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 3,389.94	\$ 32,965.50	\$ 17,000.25	\$ 53,355.69	\$ -	\$ 53,355.69
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 1,759.41	\$ 17,109.00	\$ 8,823.22	\$ 27,691.63	\$ -	\$ 27,691.63
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.32	\$ 1,131.32	\$ 4,286.25	\$ 43,681.50	\$ 23,495.08	\$ 67,462.83	\$ -	\$ 67,462.83
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 415.35	\$ 4,039.00	\$ 2,082.78	\$ 6,537.13	\$ -	\$ 6,537.13
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 113,661.00</b>	<b>\$ 1,105,296.00</b>	<b>\$ 570,000.00</b>	<b>\$ 1,788,957.00</b>	<b>\$ -</b>	<b>\$ 1,788,957.00</b>

STAGE 4	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 20	No. of 2 Bedroom Units: 74	No. of 3 Bedroom Units: 20	Sum of Units	No. of Credits: 0	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.39	\$ 13,908.39	\$ 117,599.20	\$ 758,395.66	\$ 417,351.70	\$ 1,292,746.56	\$ -	\$ 1,292,746.56
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 18,293.60	\$ 118,479.18	\$ 65,184.30	\$ 201,957.08	\$ -	\$ 201,957.08
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 9,255.40	\$ 59,942.22	\$ 32,979.00	\$ 102,176.62	\$ -	\$ 102,176.62
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 68,901.00	\$ 446,238.50	\$ 245,510.10	\$ 760,649.60	\$ -	\$ 760,649.60
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 17,139.80	\$ 111,025.91	\$ 61,072.80	\$ 289,238.51	\$ -	\$ 289,238.51
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 7,533.20	\$ 48,788.94	\$ 25,843.50	\$ 82,165.64	\$ -	\$ 82,165.64
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 3,809.80	\$ 25,321.32	\$ 13,931.40	\$ 43,162.52	\$ -	\$ 43,162.52
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.32	\$ 1,131.32	\$ 9,525.00	\$ 61,688.62	\$ 33,939.60	\$ 105,153.22	\$ -	\$ 105,153.22
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 923.00	\$ 9,977.72	\$ 3,288.60	\$ 10,189.32	\$ -	\$ 10,189.32
<b>Total</b>	<b>\$ 12,629.00</b>	<b>\$ 22,105.92</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 252,580.00</b>	<b>\$ 1,635,838.08</b>	<b>\$ 900,000.00</b>	<b>\$ 2,788,418.08</b>	<b>\$ -</b>	<b>\$ 2,788,418.08</b>

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

This condition has been imposed in accordance with Contributions Plan No. 13.

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

#### 49. Landscape Bond

To maintain the public amenity of the streetscape a landscape bond in the amount of \$20,000.00 is to be lodged with Council prior to the issue of the Construction Certificate. It shall be refunded 6 months following the issue of the Final Occupation Certificate and the submission to Council of certification from a qualified Landscape Architect or Council's Tree Management Team that the works have been maintained in accordance with the approved landscape plan.



**50. Design Verification**

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

**51. Basement Car Park and Subsurface Drainage**

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

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

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

**52. Works on Adjoining Land**

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

**53. Stormwater Discharge Acceptance**

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

**54. Draft Legal Documents**

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

**55. Security Bond – Pavement and Public Asset Protection**

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$86,400.00 is required to be submitted to Council to guarantee the protection of the adjacent road pavement and public assets during construction works. The above amount is calculated at the rate of \$30.00 per square metre based on the public road frontage of the subject site (380m) plus an additional 50m on each side (480m) and the width of the road measured from face of kerb on both sides (6m). The minimum bond amount is \$10,000.00.

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

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



**56. Security Bond – External Works**

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

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

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being completed to Council's satisfaction.

**57. Bank Guarantee Requirements (Development)**

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

- a) Have no expiry date;
- b) Be forwarded direct from the issuing bank with a cover letter that refers to Development Consent DA 1336/2012/JP;
- c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

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

**58. Engineering Works and Design**

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

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

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

The engineering works included as part of the development include both "subdivision works" and "building works". These can be separated into three categories:

1. Works within an existing or proposed public road, or works within an existing or proposed public reserve. These works can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively. For Council to issue this approval the following must be provided:
  - a) A completed application form.
  - b) Four copies of the design plans and specifications.
  - c) Payment of the applicable application and inspection fees.
  - d) Payment of any required security bonds.
2. Works within the development site, or an adjoining private property, that relates to existing or proposed Council infrastructure assets, such as the laying of a stormwater pipeline or the formation of an overland flowpath within a public drainage easement. These works can only be approved, inspected and certified by Council because Council will have an ongoing risk exposure and management/ maintenance liability with respect to these assets once completed.

A "compliance certificate" as per Section 109(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 must be issued certifying that the detailed design for these works complies with the requirements listed and the above documents. This "compliance certificate" must be issued by Council's Manager – Subdivision and Development Certification and not a private certifier, as discussed. Once approved, the works must be carried out under the supervision of Council's Construction Engineer in accordance with the terms attached to the issued "compliance certificate". Post construction a further "compliance certificate" as per Section 109(1)(a)(i) of the Environmental Planning and Assessment Act 1979 must be issued certifying that the as-built infrastructure and associated works have been carried out to the satisfaction of Council's Construction Engineer. Alternatively, these works can be incorporated into any construction approval granted under category (1) above.

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

This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

The following engineering works are required:

**i. Full Width Road Construction**

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

Proposed roads must be constructed to the following requirements:

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)	Traffic Loading: N(ESA)
Sandbanks Avenue (Proposed Road 1)	Road Type: DCP Town Centre Street (Figure 8) 4m/ 15.4m/ 6m (25.4m total)	1 x 10 (7)
Indwarra Avenue (Proposed Road 3)	Road Type: DCP Minor Street w/ Cycleway (Figure 11B) 3.5m/ 8.3m/ 4m/ 2.5m (18.3m total)	5 x 10 (5)

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

The roadside swale must be located on the low (eastern) side of Indwarra Avenue to limit the amount of earthworks associated with this road construction.

The wider (6m) wide verge must be provided on the southern side of Sandbanks Avenue, with the 4m wide verge located on the northern side of this road.

These works must be carried out generally in accordance with the concept design detail prepared by Henry and Hymas (as amended) submitted with the development application.

**ii. Partial Width Road Construction**

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



Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)	Traffic Loading: N(ESA)
Nullabor Street (Proposed Road 2)	Road Type: DCP Town Centre Street (Figure 8) 4m/ 15.4m/ 6m (25.4m total)	1 x 10 (7)
Culgoa Street (Northern Boundary)	Road Type: DCP Minor Street (Figure 11A) 3.5m/ 8.3m/ 4m/ 2m (17.8m total)	5 x 10 (5)

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

With respect to the partial width construction of Culgoa Street, you are responsible for the triangular section of this road located within the development site as shown on the DCP pre-planned road layout map. Where partial width construction already exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width construction does not exist opposite, you will be responsible for the preparation of a detailed design for this road between Barry Road and Indwarra Avenue. The tendered cost of these works must be calculated and submitted to Council for checking. A bond for these works must be submitted before a Construction Certificate is issued, with the bond amount determined using 150% of the tendered cost (determined above).

The roadside swale must be located on the low (southern) side of Culgoa Street to limit the amount of earthworks associated with this road construction.

With respect to the partial width construction of Nullabor Street, the wider (6m) wide verge must be provided on the western side of Nullabor Street, within the development site, with the 4m wide verge located on the eastern side of this road within the adjoining property.

Where partial width construction does not exist opposite, you are responsible for the construction of the 6m wide footpath verge and 7.7m of road pavement, being half the eventual 15.4m wide carriageway, resulting in a total road reserve width of 13.7m within the subject site. The remaining 11.7m is to be provided once the adjoining property to the east is developed. Where partial width construction already exists opposite, the completed road must comply with the overall requirements outlined in the table above. Within the 7.7m wide carriageway, you must provide a low level retaining wall at the property boundary to address the level difference between the existing topography and the design for this road, generally as shown on the concept design detail prepared by Henry and Hymas (as amended) submitted with the development application.

Until such time as the remainder of Nullabor Street has been constructed, this road is to operate in one direction only, namely in a northerly direction between Withers Road Sandbanks Avenue. This one way arrangement will have to extend west along Sandbanks Avenue to the intersection between Sandbanks Avenue/ Indwarra Street so that vehicles travelling east along Sandbanks Avenue are not directed to a dead end at the intersection of Sandbanks Avenue/ Nullabor Street. A detailed traffic management plan, including details of all proposed line-marking and regulatory signage, must be submitted with the detailed design. This one way circulation arrangement must be approved, in writing, by Council's Manager – Infrastructure and Transport Planning before being implemented. The tendered cost of removing this line-marking and regulatory signage must be calculated and submitted to Council for checking. A bond to ensure these works are carried out must be submitted before a Construction Certificate is issued, with the bond amount determined using 150% of the tendered cost (determined above).



These works must be carried out generally in accordance with the concept design detail prepared by Henry and Hymas (as amended) submitted with the development application.

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

### iii. Partial Width Road Reconstruction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)	Traffic Loading: N(ESA)
Barry Road	Road Type: DCP Collector Road (Figure 7) 3.5m/ 12m/ 4.5m (20m total)	1 x 10 (6)
Withers Road	Road Type: DCP Town Centre Street (Figure 8) 4m/ 15.4m/ 6m (25.4m total)	1 x 10 (7)

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

With respect to the partial width reconstruction of Barry Road, the wider (4.5m) wide verge must be provided on the eastern side of this road fronting the subject site. Where partial width reconstruction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width reconstruction does not exist opposite, you will be responsible for the formation of the 4.5m wide footpath verge, kerb and gutter and the reconstruction of 6m of road pavement (minimum). This new road pavement must transition into the existing road pavement opposite to provide for a total minimum carriageway width of 10m. Additional pavement reconstruction may be necessary to provide for this overall carriageway width.

The existing Barry Road reserve is 20.115m wide, wider than the DCP overall road reserve width of 20m (see above). Accordingly, there is no additional widening required to be provided, aside from the SP2 zoned land at the intersection of Barry Road/ Withers Road. The additional 115mm is to be evenly distributed on either side to provide for a slightly wider verge.

With respect to the partial width reconstruction of Withers Road, the wider (6m) wide verge must be provided on the southern side of this road opposite the subject site, with the 4m wide verge provided across the site's frontage to this road. Where partial width reconstruction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width reconstruction does not exist opposite, you will be responsible for the formation of the 4m wide footpath verge, kerb and gutter and the reconstruction of 7.7m of road pavement (minimum). This new road pavement must transition into the existing road pavement opposite to provide for a total minimum carriageway width of 10m. Additional pavement reconstruction may be necessary to provide for this overall carriageway width.

The longitudinal gradient of Withers Road fronting the site must comply with the longitudinal section prepared by Henry and Hymas (as amended) and approved by Council.

The existing Withers Road reserve is 20.115m wide, whereas the DCP requires an overall road reserve width of 25.4m (see above). Accordingly, 2.6425m of road widening is required on either side of Withers Road (5.285m in total) across the site's frontage.

These works must be carried out generally in accordance with the concept design detail prepared by Henry and Hymas (as amended) submitted with the development application.

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

**iv. Concrete Footpath Paving**

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided on the southern side of Culgoa Street in accordance with the DCP and the above documents. Where Culgoa Street is not constructed as part of this development, the bond provided (see above) must cover these works also.

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided on the western side of Indwarra Avenue in accordance with the DCP and the above documents.

The western (6m wide) footpath verge in Nullabor Street, the northern (4m wide) footpath verge in Withers Road and the footpath verge on both sides (6m and 4m) of Sandbanks Avenue must be concreted, including access ramps at all intersections, in accordance with the DCP and the above documents.

**v. Concrete Cycleway**

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

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

**vi. Disused Layback/ Driveway Removal**

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

**vii. Street Names Signs**

Street name signs and posts are required, as approved by Council.

**viii. Service Conduits**

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

**ix. Water Sensitive Urban Design Elements**

Water sensitive urban design elements, consisting of bio-retention swales in Indwarra Avenue and Culgoa Street and proprietary stormwater quality treatment products, detention storage and rainwater reuse tanks within the development site, are required generally in accordance with the plans and information prepared by Henry and Hymas (as amended) and submitted with the development application.

Detailed plans for the water sensitive urban design elements must be submitted to Council for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity



modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the environmental targets prescribed in the North Kellyville DCP.

All model parameters and data outputs are to be provided to Council.

The following additional requirements apply:

1. The bio-retention swales in roads must be 4m wide and yield a detention volume of 0.75m<sup>3</sup> per linear metre.

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

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

**x. Local Pavement Widening – Right Turning Vehicles**

The existing road pavement in the vicinity of Sandbanks Avenue, Culgoa Street and Nullabor Street must be widened to account for vehicles turning right into the subdivision from Barry Road or Withers Road and to minimise inconvenience to through traffic.

**xi. Local Pavement Widening – Deceleration Lane**

The existing road pavement in the vicinity of Sandbanks Avenue, Culgoa Street and Nullabor Street must be widened to account for vehicles turning left into the subdivision from Barry Road or Withers Road and to minimise inconvenience to through traffic.

**xii. Temporary Turning Head**

A temporary cul-de-sac turning head must be provided at the northern end of Indwarra Avenue (proposed road three). The cul-de-sac must have a 19m diameter at its widest point measured from the face of kerb on each side.

**xiii. Footpath Verge Formation**

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

**xiv. Stormwater Drainage**

The temporary stormwater outlet (or outlets) within the future public reserve must be designed and constructed in accordance with the requirements of both Council and the NSW Office of Water.

**xv. Stormwater Drainage – Temporary Management**

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



**xvi. Stormwater Drainage – Temporary Discharge**

Tail out drains over adjoining properties are required to be provided, where necessary, of sufficient length and width to dissipate stormwater flows to an acceptable level from the end of all stormwater outlets.

**xvii. Pedestrian Crossing Thresholds**

No pedestrian crossings or thresholds are to be constructed without separate written approval from Council's Local Traffic Committee via Council's Manager – Infrastructure and Transport Planning. The design and construction of any such pedestrian crossing thresholds must comply with the above documents, AS 1742.13:1991 and AUSTRROADS Part 13. The design must consider signage, line marking, parking restrictions and night time visibility.

**59. Separate Approval for WIK/ MPB Agreement**

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

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

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

**60. Detailed Geotechnical Report**

Before a Construction Certificate is issued, a detailed geotechnical report must be prepared and submitted. This report must outline all construction stage requirements relating to the proposed excavation works along with any remedial actions necessary post construction. The report must specifically address the impacts, if any, of these works on adjoining properties, including the need for owner's consent where these works encroach beyond the property boundary.

**61. Sediment and Erosion Control Plan**

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

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

**62. Construction Management Plan**

A construction management plan must be submitted demonstrating how the potential for conflict between resident and construction traffic is to be minimised and managed throughout all stages of the development. The construction management plan must be submitted before a Construction Certificate is issued and complied with for the duration of works.

**PRIOR TO WORK COMMENCING ON THE SITE****63. Principal Certifying Authority**

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

**64. Builder and PCA Details Required**

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

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

**65. Management of Building Sites – Builder's Details**

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

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

**66. Consultation with Service Authorities**

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

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

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

**67. Stabilised Access Point**

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

**68. Pre-Construction Public Infrastructure Dilapidation Report**

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

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

**69. Separate WSUD Detailed Design Approval**

No work is to commence until a detailed design for the WSUD system has been approved by either Council or an accredited certifier.



**70. Traffic Control Plan**

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

**71. Erection of Signage – Supervision of Work**

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

- a) The name, address and telephone number of the Principal Certifying Authority (PCA). Where Council is the nominated PCA for the development, the following is to be displayed:  
The Hills Shire Council  
PO Box 75  
CASTLE HILL NSW 1765  
Phone (02) 9843 0555
- b) The name of the person responsible for carrying out the works;
- c) A telephone number on which the person responsible for carrying out the works can be contacted after hours;
- d) That unauthorised entry to the work site is prohibited.

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

**72. Contractors Details**

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

**73. Stormwater Management**

All existing stormwater pits to the site will be covered with geofabric sediment fencing to prevent sediment runoff into the stormwater system. To prevent sediment contamination the filters will be regularly inspected and replaced during the duration of the works.

**74. Erosion and Sedimentation Controls – Major Works**

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

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

**75. Erosion & Sediment Control Plan Kept on Site**

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

**76. Demolition Works & Asbestos Removal/Disposal**

The demolition of any existing structure is to be carried out in accordance with the *Occupational Health & Safety Regulations 2001 Part 8* and the *Australian Standard AS 2601-1991: The Demolition of Structures*. All vehicles leaving the site carrying demolition materials are to have loads covered and are not to track any soil or waste materials on the



road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoarding or fence. All demolition waste is to be removed from the site according to the Council's approved waste management plan. – Demolition Waste Section. All asbestos, hazardous and/or intractable wastes are to be disposed of in accordance with the Workcover Authority Guidelines and requirements. The asbestos must be removed by a bonded asbestos licensed operator. Supporting documentation (dockets/Receipts), verifying recycling and disposal must be kept, to be checked by Council if required.

**77. Discontinuation of Domestic Waste Service(s)**

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

**78. Resubmit Waste Management Details**

Prior to work commencing on site the Waste Management Plan in relation to the demolition and construction stages of the development must be resubmitted to and approved by Council. The Plan shall readdress the following;

1. Waste contractor information;
2. Address of recycling outlet(s) and/or landfill site(s).

The Western Sydney Recycling Directory is available to assist the applicant in selecting appropriate contractors and facilities. The Directory may be obtained from Council's website [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au).

**DURING CONSTRUCTION**

**79. Compliance with BASIX Certificates**

Under clause 97A of the Environmental Planning and Assessment Regulation 2000 it is a condition of this development consent that all commitments listed in BASIX Certificate Nos. 432548M, 432633M, 432645M, 432626M, 432636M and 432655M be complied with.

**80. Hours of Work**

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

**Monday to Saturday - 7.00am to 5.00pm;**

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

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

**81. Survey Report**

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

**82. Roof Water Drainage**

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

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

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

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

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

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

**84. Standard of Works**

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

**85. Engineering Construction Inspections**

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

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

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

**86. Landscaping Works**

Landscaping works, associated plantings and the construction of any retaining walls are to be undertaken generally in accordance with the approved plans.

**87. Stockpiles**

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



**88. Demolition of Septic Tank and Effluent Disposal Area**

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

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

**89. Washing of Vehicles**

The car wash bay is to be roofed and bunded to exclude rainwater. All wastewater from car washing is to be discharged to the sewer under the Trade Waste Agreement from Sydney Water. Alternate water management and disposal options may be possible where water is recycled, minimised or reused on the site. Any such option is to comply with:

- a) Council's Stormwater Management Plan
- b) Environmental Protection Authority's *Environment Protection Authority Manual for Authorised Officer's: Technical Section (Car Washing Waste)*
- c) Environmental Protection Authority's *Managing Urban Stormwater: treatment techniques*.

**90. Contamination**

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

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

**91. Breaching and Filling of Dam**

- (a) Polluted water from the dam shall not be discharged to any watercourse. Council's Environmental Health Team shall be notified forty-eight (48) hours prior to the breaching of the dam of the proposed disposal method of waters and silt.
- (b) All fill must be Virgin Excavated Natural Material (VENM), non-saline and must not contain contaminants such as demolition material or organic wastes. Details of the source of the material are to be obtained and provided to Council.
- (c) An appropriately qualified fauna ecologist (licensed by NSW National Parks and Wildlife Service) is to be present on-site for the duration of dewatering of the dam. Should any fauna species be observed, the fauna ecologist is to ensure that appropriate action is taken with regard to rescue, care and relocation and destruction (where appropriate).
  - i. Native fauna – relocate fauna rescued to an appropriate location. In choosing relocation sites the ecologist is to consider the effects of overcrowding in other local dams and attempt relocating individuals over a few sites rather than one where it is deemed appropriate.
  - ii. Introduced fauna – euthanize introduced species in a manner that is consistent with animal welfare regulations including those administered by NSW Industry and Investment. Facts sheets for appropriate methods are located on this website.



- iii. Further care needs to be taken when draining the dam that water is not discharged in creeks/rivers which may potentially introduce fish species/eggs (including but not limited to Common carp-*Cyprinus carpio* and Mosquito fish-*Gambusia holbrooki*) into that creek.
  - iv. The fauna ecologist is to submit a report to Council following the dam works and associated actions taken relating to the development. The report is to include a description of the relocation site/s and a species list of fauna utilising the dam, their numbers and condition. The report should also detail whether introduced species were destroyed and by which means.
  - v. The ecologist is advised to contact the NSW National Parks and Wildlife Service Wildlife Licensing Unit well prior to undertaking dam works/habitat disruption to ensure that they have the appropriate wildlife licenses.
- (d) The earth dam is to be breached in accordance with the requirements of the Department of Environment Climate Change and Water (DECCW).
- (e) All fill is to be placed according to geotechnical advice and compacted in layers to achieve a standard suitable for residential development.

#### **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

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

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

##### **93. Design Verification Certificate**

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

##### **94. Completion of Engineering Works**

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

##### **95. Post Construction Public Infrastructure Dilapidation Report**

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

##### **96. Dedication of Public Road**

An Occupation Certificate must not be issued until Culgoa Street, Indwarra Avenue, Nullabor Street and Sandbanks Avenue, as covered by this approval, have been dedicated as public road at no cost to Council, requiring a separate application or road dedication plan. This dedication must occur at no cost to Council.

##### **97. Dedication of Road Widening**

An Occupation Certificate must not be issued until the road widening along the site's frontage to Withers Road, covered by this approval, has been dedicated at no cost to Council, requiring a separate application or road dedication plan. This dedication must occur at no cost to Council.

**98. Pump System Certification**

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

**99. Creation and Registration of Restrictions and Positive Covenants****a) Creation of Restrictions and Positive Covenants**

The submission to Council of all necessary documentation together with payment of the endorsement fee prescribed in Council's Schedule of Fees and Charges to create the following over the title of the property. The wording must nominate The Hills Shire Council as the authority to release, vary or modify each restriction or positive covenant. Standard wording is available on Council's website and must be used.

**i. Restriction – OSD Modification**

A restriction restricting development over or the varying of any finished levels and layout of the constructed onsite stormwater detention system.

**ii. Positive Covenant – OSD Maintenance**

A positive covenant to ensure the ongoing maintenance of the constructed onsite stormwater detention system at the expense of the property owner.

**iii. Restriction – WSUD Modification**

A restriction restricting development over or the varying of any finished levels and layout of the constructed water sensitive urban design elements.

**iv. Positive Covenant – WSUD Maintenance**

A positive covenant to ensure the ongoing maintenance of the constructed water sensitive urban design elements at the expense of the property owner.

**v. Positive Covenant – Stormwater Pump Maintenance**

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

**vi. Restriction – Bedroom Numbers**

A restriction must be created on the title of each dwelling limiting the number of bedrooms to that shown on the plans and details approved with this consent or subsequent Section 96 applications. The restriction must also state that no internal alterations are permitted that result in the creation of additional bedrooms.

**b) Registration of Request Documents**

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

**100. Completion of Water Sensitive Urban Design Elements**

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

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



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

**101. Works as Executed Plans**

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

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

**102. Performance/ Maintenance Security Bond**

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

**103. Removal of Sediment and Erosion Control Measures**

A \$5,000.00 bond must be submitted to Council to ensure the satisfactory removal of all sediment and erosion control measures, including the removal of any collected debris.

**104. Stormwater CCTV Recording**

All piped stormwater drainage systems and ancillary structures which will become Council assets must be inspected by a CCTV and a report prepared. A hard copy of the report must be submitted along with a copy of the CCTV inspection on either VHS or DVD (in WMA format).

**105. Public Asset Creation Summary**

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

**106. Acoustic Compliance Report**

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled Noise Impact Assessment prepared by Acoustic Logic Pty Ltd dated 14 September 2012.

Certification is to be provided to Council as to the correct installation of components and that the required criteria's have been met.

**107. Inspection of Bin Bay Storage Areas**

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

**THE USE OF THE SITE**

**108. Hours of Operation**

The hours of operation of the supermarket are limited to:

7am – 12 midnight Monday – Saturday; and  
8am – midnight Sunday.

The hours of operation of the specialty tenancies, which are subject to a further Development Application, will be limited to:

8.30am – 6pm Monday – Wednesday, Friday and Saturday;  
8.30am – 9pm Thursday; and  
10am – 4pm Sunday.



**109. Hours of Operation for the Loading Docks**

The hours of operation for the loading docks are 7am and 10pm.

**110. Use of the 'Retail Street'**

The use of the 'retail street' is to be for civic and community purposes including activities such as displays, community and similar events. The retail street is not to be used for the general retail sale of goods/items. Two kiosks are permitted within the retail street with a maximum area of 2.5m x 3m each. Other kiosks, temporary sale events and other retail purposes are not permitted without the further Development Consent of Council.

The retail street is to be available for use as a pedestrian thoroughfare during the opening hours of the centre.

**111. Lighting**

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

**112. Offensive Noise - Acoustic Report**

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

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

**113. Waste Storage and Collection**

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

**114. Servicing of Bins**

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

**115. Waste**

The bins are required to be positioned on the eastern side of the Proposed Road 3 until such time as Road 3 is built. The bins are permitted to be relocated to the western side upon completion of Road 3 being built.

**ATTACHMENTS**

Appendix A – Office of Water Requirements

1. Locality Plan
2. Aerial Photograph
3. DCP Road Layout
4. Zoning Plan
5. DCP Layout for North Kellyville Local Centre
6. DCP Character Areas
7. Staging Plan
8. Lower Level Residential Parking
9. Basement Plan
10. Ground Floor Plan
11. Streetscape Elevations
12. Elevation Plans

## APPENDIX 1 – OFFICE OF WATER REQUIREMENTS



Department of  
Primary Industries  
Office of Water

Contact: Gina Potter  
Phone: 02 8838 7568  
Fax: 02 8838 7554  
Email: gina.potter@water.nsw.gov.au  
Our ref: 10 ERM2012/0523  
Our file: 9059046  
Your ref: DA 2012/1336/JF

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

Attention: Elizabeth McKenzie

29 November 2012

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**

**Dev Ref: DA 2012/1336/JF**

**Description of proposed activity: Mixed used development comprising of 274 residential units and commercial parking spaces**

**Site location: 2-4 Barry Road, Kellyville being lot E on DP399088**

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

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

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

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

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)  
Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150. PO Box 3720 Parramatta NSW 2124 Australia | t + 61 2 8281 7777 |  
f + 61 2 8838 7554 | e [information@water.nsw.gov.au](mailto:information@water.nsw.gov.au) | ABN 47 681 556 763  
170912

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-2-

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

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

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

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

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

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

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

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

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

Yours Sincerely



Gina Potter  
Licensing Officer (Controlled Activities)  
Office of Water - Licensing South



## General Terms of Approval

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

**Our Reference:** 10 ERM2012/0523 **File No:** 9056046  
**Site Address:** 2-4 Barry Road, Kellyville being lot E on DP399088  
**DA Number:** DA 2012/1336/JP  
**LGA:** The Hills Shire Council

Number	Condition
<b>Plans, standards and guidelines</b>	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA 2012/1336/JP and provided by Council: (i) Site plan, map and/or surveys Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
3	The consent holder must prepare or commission the preparation of: (i) Erosion and Sediment Control Plan (ii) Soil and Water Management Plan
4	N/A
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
6	N/A
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
9-10	N/A
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.
12-13	N/A
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

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

Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 PO Box 3720 Parramatta NSW 2124 Australia | t +61 2 8281 7777 | f +61 2 8638 7554 | e [information@water.nsw.gov.au](mailto:information@water.nsw.gov.au) | ABN 47 661 656 763 170912

**Our Reference:** 10 ERM2012/0523 **File No:** 9056046  
**Site Address:** 2-4 Barry Road, Kellyville being lot E on DP399088  
**DA Number:** DA 2012/1336/JP  
**LGA:** The Hills Shire Council

Number	Condition
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19	N/A
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
21-27	N/A
END OF CONDITIONS	

## ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE      ✓ PROPERTIES NOTIFIED  
(NOTE: PLUS THE HILLS  
DISTRICT HISTORICAL SOCIETY)
- ☒ SUBMISSION RECEIVED

**THE HILLS**  
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

THE HILLSHIRE COUNCIL DOES NOT GIVE ANY GUARANTEE CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD OR GENERATED FROM ITS DATABASE.

BASIS OF DATA: COPYRIGHT LAND & PROPERTY INFORMATION RESN (LPI) CADASTRE UPDATE (INCLUDING COUNCIL GENERATED DATA) IS SUBJECT TO THIS COPYRIGHT.







The map shows a portion of Kellyville, NSW, Australia. The map is oriented with North at the top. A scale bar at the bottom indicates a scale of 1:3,460. The map is titled 'DA NO. 1336/2012/JP'.

DA NO. 1336/2012/JP

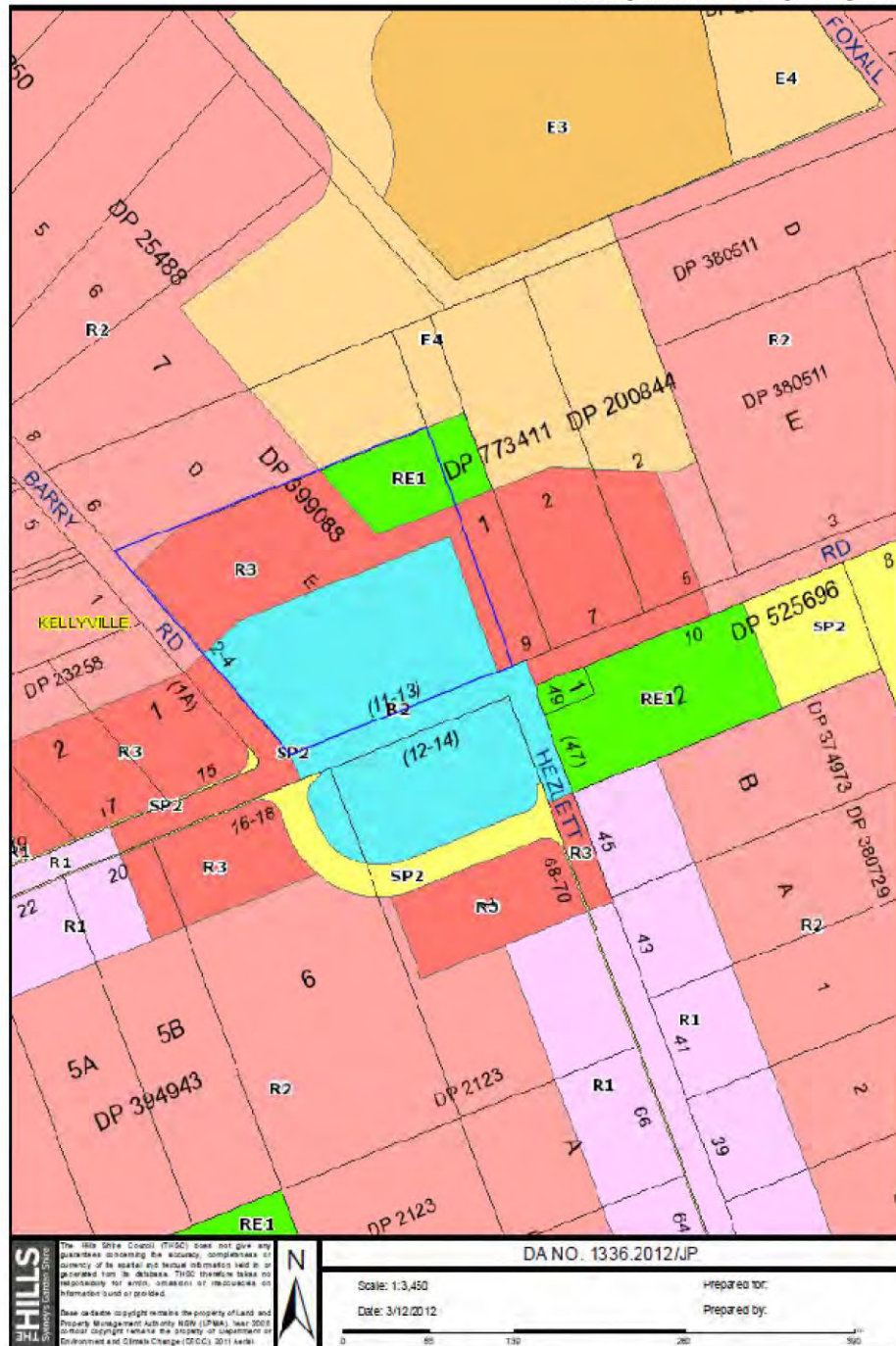
Scale: 1:3,460

Date: 3/12/2012

Prepared for:

Prepared by:

## ATTACHMENT 4 – ZONING PLAN

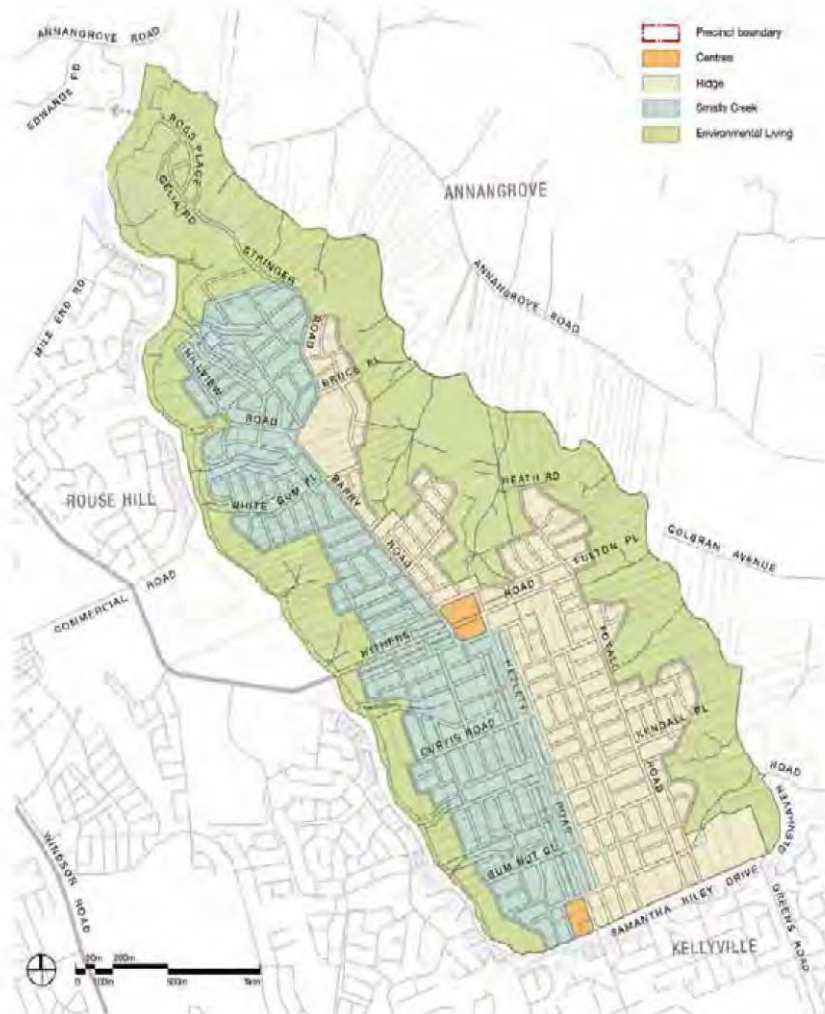




ATTACHMENT 5 –  
DCP LAYOUT FOR NORTH KELLYVILLE LOCAL CENTRE



## ATTACHMENT 6 – DCP CHARACTER AREAS



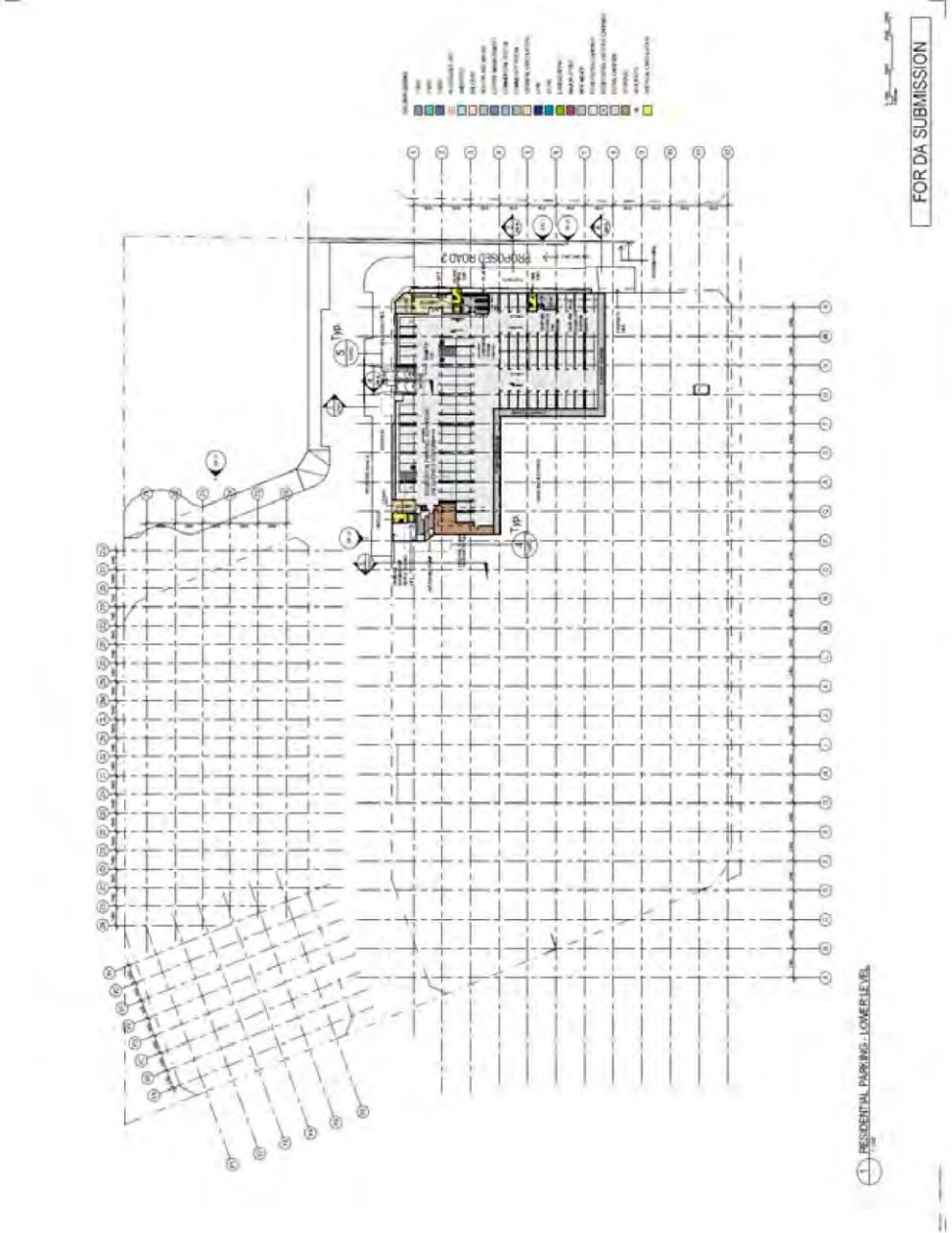
**Figure 3 North Kellyville Character Areas**

ATTACHMENT 7 – STAGING PLAN





ATTACHMENT 8 – LOWER LEVEL RESIDENTIAL PARKING



ATTACHMENT 9 - BASEMENT PLAN



[illegible]

- Site 1 has three levels of residential over
- Site 2 has four levels of residential over



ATTACHMENT 11 – STREETScape PERSPECTIVES



CORNER OF WITHERS ROAD AND BARRY ROAD



VIEW OF WITHERS ROAD AND PROPOSED ROAD NO. 2

FOR DA SUBMISSION

ATTACHMENT 12 – ELEVATION PLANS



2 WITHERS ROAD BLOCK A1 ELEVATION  
Scale 1:200



3 WITHERS ROAD BLOCK D ELEVATION  
Scale 1:200



1 BARRY ROAD ELEVATION  
1:200



2 PROPOSED ROAD 4 BLOCK E ELEVATION  
1:200