

## JOINT REGIONAL PLANNING PANEL Sydney West Region

JRPP No	2014SYW143
DA Number	562/2010/JP/B
Local Government Area	<b>THE HILLS SHIRE COUNCIL</b>
Proposed Development	<b>SECTION 96(2) MODIFICATION TO AN APPROVED MIXED USE DEVELOPMENT</b>
Street Address	<b>LOT 1 DP 398482 - 2-8 JAMES STREET, CARLINGFORD</b>
Applicant	<b>BRIDGELAND INVESTMENT PTY LTD</b>
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Item 3 - General development over \$20 million.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> <li>- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>- State Environmental Planning Policy (State and Regional Development) 2011</li> <li>- The Hills Local Environment Plan 2012</li> </ul> </li> <li>• List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) <ul style="list-style-type: none"> <li>- Nil</li> </ul> </li> <li>• List any relevant development control plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> <li>- DCP 2012 Part D Section 12 – Carlingford Precinct</li> <li>- DCP 2012 Part C Section 1 – Parking</li> <li>- DCP 2012 Part C Section 3 – Landscaping</li> <li>- Draft DCP 2012 Part B Section 5 – Residential Flat Buildings</li> </ul> </li> <li>• List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv) <ul style="list-style-type: none"> <li>- Yes, a VPA has been dealt with in the original approval.</li> </ul> </li> <li>• List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> <li>-Nil</li> </ul> </li> <li>• List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> <li>- Environmental Planning and Assessment Act Regulation 2000</li> </ul> </li> </ul>

List all documents submitted with this report for the panel's consideration	Plans and supporting documentation submitted with the application.
Recommendation	Approval subject to conditions.
Report by	Development Assessment Co-ordinator Claro Patag

## EXECUTIVE SUMMARY

The Section 96(2) application is to further modify an approved mixed use development on the subject property. The original Development Application was for an 18-storey mixed use development comprising 105 residential apartment units, 92m<sup>2</sup> of retail floor space and 168 off-street car parking spaces which was determined and approved by the Joint Regional Planning Panel (JRPP) on 11 August 2011.

On 18 July 2013, the JRPP considered and approved a Section 96(2) application to amend the design and layout of the approved mixed use scheme which included the creation of 33 additional units and an increase in the density yield from 105 to 138 residential flat units (comprising 80 x 1 bedroom, 48 x 2 bedroom and 10 x 3 bedroom units), provision of 34 additional car parking spaces, reduction in the approved retail floor space from 92m<sup>2</sup> to 55m<sup>2</sup>, deletion of the gymnasium and deletion of a lift, increasing the void space and changing the internal pedestrian hallways.

The subject Section 96 application seeks to modify the unit mix by decreasing the number of one bedroom units and increasing the number of two bedroom units and to increase the total number of units from 138 to 140 units. The number of three bedroom units remains unchanged. The retail floor area and the number of parking spaces also remain unchanged.

The development as proposed to be modified will remain substantially the same as originally approved. The proposed change in unit mix does not alter the approved building footprint and ridge height and does not breach the maximum building height and floor space ratio controls in The Hills Local Environmental Plan 2012.

The proposed scheme has been assessed against Council's recently adopted development standards on unit mix and sizes and is found to be inconsistent with these new standards. Although there is an inconsistency between the controls of the DCP and the unit mix and sizes of the development as proposed to be modified, it is considered that the proposed modification is better aligned with the new unit mix controls than the current approval. It should be noted that the application was lodged prior to the adoption of these new controls and the apartment sizes comply with the Rules of Thumb contained within SEPP 65 and the Residential Flat Design Code (RFDC). It should be noted that no direct comparison can be made against the apartment types in the table on page 69 of the RFDC given the unit layout and design of the apartments provided in this application. Clause 30A(1)(b) of the SEPP states that apartment size cannot be a reason for refusal if the proposal meets the apartment size requirements of the SEPP.

An assessment against the relevant controls of the Draft SEPP 65 Apartment Design Guide has also been undertaken (refer Section 3 below for the assessment) which indicates that the proposed amendments are generally consistent with the draft controls. The inconsistencies are not beyond what was already approved under the previous scheme.

No submissions were received during the exhibition period.

Approval is recommended subject to the relevant conditions of consent being modified to reflect the proposed changes.

**BACKGROUND****MANDATORY REQUIREMENTS**

Owner:	ATM & CPA Projects Pty Ltd (at the time of lodgement)  Bridgeland Investment (current owner)	1.	<u>LEP 2012</u> - Permissible with consent.
Zoning:	R1 General Residential	2.	<u>The Hills DCP 2012 - Part D Section 12 - Carlingford Precinct</u> - Satisfactory.
Area:	2,992.8m <sup>2</sup>	3.	<u>The Hills DCP 2012 - Part B Section 5 - Residential Flat Buildings</u> - Variation, see Report.
Existing Development:	Three residential allotments containing a dwelling each and one vacant residential lot.	4.	<u>Section 79C (EP&amp;A Act, 1979)</u> - Satisfactory.
		5.	<u>Section 96(2) (EP&amp;A Act, 1979)</u> - Satisfactory.
		6.	<u>Section 94 Contribution</u> - included in the Voluntary Planning Agreement (VPA).

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

1. Exhibition:	Yes, 15 days.	1.	Section 96(2) modification
2. Notice Adj Owners:	Yes, 19 days.		
3. Number Advised:	113		
4. Submissions Received:	None		

**HISTORY****11/08/2011**

Development Consent granted by the NSW Joint Regional Planning Panel to DA 562/2010/JP for the construction of an 18-storey mixed use development containing 105 residential flat units (comprising 3 x 1 bedroom, 54 x 2 bedroom and 48 x 3 bedroom units), 92m<sup>2</sup> of ground floor retail space and 168 basement parking spaces.

**18/07/2013**

Section 96(2) application to modify an approved mixed use development comprising 138 residential units (80 x 1 bedroom, 48 x 2 bedroom and 10 x 3 bedroom units) 55m<sup>2</sup> of retail space and 207 basement car parking spaces and 5 motorcycle parking spaces approved by the Joint Regional Planning Panel.

**06/06/2014**

Subject Section 96(2) application lodged.

**13/06/2014 to  
01/07/2014**

Subject application advertised in the local newspaper and notified to adjoining properties including previous objectors.

<b>11/06/2014</b>	Letter sent to the applicant requiring submission of a detailed cost summary report.
<b>18/07/2014</b>	Revised cost summary report received from the applicant with a calculated capital investment value (CIV) of \$44,163,516.00
<b>18/08/2014</b>	<p>Letter sent to the applicant requesting additional information. The applicant was requested to submit a revised Statement of Environmental Effects as it does not clearly describe where and how the proposed additional two units are located and created, and an amended Political Donations and Gifts Disclosure Statement both signed by the applicant and owner.</p> <p>The applicant was also advised that the proposed modification to the approved floor space ratio is unlikely to be supported as the proposed variation would render the development not substantially the same development as originally approved and it would set as an undesirable precedent within the Precinct.</p>
<b>05/09/2014</b>	Email sent to the applicant reiterating previous advice that the proposed increase in floor space ratio is unlikely to be supported.
<b>17/09/2014</b>	<b>Meeting held with the applicant to discuss Council staff's concerns in relation to proposed floor space ratio and unit mix.</b>
<b>19/09/2014</b>	<b>Email received from the applicant's town planning consultant</b> advising that the floor space ratio (FSR) has been reduced to comply with the maximum allowable FSR. Schematic diagrams and calculation table were attached to the email.
<b>23/09/2014</b>	DCP Part B Section 5 – Residential Flat Buildings amended to ensure housing diversity by introducing and identifying new apartment mix and size controls.
<b>03/10/2014</b>	Supplementary statement received from the applicant addressing the proposed amendments to the Residential Flat Building DCP regarding apartment mix and unit size controls. Revised plans were also submitted.
<b>20/11/2014</b>	Supplementary statement received from the applicant addressing the relevant controls of the Draft SEPP 65 Apartment Design Guide.
<b>26/11/2014</b>	Section drawing received from the applicant showing the treatment of the open lobby.
<b>11/12/2014</b>	<p>Letter received from the applicant advising details of subject <b>site's current owner and that no political donations have been made.</b></p> <p>The applicant was subsequently advised by email that the submitted political donations disclosure form was required to be <b>amended to reflect the new owner's details.</b></p>
<b>19/12/2014</b>	Revised plans submitted by the applicant showing additional horizontal louvres to the lobbies on the eastern side of the building.

**03/02/2015**

Concurrence from Sydney Trains (former RailCorp) received.

**10/02/2015**

Revised political donations disclosure received from the applicant following a change in property ownership.

## **PROPOSAL**

The Section 96(2) application proposes to reconfigure the approved apartment layouts and change the approved unit mix by increasing the number of two bedroom units and decreasing the number of one bedroom units with a resultant increase in the total number of units from 138 to 140 units. The number of three bedroom units is proposed to remain unchanged. The retail floor area and the number of parking spaces are also proposed to remain unchanged. It is also proposed to provide a 395m<sup>2</sup> storage mezzanine level in Basement Level 01 for the use of residents.

The proposed amendment to the unit mix is shown in the table below in comparison with the original and last Section 96 approvals:

<b>Original Development Consent (2011)</b>	<b>Subsequent s96 Consent (2013)</b>	<b>Subject s96 Proposal</b>
105 units	138 units	140 units
3 x 1 BR units (2.9%)	80 x 1 BR units (58%)	51 x 1 BR units (36.4%)
54 x 2 BR units (51.4%)	48 x 2 BR units (34.8%)	79 x 2 BR units (56.4%)
48 x 3 BR units (45.7%)	10 x 3 BR units (7.2%)	10 x 3 bedroom units (7%)
92m <sup>2</sup> of retail floor space	55m <sup>2</sup> of retail floor space	55m <sup>2</sup> of retail floor space
173 parking spaces	207 parking spaces	207 parking spaces

The details of the proposed amendments are as follows:

### **Basement Level 01:**

- Provide a storage mezzanine level with an area of 395m<sup>2</sup> for the use of residents.

### **Level 01 (Ground Level):**

- Reorientate units 3 and 4 so that they both address James Street and become dual aspect units. The southern balconies of these units have also been reduced in width by 1700mm.
- Provide an electrical sub-station at the southwest corner of the site.

### **Level 02 (Level 4):**

- Reduction of the two bedroom units facing James Street from 90m<sup>2</sup> to 83m<sup>2</sup> and the corresponding reduction in the depth of the southern balconies by 1700mm.
- Convert one of the one bedroom units that address James Street from a one bedroom plus study unit to a two bedroom unit. This is achieved by reducing the size of the balcony and converting this space into a bedroom.
- Convert the units at the southern end of the building from 1 x two bedroom unit and 2 x one bedroom unit into 1 x one bedroom unit and 2 x two bedroom units. The additional floor area is made available by reducing the size of the lobby area and providing an additional step in the building.

### **Level 7:**

- Convert the two southern units from 2 x one bedroom units to 1 x one bedroom unit and 2 x two bedroom units.
- Provide a bathroom in the lobby area to serve the Level 7 roof terrace.

### **Levels 8-18:**

- Convert the southern one bedroom plus study unit to two bedroom unit.

- The north western unit on each floor to be squared and converted from a one bedroom unit into a two bedroom unit. These units are also provided with additional west facing balconies. The northern void is to be increased in area to provide additional light into the hallway which is achieved by reconfiguring the north eastern units by reducing the size of its north facing balcony.

### **External Finishes:**

The treatment of the building is proposed to be amended as follows:

Western Façade:

- Large section of painted cement render on the eastern side of the front façade to be broken up by placing powder coated metal screening to the new balconies coloured in "Malay Grey".
- The angular balconies provide a new design element to the western façade of the tower, replacing a previously unmodulated section of the façade.

Southern Façade:

- The appearance of southerly balconies to be slightly varied as the units have varied depths.
- Provide an extra step in the façade by stepping out at the eastern end of the southern façade.

Northern Façade:

- The James Street elevation to be slightly amended by reducing the size of balconies to accommodate the additional bedroom.
- Introduce the metal screening onto the balconies on each level through the centre of the façade. The screen is coloured "Malay Grey".
- Provide a new frame element at the western end of the façade which forms part of the new western balcony.

A photomontage and examples of the finishes is provided in Attachment 8.

The overall height of the building is proposed to remain unaltered with the parapet level remaining at RL 153.00 with the roof level remaining at RL 152.00.

The proposed amendments would result in the reduction of the approved gross floor area of 11,970m<sup>2</sup> to 11,886m<sup>2</sup> which is 85.2m<sup>2</sup> below the maximum allowable gross floor area of 11,971.2m<sup>2</sup>, which represents a floor space ratio of 3.97:1. The maximum allowable floor space ratio for the site is 4.0:1. This is achieved by opening up the hallways along the eastern side of the building and given they are not enclosed they are excluded from the floor area calculation.

## **ISSUES FOR CONSIDERATION**

### **1. Compliance with Section 96(2) of the Environmental Planning and Assessment Act, 1979**

Section 96(2) of the Environmental Planning and Assessment Act, 1979 provides the following (with corresponding comments):

*"A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

**Comment:**

The majority of the proposed modifications are internal alterations to provide a larger mix of residential units generally within the same building floor plates as originally approved.

When viewed from the street and adjoining properties the main change that will be noticeable are the new west facing balconies, however such changes do not alter the main element of the original approval being a mixed use development containing 18 storeys and basement parking.

In the previous section 96(2) modification, the main issue was whether or not the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted as the percentage of one bedroom units was significantly increased whilst the percentage of two and three bedroom units was reduced. The subject modification application seeks to reduce the percentage of one bedroom units, increase the percentage of two bedroom units with the number of three bedroom units to remain the same. The applicant aims to provide a greater range of unit types which will assist in providing a better social mix within the locality.

The applicant has provided the following judgements made by the NSW Land and Environment Court in relation to whether or not a modification constitutes a development which is "substantially the same as that originally approved".

In *Vacik Pty Ltd v Penrith City Council* (unreported 24 February 1992), Stein J stated

*"In my opinion substantially when used in the section means essentially or materially or having the same essence."*

In *Moto Projects (No.2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298, Bignold J made the following observations:

*"The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (currently) approved development...and ...the comparison involves an appreciation, qualitative as well as quantitative, of the developments being compared in their proper contexts."*

In *Michael Standley & Associates Pty Ltd v North Sydney Council* (unreported), Lloyd J found in respect of an application to modify a consent under s.102(1) of the then Environmental Planning and Assessment Act, 1979:

*"...the questions posed by subs (1)(a) and S102 is not whether a component part of a proposed development is substantially the same as the approved development. The question is whether the development as proposed to be modified is substantially the same development. That is a different question. It is not difficult to envisage a component part of a proposed building being substantially different from the same component part of an approved building but at the same time both buildings could be described as being substantially the same development. The question is whether the proposed development. Viewed as a totality, is substantially the same as the approved development."*

In considering *Tipalea Watson Pty Ltd v Ku-ring-gai Council* (203) NSWLEC 253, Bignold J concluded:

*"...that the nature and description of the approved development necessarily involves some flexibility in matters of design which are referable to the relevant conditions, but this result does not preclude the undertaking of a meaningful comparison as required by s.96(2)(a)."*



and

*"The modifications do not result in a development that is significantly different in terms of architectural appearance and character from the originally approved development,"*

and

*The modified development will create some changes in the external appearance of the approved development but such changes could not be said to create more than 'modifications' to the originally approved development...they do not radically transform the originally approved development."*

and

*"The effect of the proposed modifications is to enhance the particular features of the approved development..."*

In view of the above Court judgements, it is considered that the proposed development as modified when viewed in its totality is substantially the same as that originally approved by the JRPP even if the proposed amendments alter to some extent the external appearance and internal layout of the development.

*(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

**Comment:**

The original development application was referred to NSW RailCorp for concurrence pursuant to clause 86(1) of the State Environmental Planning Policy (Infrastructure) 2007, the subject site being within 25m of a rail corridor (Carlingford Rail Station). RailCorp has granted its concurrence subject to conditions which were imposed in the original consent.

RailCorp has been consulted with respect to this application and it was advised that although RailCorp still exists as the legal owner of the rail corridor its concurrence function under the above SEPP has been delegated to Sydney Trains. Sydney Trains in response has granted its concurrence subject to the original concurrence conditions issued on 25 March 2011 being retained and complied with.

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

**Comment:**

The subject application was advertised in the local newspaper and notified to surrounding properties and previous objectors including Parramatta City Council and The Hills District Historical Society between 13 June to 1 July 2014.

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."*



**Comment:**

No submissions were received during the notification period.

**2. Compliance with SEPP 65 – Residential Flat Design Code**

The modification application is accompanied by a design verification statement prepared and signed by a registered architect engaged by the applicant for this development as required in SEPP 65 under Part 4 Development Applications (also contained in Clause 50 (1A) of the Environmental Planning and Assessment Regulation 2000).

It is noted that 95 of the 140 units or 67.8% will be naturally cross ventilated, which exceeds the 60% minimum requirement, while 122 of the 140 units or 87.1% will receive at least 3 hours of direct sunlight between 9am and 3pm in mid-winter which exceeds the 70% minimum requirement.

With regard to the variety of unit types depicted in the table on page 69 and accompanying illustrations on pages 67-68 of the Residential Flat Design Code (RFDC), the applicant has stated that the types of units proposed vary from those shown in the table to an extent that it is not possible to make a direct comparison between the three bedroom and two bedroom units provided in this application, however these unit types comply with the minimum unit sizes provided in the Rules of Thumb on page 69. It is only the single aspect one bedroom units (17 of the 51 x 1 bedroom units) which by comparison resemble the Apartment Type 03.04 in the table on page 69 that are less than the recommended minimum internal area of 63.4m<sup>2</sup> and external area of 10m<sup>2</sup>. An assessment of this 55m<sup>2</sup> single aspect one bedroom units against the relevant criteria in the Rules of Thumb indicates that these units will provide satisfactory daylighting and natural ventilation particularly in relation to habitable rooms. It should be noted that in the previous modification application, the same assessment was undertaken by the applicant which demonstrated that the approved modified scheme satisfied the unit layout design guidelines and criteria in the Rules of Thumb on page 69 of the RFDC.

The modification application has also been assessed having regard to the design quality principles outlined in SEPP 65. The merits of the application in terms of urban design and the relationship to the site constraints are:

**Principle 1: Context**

The proposed development fits within the context of the site and responds to the site conditions. The proposal will integrate with the desired future character of the area as envisaged in LEP 2012 and DCP 2012 Part D Section 12 – Carlingford Precinct. There are other similar developments approved within the vicinity of the site (DA 658/2012/HB for 10 James Street, DA 561/2010/HB for 12 James Street, DA 943/2010/JP for 1–7A Thallon Street and DA 895/2010/JP for 2–14 Thallon Street and 7–13 Jenkins Road) which are also mixed use developments (apartment buildings with retail uses at ground floor level) in buildings up to 18 storeys in height in accordance with LEP 2012 and DCP 2012 Part D Section 12 - Carlingford Precinct. As such, the desired future character of this area will be transformed from low density detached dwellings to high density residential buildings with ground floor retail and commercial uses. It is considered that the proposed mixed use development is consistent with the desired future character of the locality.

**Principles 2 and 3: Scale and Built Form**

The scale and height of the proposed development is appropriate within the context of the desired future character of the area. Adjoining properties to the south of the site will still receive the required minimum solar access during mid-winter despite the proposed height of the building. Appropriate setbacks are provided to reduce overlooking of adjacent private open space areas and improve privacy. The proposal is consistent with the development form provided in the DCP and has been designed in such a way the

perception of bulk and scale is reduced by the use of white horizontal features, glass balustrades and wide balconies. The setbacks are in accordance with the DCP. The buildings are well articulated to reduce the impact of the proposal on the streetscape. The 18 storey tower is slender in its presentation to James Street and whilst it will be a visual focal point, it will not dominate James Street as it represents less than one third of the James Street frontage of the development. No. 10 James Street which adjoins the site to the east has an approval for 14 storeys, whilst No. 12 James Street has a recent section 96 approval from the Land and Environment Court for 18 storeys. As such, the proposed built form along James Street has been predetermined by the DCP – Carlingford Precinct. It is considered that the proposed extensive site landscaping will soften the street level and ensure that the development is set within an attractive landscaped setting. It is considered that the proposed development will have a positive impact on the streetscape.

#### **Principle 4: Density**

The proposal recognises the growth patterns of the Shire, the proximity of the site to the Carlingford Rail Station and the increase amenity for residents having good access to services and transport options. It is considered that the proposal provides an appropriate residential density when considered against the provisions of the DCP for Carlingford Precinct. All units are provided with balconies and all have access to the ground level communal open space, which includes a swimming pool and landscaped open space, and all units have access to the roof terrace on Level 6. The unit sizes are considered appropriate to provide a high quality level of amenity to the occupants. The level of car parking proposed (at 207 spaces) exceeds the minimum requirement (192 spaces) and as such, it is considered that given the controls within the DCP for Carlingford Precinct that the proposed density of 140 units can be accommodated on the site.

#### **Principle 5: Resource, energy and water efficiency**

The proposed development meets the code's requirements for resource, energy and water efficiency as well as Council's ESD objectives. Passive solar design principles have been incorporated through reasonable solar access and natural ventilation of units with a high level of thermal massing provided by the multi-unit buildings. A BASIX Certificate has been prepared for the proposed modification, which indicates compliance with the required water, thermal comfort and energy ratings have been achieved.

#### **Principle 6: Landscape**

The development as modified continues to comply with the deep soil landscape requirements contained within the DCP for Carlingford Precinct. The approved Landscape Plan indicates that these deep soil zones will be heavily landscaped with a large variety of trees, shrubs and groundcovers. The approved Landscape Plan has been cross-referenced with the BASIX Certificate to ensure that proposed site landscaping is low maintenance and has a low water demand. The proposal is considered resource and energy efficient as it provides deep-root planting zones, passive solar design, low maintenance and quality communal open spaces.

#### **Principle 7: Amenity**

The proposal provides a high level of amenity for all the units including layout, visual privacy, natural ventilation, solar access, private open space and ground floor unit amenity. The proposed units are considered to have a high degree of amenity given that 67.8% of units (95 of the 140 units) are cross ventilated and 87.1% of the units (122 of the 140 units) will receive a minimum of 3 hours of solar access during mid-winter.. All units have access to at least one private balcony that is at least 17m<sup>2</sup> in area. The development has been designed to maximise the number of units that have a northern orientation. All units have access to ground level communal open space which includes a swimming pool, pergola and gym.

## Principle 8: Safety and security

The proposal provides safety and security for future residents both internally and externally. The location of balconies and windows maximises overlooking of public and communal spaces while maintaining internal privacy. The proposal has been designed **having regard to Council's "Safer by Design Guidelines", providing opportunities for surveillance and safe movement of future residents and visitors and adequate lighting in commonly accessible areas.** The application was referred to the NSW Police for comment and no objection is raised to the proposed modification having regard to CPTED factors.

## Principle 9: Social dimensions

The proposal will provide greater range of unit types than the previous modification application assisting to provide a better social mix. The number of 1 bedroom units has been reduced by 29 while the number of 2 bedroom units has been increased by 31. The additional 2 units will provide additional housing opportunities in a locality which has good access to public transport, educational facilities and retail and commercial services. The proposal provides alternate housing opportunities in the locality.

## Principle 10: Aesthetics

Aesthetically, the design of the proposed development has been driven by a number of criteria which generally attempt to reduce the visual bulk and scale of the development by the use of colours, building materials and compartmentalisation of the architectural design of the proposed development. It is considered that the proposed development is well articulated by the use of strong horizontal and vertical design lines and provision of wide open balconies. The proposed site landscaping will ensure that the development is set within a heavily landscaped setting which will soften the built form at the lower levels.

### 3. Compliance with Draft SEPP 65 – Residential Flat Design Code

The table below provides an assessment of the proposed modifications against the draft Apartment Design Guide. This assessment focuses on the provisions of the draft apartment guide that are relevant to this Section 96 Application. The relevant issues are:

- 4A. Apartment Mix;
- 4L. Solar and Daylight Access;
- 4N. Apartment Layout;
- 4Q. Natural Ventilation; and
- 3J. Car Parking.

Draft SEPP 65 Apartment Design Guide		
Design Guide Control	Proposal	Compliance
4A Apartment Mix		
1.2. A variety of apartment types is provided	A variety of apartment types are proposed, including: 51 x 1 bedroom units (34 of which have a study) 79 x 2 bedroom units (5 of which have a study); and 10 x 3 bedroom units.	Yes
2.1. Different apartment types are located to achieve successful facade composition	There is minimal alteration proposed to the facade. It is viewed that the proposal	Yes

and to optimize solar access.	still achieves this.	
2.2 Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available.	The ground level is retail space, providing larger apartments on the ground level is not achievable.	No, however the development conforms with the DCP in terms of being mixed use which is envisaged for the site.
<b>4L Solar and Daylight Access</b>		
1.1 The design maximises north aspect.	Aspect has not been altered in this application.	Yes
1.2. Single aspect, single storey apartments have a northerly or easterly aspect.	Most have a northerly aspect, however, 34 units (24%) have a westerly aspect.	No, however the majority of the units (106 units or 76%) achieve compliance.
1.4. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.	122 (87%) units receive at least 3 hours of sunlight to their living rooms in mid winter.	Yes
1.5. A maximum of 15% of apartments in a building have no direct sunlight between 9am and 3pm in mid winter.	15 dwellings (11%) do not receive direct sunlight in winter.	Yes
4.1 Light wells, skylights and high level windows (with sills of 1500mm or greater) are used only as a secondary light source in habitable rooms.	No light wells and high level windows proposed.	N/A
<b>4N Apartment Layout</b>		
1.1 Minimum unit sizes are:  Studio – 35m <sup>2</sup> 1 bed – 50m <sup>2</sup> 2 bed – 70m <sup>2</sup> 3 bed – 95m <sup>2</sup>	Proposed minimum unit sizes are:  1 bed – 55m <sup>2</sup> 2 bed – 77m <sup>2</sup> 3 bed – 110m <sup>2</sup>	Yes Yes Yes
1.2 A window should be visible from any point in a habitable room.	Windows are visible from habitable rooms.	Yes
2.1 Habitable room depth complies with the ceiling height to room depth ratio as per Figure 1 below.	2.7m ceiling heights are proposed for all room depths. Room depths are a maximum of 6.9 metres and accordingly a ceiling height of 2.8m is required.	No, 100mm inconsistency.

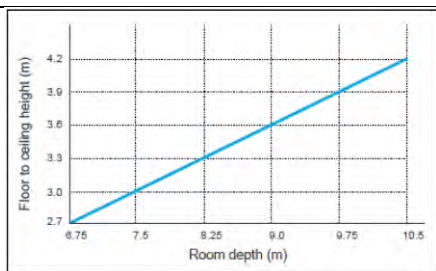


Figure 1: Graph showing acceptable ceiling height to room depth ratio

2.2 For open plan layouts, combining the living room, dining room and kitchen, the back of the kitchen is a maximum of 8 metres from a window.	Kitchens are within 8m of a window/balcony.	Yes
2.4 Main living spaces are located adjacent to main private open spaces.	All balconies are located off the main private open space.	Yes
2.5 All living areas and bedrooms are located on the external face of the building.	All bedrooms and living areas have a window on the external face of the building.	Yes
2.6 All kitchens in corner apartments have an external openable window.	Some units have this feature, however, units were previously approved without the openable window.	Generally consistent.
3.2. Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> .	This is generally consistent, with the exception of 22 x 1 bedroom units and 5 x 2 bedroom units which have bedroom areas of 9.6m <sup>2</sup> and 9.9m <sup>2</sup> .	Generally consistent.
3.3. Bedrooms have a minimum dimension of 3m.	All bedrooms have at least 3 meters as their minimum dimension.	Yes
3.4. All bedrooms allow a minimum length of 1.5m for robes.	Unit design includes robes in each room which are over 1.5m in length.	Yes
3.5. Living rooms or combined living/ dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments.</li> </ul>	All living rooms have a minimum width of 4m for 2 and 3 bedroom units. Six 1 bedroom units however have a minimum dimension of 3.5m, the remainder have minimum dimensions of 4m.	Generally consistent.

3.6. Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas.	This is achieved where possible, however, 70 units have at least one bedroom which opens directly onto the living or dining area.	No
4.2 Room layouts minimise the need to locate furniture immediately adjacent to windows or balustrades.	Potential furniture layout is shown in the plans and demonstrates this is possible.	Yes
<b>4Q Natural Ventilation</b>		
2.1 Apartment depths are limited to maximise ventilation and airflow.	Single aspect units are generally of a depth to increase air flow.	Yes
3.1. At least 60% of apartments are naturally cross ventilated.	90 units (64%) are naturally cross ventilated.	Yes
3.3. Overall building depth does not exceed 12-18 metres.	Maximum building depth is 21.8m. This however is not changed from the approval.	Inconsistent.
<b>3J Car Parking</b>		
Table 2. No specific requirement for sites within 400m of a railway station.	Council's DCP requires 191.8 car parking spaces and the development proposes 207 car parking spaces. Accordingly, there is a surplus of 16.2 car parking spaces.	Not relevant.

The proposed modification is generally consistent with the controls contained in the Draft Apartment Design Guide. The inconsistencies identified were all approved under the previous scheme which allowed the following:

- Single aspect, single storey units with westerly aspects (4L.1.2);
- Units having ceiling heights of 2.7 metres, despite having depths over 6.75 metres (4N.2.1);
- Kitchens in corner units without external openable windows (4N.2.6);
- Master bedrooms which were under 10m<sup>2</sup> (4N.3.2);
- Six of the 1 bedroom units have minimum living room widths of 3.5 metres which is under the 3.6 metres requirement (4N.3.5). These units are cross flow units and the living room as two balconies at each end which provide opportunities for indoor/outdoor use. Accordingly the amenity of these units is very good;
- Units having access to bedrooms directly off living areas (4N. 3.6); and
- Having a maximum building depth over 18 metres (4Q.3.3).

The proposed modification provides a much better outcome than what was previously approved. It is considered that the proposed changes are more consistent with the draft Apartment Design Guide, and will provide a development that is high quality in design and consistent with **the State's** future apartment standards.

It should be noted that the draft Apartment Guide has only recently been publically exhibited and is subject to change after consideration of public submissions. The exhibition period commenced after the lodgement of the Section 96 application and a savings and transition clause is proposed in the Draft SEPP 65 that the amendments will not apply to applications lodged prior to the final adoption of the draft SEPP 65.

#### 4. Compliance with The Hills Local Environmental Plan 2012

The approved mixed use development which is the subject of this Section 96 application satisfies the objectives of the Hills Local Environment Plan 2012 and R1 General Residential zone. The development is most appropriately defined as a "mixed use development" which is permissible with consent in the zone. The proposed modification to the approved development does not propose to alter the use and therefore continues to comply with The Hills Local Environment Plan 2012.

#### 5. Compliance with LEP 2012 (LEP Mapping Restrictions)

The proposal has been assessed against the LEP 2012 Map Sheets as follows: -

LEP 2012 MAPPING - DEVELOPMENT STANDARDS			
STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Floor Space Ratio	4.0:1	4.0:1 (unchanged)	Yes
Allotment Size	No requirement for mixed use development	Site area is 2,992.8m <sup>2</sup> . Despite its size, the Carlingford Precinct DCP has envisaged the subject site and adjoining sites (Nos. 10 & 12 James Street) can be developed in their own right.	N/A
Building Height	57m	54.3m (same height as originally approved)	Yes
LEP 2012 MAPPING – SITE RESTRICTIONS			
RESTRICTION		ASSESSMENT DETAIL	
Is the site a heritage listed item or within a heritage conservation area?	No	If yes, address Clause 5.10 of LEP 2012 and confirm what level of significance it is? (e.g. local, regional or state).	N/A
Is the site affected by land reservation or acquisition? (e.g. road widening, open space, trunk drainage etc)	No	If yes, what is the affectation and address Clauses 5.1 and 5.1(a) of LEP 2012.	N/A



Is the site affected by Sheet CL1_001 (e.g. acid sulphate soils and natural biodiversity mapping)	No	If yes, what is the affectation and address Clauses 7.1 and 7.4 of LEP 2012.	N/A
Is the site affected by Sheet CL2_002 (e.g. foreshore building line, land slide risk, urban releases and key sites)	No	If yes, what is the affectation and address Part 6 and Clauses 7.5, 7.6 & 7.8 of LEP 2012.	N/A

## 6. Compliance with DCP 2012 Part D Section 12 – Carlingford Precinct

The proposed modification has been assessed against the relevant development standards and objectives of DCP 2012 Part D Section 12 – Carlingford Precinct which demonstrates that the development as modified is substantially the same development as originally approved and continues to achieve compliance with the Key Site Block 4: 2-12 James Street development controls under clause 5.2.1. The development as modified remains compliant with the required building height, floor space ratio, building site coverage, vehicle access points and circulation, car parking requirements, distribution of uses within the building, SEPP 65 compliance and deep soil planting. The proposed modification does not **affect the development's consistency** with the conceptual built form and dimensional built form controls for Key Site Block 4: 2-12 James Street.

The development control for minimum internal floor areas has been repealed in this section of the DCP and is now prescribed in Part B Section 5 – Residential Flat Buildings of DCP 2012 together with a new apartment mix control, which are addressed in the section below.

## 7. Compliance with DCP 2012 Part B Section 5 – Residential Flat Buildings

During the assessment of the original Development Application, the minimum apartment size standard in the Carlingford Precinct DCP was prescribed in the Precinct-wide built form controls under clause 4 which applied to development sites across the Precinct but not to the key sites which include the subject site (identified as Block 4: 2-12 James Street). The 6 key sites within the Carlingford Precinct have specific built form controls under clause 5 except for the unit size standards; hence the original development scheme was only assessed against the rules of thumb and guide on page 69 of the Residential Flat Design Code. Later amendments to the DCP resulted in the inclusion of the key sites to be assessed against other relevant precinct-wide built form controls not specified in the relevant Key Site built form controls, which include the minimum apartment unit sizes.

The previous Section 96 modification application (DA 562/2010/JP/A) was assessed against the minimum unit size standard in the repealed clause 4.6(f) of DCP 2012 Part D Section 12 – Carlingford Precinct. Variation to the minimum unit size standard was sought by the applicant for 4 x 1 bedroom units as the unit size of these one bedroom units at 62m<sup>2</sup> was below the minimum standard of 65m<sup>2</sup>. This variation was supported on the basis that it exceeded the minimum requirements recommended in the table on page 69 of **SEPP 65's Residential Flat Design Code**. **The Section 96 application was approved by the Joint Regional Planning Panel** which comprised 80 x 1 bedroom, 48 x 2 bedroom and 10 x 3 bedroom units.

The subject modification application proposes to alter the approved mix of one and two bedroom units from 80 x 1 bedroom to 51 x 1 bedroom units and 48 x 2 bedroom to 79 x 2 bedroom units, and no change to the approved 10 x 3 bedroom units, which results in an increase in the total number of units from 138 to 140 units.

The proposed modification has been assessed against DCP 2012 Part B Section 5 – Residential Flat Buildings which was amended on 23 September 2014 to include apartment mix and size controls as prescribed in Clause 3.11. These controls now apply to all new residential flat buildings across the Shire **and the following table identifies the proposal's inconsistencies with these new controls.**

DCP 2012 Part B Section 5 – Residential Flat Buildings																										
3.11 – Unit Layout and Design	Proposal	Compliance/Consistency																								
<p><b><u>Apartment Mix</u></b></p> <p>a) ) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments.</p> <p>b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.</p>	<p>36% of the dwelling yield is made up of 1 bedroom units. 12% of these are 1 bedroom units and 24% are 1 bedroom + study. (Previous s96 approval had 58% one bedroom units)</p> <p>7% of the dwelling yield is made up of 3 bedroom units. (Previous s96 approval had 7% 3 bedroom units)</p>	<p>No, however this is considered only a minor variation to the recently adopted DCP control. The proposed development still satisfies the DCP objectives of this clause as a mix of residential apartments are proposed to cater for different budgets and housing needs.</p>																								
<p><b><u>Residential Flat Development (30 or more units)</u></b></p> <p>d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following:</p> <table><tr><th>Apartment Size Category</th><th>Apartment Size</th></tr><tr><td></td><td></td></tr><tr><td><b>Type 1</b></td><td></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 or more bedrooms</td><td>95m<sup>2</sup></td></tr><tr><td></td><td></td></tr><tr><td><b>Type 2</b></td><td></td></tr><tr><td>1 bedroom</td><td>65m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>90m<sup>2</sup></td></tr><tr><td>3 or more bedrooms</td><td>120m<sup>2</sup></td></tr><tr><td></td><td></td></tr></table>	Apartment Size Category	Apartment Size			<b>Type 1</b>		1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 or more bedrooms	95m <sup>2</sup>			<b>Type 2</b>		1 bedroom	65m <sup>2</sup>	2 bedroom	90m <sup>2</sup>	3 or more bedrooms	120m <sup>2</sup>			<p><b>Type 1:</b></p> <p>1 bedroom = 23 units (6 of which include a study)</p> <p>2 bedrooms = 66 units</p> <p>3 bedrooms = 10 units</p> <p><b>Type 2:</b></p> <p>1 bedroom = 28 units (all of which include a study)</p> <p>2 bedrooms = 13 units</p> <p>3 bedrooms = 0</p>	<p>See (e) for compliance with the percentage requirements.</p>
Apartment Size Category	Apartment Size																									
<b>Type 1</b>																										
1 bedroom	50m <sup>2</sup>																									
2 bedroom	70m <sup>2</sup>																									
3 or more bedrooms	95m <sup>2</sup>																									
<b>Type 2</b>																										
1 bedroom	65m <sup>2</sup>																									
2 bedroom	90m <sup>2</sup>																									
3 or more bedrooms	120m <sup>2</sup>																									

<b>Type 3</b>		<b>Type 3:</b> 1 bedroom = 0 2 bedrooms = 0 3 bedrooms = 0	
1 bedroom	75m <sup>2</sup>		
2 bedroom	110m <sup>2</sup>		
3 or more bedrooms	135m <sup>2</sup>		
(e) Type 1 apartments <b>shall not exceed 30%</b> of the total number of 1, 2 and 3 bedroom apartments.		1 bedroom – 45% 2 bedroom – 84% 3 bedroom – 100%	No, however the development as proposed to be modified is considered to provide a diversity of apartment types which will cater for the needs of the community. The size and layout of the units is efficient whilst still achieving a high level of residential amenity.
(f) Type 2 apartments <b>shall not exceed 30%</b> of the total number of 1, 2 and 3 bedroom apartments.		1 bedroom – 55% 2 bedroom – 16% 3 bedroom – 0%	No, with the exception of 2 bedroom units. However, as noted above, the proposed modified scheme is considered to provide a diversity of apartment types which will cater for the needs of the community.
(g) All remaining apartments are to comply with the Type 3 apartment sizes.		There are no Type 3 units provided.	No, however, as noted above, the proposed modified scheme is considered to provide a diversity of apartment types which will cater for the needs of the community.

The above table shows that the proposal is **inconsistent with Council's** apartment mix and size controls. Only the 2 bedroom units in Type 2 achieve compliance. The applicant seeks a variation to the above controls and provided the following justification:

*"The original Development Application and subsequent Section 96 approvals were determined prior to the unit mix controls contained in the table above applying. The amendments sought in this section 96 application were designed and lodged with Council prior to the adoption of the unit mix controls above. It is not possible or practicable to redesign each unit in a section 96 application to obtain compliance with a new control such as the unit mix as it will fundamentally change the outcome of the building to an extent that it may not pass the substantially the same test required by Section 96 of the EP&A Act.*

*The unit mix proposed in this section 96 application is more consistent with the unit mix currently approved as the number of 1 bedroom units is being reduced by 29 from 58% to 36%.*

*Council requires a maximum of 25% 1 bedroom units and accordingly the non-compliance has been reduced from 132% to 44% and the number of two bedroom units is increased by 31 from 34.8% to 56.4%. The increase in the number 2 bedroom units compared to the 1 bedroom units provides greater flexibility for a range of family types to occupy and accordingly the degree of unit choice is improved. Providing a range of unit types and sizes to provide unit choice and affordability is the inherent aim of the unit mix controls.*

*This better reflects the apartment mix requirements of Clause 3.11 compared with the approved scheme, making the unit mix much more aligned with Council requirements.*

*In addition, Section 79C(3A) requires that the application of development control plans be flexibly applied. In particular Section 79C(3A)(b) requires that a consent authority is to be flexible in applying DCP provisions where a DA does not comply with the DCP and allow reasonable alternate solutions to dealing with the particular aspect of the development. In this instance, the original application has been assessed and determined under the previous controls, and when the Section 96 application was prepared and lodged the recently adopted unit mix typology was not in The Hills DCP. The Hills DCP unit size requirements are also inconsistent with the unit sizes contained within the RFDC and the apartment layout and mix is also reflective of the requirements of the RFDC."*

**Comment:**

The aim of this modification application is to further amend the unit mix by decreasing the number of one bedroom units and increasing the number of two bedroom units. The change in the unit mix includes slight increases in the floor area of units as described in the proposal above. The additional floor areas have been made available generally either by reducing the size of balconies and converting this space into a bedroom or reconfiguring and squaring off some of the units. Despite this increase in floor area, the gross floor area has actually decreased from 11,970m<sup>2</sup> to 11,886m<sup>2</sup>. This is achieved by opening up the hallways along the eastern side of the building and given they are not enclosed they are excluded from the gross floor area calculation. In this regard, the floor space ratio is proposed to be slightly reduced from the approved 4.0:1 to 3.97:1.

The number of three bedroom units remains unchanged as approved in the previous Section 96 modification, and so with the retail floor area and number of car parking spaces. The overall height of the building also remains unaltered with the parapet level remaining at RL 153.00 and the roof level remaining at RL 152.00.

It is noted that there was much debate during the determination of the previous Section 96 application, the main issue being whether the development remained substantially the same or not regarding the unit mix where the percentage of one bedroom units had been significantly increased (from 2.9% to 58%) whilst the percentage of two and three bedroom units had been reduced (from 51.4% to 34.8% and 45.7% to 7.2% respectively). The subject Section 96 application seeks to reduce the percentage of one bedroom units and increase the percentage of two bedroom units (with the percentage of three bedroom units to remain). It is considered that the modification application will provide a greater range of unit types which would assist in providing a better and more acceptable social mix than the previous Section 96 approval. The proposed modification, **as noted in the applicant's submission, better reflects Council's new mix controls compared with the previous scheme, making it more aligned with Council's requirements.**

The proposal has been reviewed against the 10 design quality principles contained within SEPP 65 as well as the relevant Rules of Thumb and apartment type table on page 69 of the Residential Flat Design Code (RFDC). The RFDC aims to provide benchmarks to improve the design of residential flat development which is in line with the intent of the above DCP objectives. The proposed development satisfies these provisions.

The building height, FSR, setback and parking provision of the previously approved scheme are not altered as a result of this modification.

As a result, the proposed variation is considered satisfactory.

**SUBDIVISION ENGINEERING COMMENTS**

No objection is raised to the proposed modification. The proposed changes are acceptable from an engineering perspective. No changes to engineering conditions are required.

## **TRAFFIC MANAGEMENT COMMENTS**

No objection is raised to the proposed modification on traffic grounds.

## **FORWARD PLANNING COMMENTS**

No objection is raised to the proposed modification.

## **LAND & SPATIAL INFORMATION COMMENTS**

No objection is raised to the proposed modification subject to the Condition No. 20 regarding numbering being modified to reflect the revised total number of units.

## **RESOURCE RECOVERY COMMENTS**

No objection is raised to the proposed modification subject to the imposition of additional conditions.

## **HERITAGE COMMENTS**

No objection is raised to the proposed modification.

## **SECTION 94 COMMENTS**

The Section 96 modification application seeks to amend the approved unit mix by decreasing the number of one (1) bedroom units (by 29 units) and increasing the number of two (2) bedroom units (by 31 units).

2-8 James Street is identified as part of "Key Site No. 4" and is within the Carlingford Precinct. Draft Voluntary Planning Agreement No. 6 ("VPA No. 6") applies to the site. Development Consent 562/2010/JP (and subsequent Development Consent 562/2010/JP/A) contains the appropriate conditions which require the developer to enter into and fulfil the requirements and obligations of VPA No. 6.

VPA No. 6 allows for the payment of developer contributions in lieu of Section 94 Contributions and identifies the monetary amount to be paid per dwelling. VPA No. 6 provides for flexibility in terms of the overall developer contributions where additional units are proposed or the unit mix is amended. The VPA includes a pro rata contribution rate that can be used to calculate the developer contribution required for any additional dwellings that must be paid for prior to the issue of any construction certificate.

In light of this, it is not necessary to amend the VPA or any condition relating to the VPA in the original development consent as the VPA provides adequate flexibility for additional units or a change in the unit mix in relation to the payment of developer contributions.

## **ROADS & MARITIME SERVICES COMMENTS**

No objection is raised to the proposed modification.

## **NSW POLICE COMMENTS**

No objection is raised to the proposed modification.

## **CONCLUSION**

The Section 96 application has been assessed against the heads of consideration under Sections 79C and 96(2) of the Environmental Planning and Assessment Act, 1979, Local Environmental Plan 2012 and Development Control Plan 2012 and is considered satisfactory.

The development as modified will remain substantially the same as originally approved. The changes to the approved unit mix and resultant increase in the total number of units from 138 to 140 units do not alter the approved building footprint and ridge height and do not breach the maximum building height and floor space ratio in LEP 2012. No

submissions were received during the exhibition period. Although there is an inconsistency between the controls of the DCP with respect to the unit size and mix, it is considered that the proposed modification is much better aligned with the new controls than what was previously approved.

Approval is recommended subject to the relevant conditions of consent being modified to reflect the proposed changes.

## IMPACTS:

### Financial

A Voluntary Planning Agreement (VPA) has been submitted by the applicant in the original application that outlined the proposed works in kind, monetary contributions and land dedication in lieu of contributions pursuant to Contributions Plan No.14 – Carlingford Precinct. The VPA has been exhibited and adopted by Council on 12 July 2011. As a result of this modification, the applicant is required to pay for the additional units in accordance with the rates shown in the VPA for 1, 2 and 3+ bedroom units, which is clearly set out in the VPA.

### The Hills Future - Community Strategic Plan

The proposal as modified responds to the revitalisation of the Carlingford Precinct which is an integral component of Council's Residential Direction and response to the State Government's North West Sub-Regional Strategy. The proposal provides a good mix of housing which is an environmentally sustainable form of residential development and would protect and enhance the character of the locality and the Shire as a whole.

## RECOMMENDATION

The Development Application be approved subject to the following conditions.

1). Condition 1 being **deleted** and **replaced** as follows:

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

*The development being carried out in accordance with the approved plans and details, stamped and returned with Development Consent Nos. 562/2010/JP and 562/2010/JP/A, as amended by the following plans and details, stamped and returned with this Section 96 consent (except where amended by other conditions of consent).*

#### REFERENCED PLANS AND DOCUMENTS

<b>DRAWING NO.</b>	<b>DESCRIPTION</b>	<b>REVISION</b>	<b>DATE</b>
S96.2.01	Drawing List, BASIX & Summary	B	30/09/2014
S96.2.02	Basement 03 Plan	A	30/04/2014
S96.2.03	Basement 02 Plan	A	30/04/2014
S96.2.04	Basement 01 Plan	B	30/09/2014
S96.2.05	Level 01 Plan	A	30/04/2014
S96.2.06	Level 02 Plan	C	03/12/2014
S96.2.07	Level 3 & 4 Typical Plan	C	03/12/2014
S96.2.08	Level 5 & 6 Typical Plan	C	03/12/2014
S96.2.09	Level 7 Plan	C	03/12/2014
S96.2.10	Level 8-18 Typical Plan	C	03/12/2014
S96.2.11	Roof Plan	A	30/04/2014
S96.2.12	Section A	A	03/04/2014
S96.2.12	Lobby Section	A	22/10/2014
S96.2.13	North Elevation	A	03/04/2014
S96.2.14	West Elevation	A	03/04/2014
S96.2.15	South Elevation	A	03/04/2014
S96.2.16	East Elevation	B	30/09/2014
S96.2	External Finishes	A	30/04/2014



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 20 being **deleted** and **replaced** as follows:

**"20. Numbering**

*The responsibility for property numbering is vested solely in Council.*

*The property address for this development is: -*

*Residential Units 1-140/ 2-8 James Street Carlingford*

*Retail Suites commencing from 201 / 2-8 James Street Carlingford*

*(Numbers determined by the number of suites created)*

*NOTE: Unit numbering supplied on plans submitted dated 30 April 2014 does not comply with Council guidelines and must not be applied. The unit numbering must be ascending via lift well.*

*Approved Numbering:*

*Lift 1 - Units 1-16*

*Lift 2 - Units 17 -27*

*Lifts 3 & 4 - Units 28-140*

*Please refer to approved numbering correspondence and plan. These numbers are to be displayed clearly on all door entrances.*

*Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby and lift entry doors. It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and 32H speed."*

3). The following conditions being **added** under "GENERAL MATTERS":

**32H. Enclosed Garbage Chute Area**

*Suitable safety provisions must be provided in the garbage room to prevent resident access to the garbage chute and where the chute empties.*

**32I. Bulk Bin Collection (Commercial)**

*Bins exceeding 240 litres in capacity are not permitted to be placed to the street for collection, unless otherwise determined by Council. These bins must be collected from in the garbage room and returned immediately after servicing by collectors or a caretaker.*

**32J. Provision of No Parking Signs**

*Provide 12 metres of No Parking 6:00am to 12:00pm Monday at the street frontage in front of the garbage room.*

**32K. Provision of Waste Servicing Path**

*A direct access path must be provided adjacent to the opening of the garbage room and extending out to the street including kerb crossing. The path must be constructed of concrete with a smooth non-slip finish with a maximum grade of 5% (1:20). The width of the path must be at least 1.5m.*

4). Condition 42A **be deleted** and **replaced** as follows:

**42A. Planning Agreement Obligations**

*Submission of a certificate from Council confirming that:*

*(a) all payments under the Planning Agreement have been paid;*

*(b) all other obligations under the Planning Agreement have been satisfied; and*



*(c) the developer is not in breach of its obligations under the Planning Agreement.*

*Council will promptly issue this certificate at the request of the applicant or, if the certificate cannot be issued, provide a notice identifying the outstanding payments, obligations or breach.*

*The applicant shall pay the required monetary contributions for the additional 2 dwelling units as a result of this modification consent (Development Consent No. 562/2010/JP/B) prior to issue of any Construction Certificate."*

5). Condition 58 being **deleted** and **replaced** as follows:

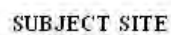
**"58. Compliance with BASIX Certificate**

*Under clause 97A of the Environmental Planning and Assessment Regulation 2000 it is a condition of this development consent that all commitments listed in BASIX Certificate No. 546213M dated 09 May 2014 be complied with."*

**ATTACHMENTS**

1. Locality Plan (1 page)
2. Aerial Photograph (1 page)
3. Zoning Map (1 page)
4. Carlingford Precinct DCP Key Sites Map (1 page)
5. Site Plan (1 page)
6. Approved and Proposed Plans (9 pages)
7. Approved and Proposed Elevations (4 pages)
8. Photomontage & External Finishes (1 page)

The map displays a grid of lots and streets. Key streets include Jenkins St, Thallon St, James St, Pennant Ave, Tip Trees Ave, Coleman St, Boundary Rd, Office St, Post St, and Hill St. Lots are labeled with numbers and letters, and many are marked with checkmarks. Specific lots are highlighted with black borders, including lot 1 in block 398432 and lot 10 in block 813017. The map also shows various street names like Office St, Post St, and Hill St, and includes a north arrow in the upper right corner.



NOTE: RMS, THE HILLS DISTRICT  
HISTORICAL SOCIETY AND  
PARRAMATTA CITY COUNCIL  
ALSO NOTIFIED

THE HILLS SHIRE COUNCIL

BASIS/CADASTRE COPY RIGHT LAND & PROPERTY INFORMATION NGN (LP). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THIS COPYRIGHT.

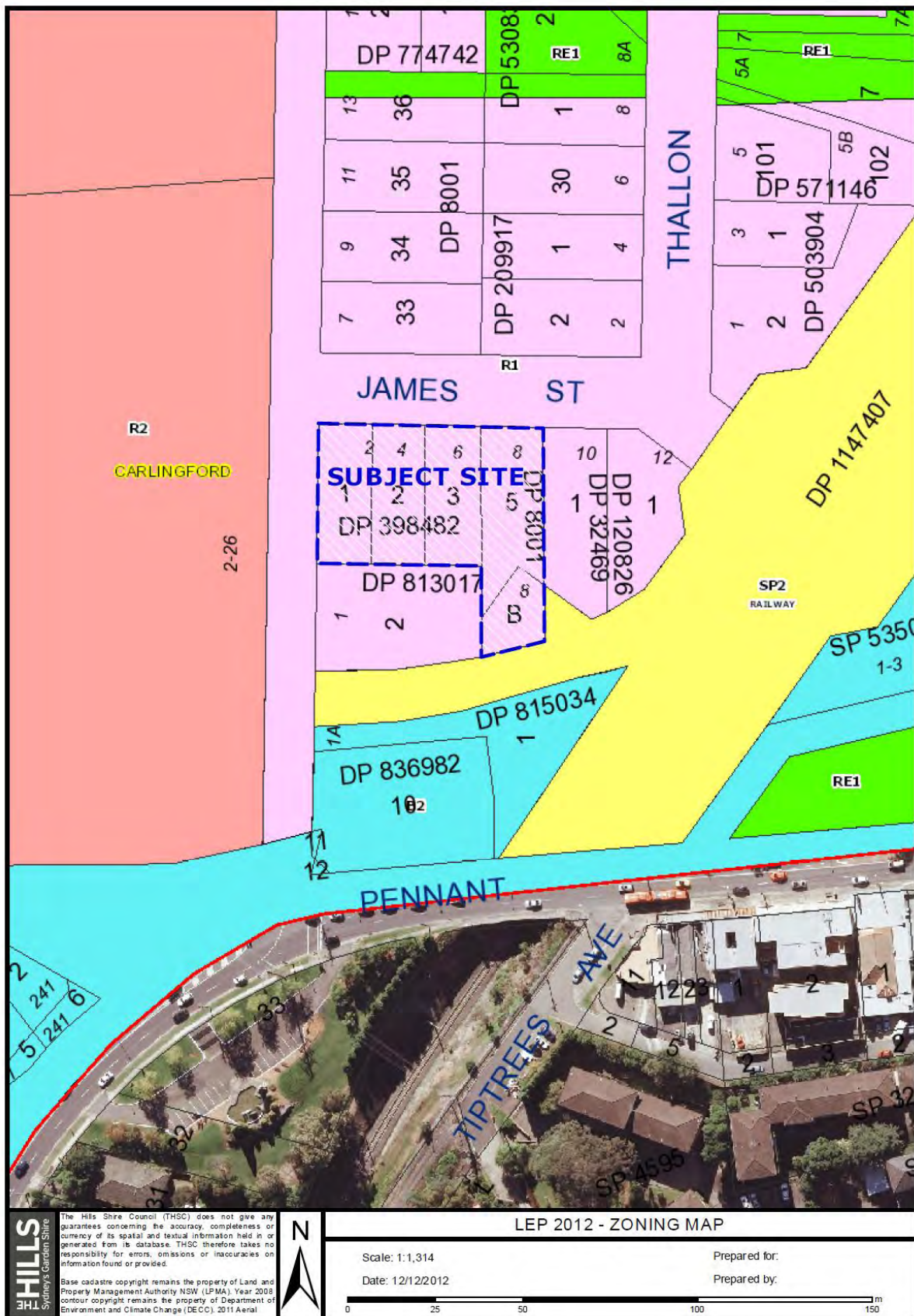


## ATTACHMENT 2 – AERIAL PHOTOGRAPH





# ATTACHMENT 3 – ZONING MAP

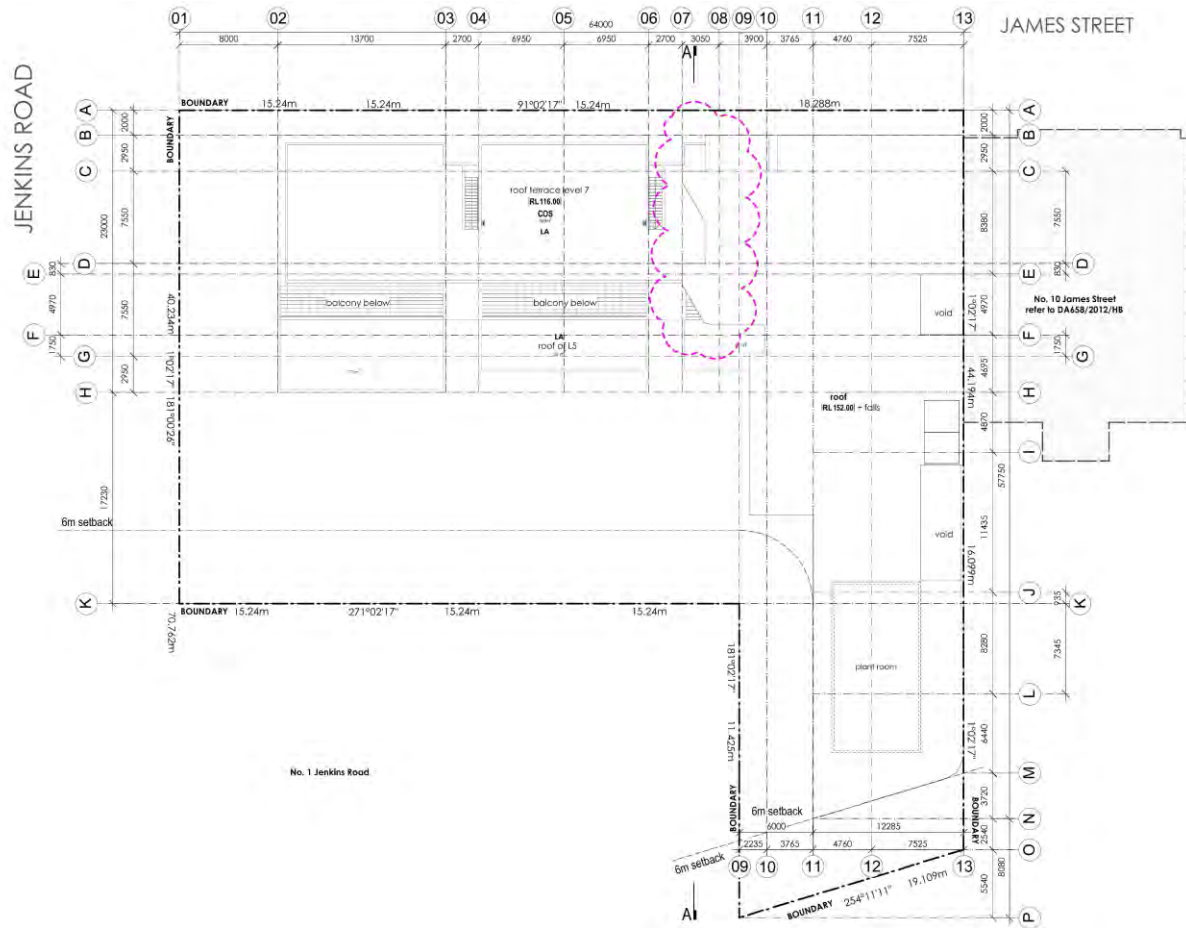


## ATTACHMENT 4 – CARLINGFORD PRECINCT DCP KEY SITES MAP



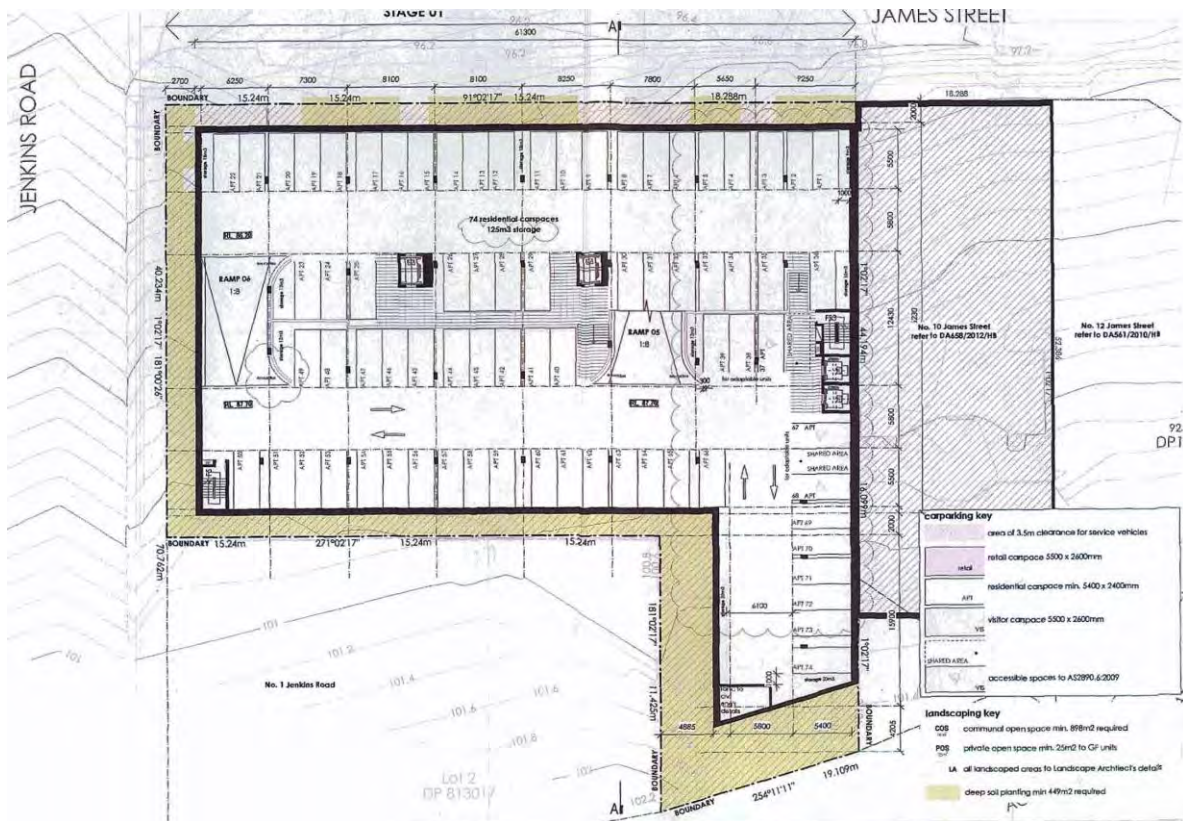
Figure 3. Key Sites

## ATTACHMENT 5 – SITE PLAN

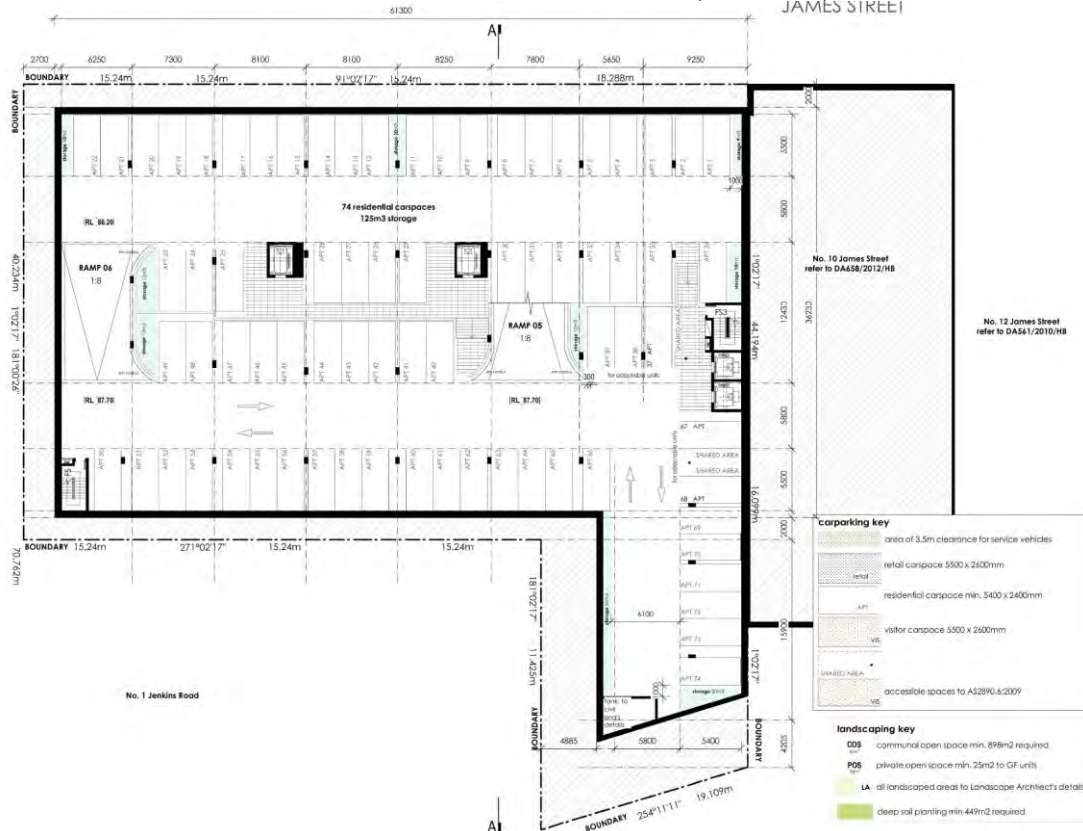




## ATTACHMENT 6 – APPROVED & PROPOSED PLANS (9 PAGES)

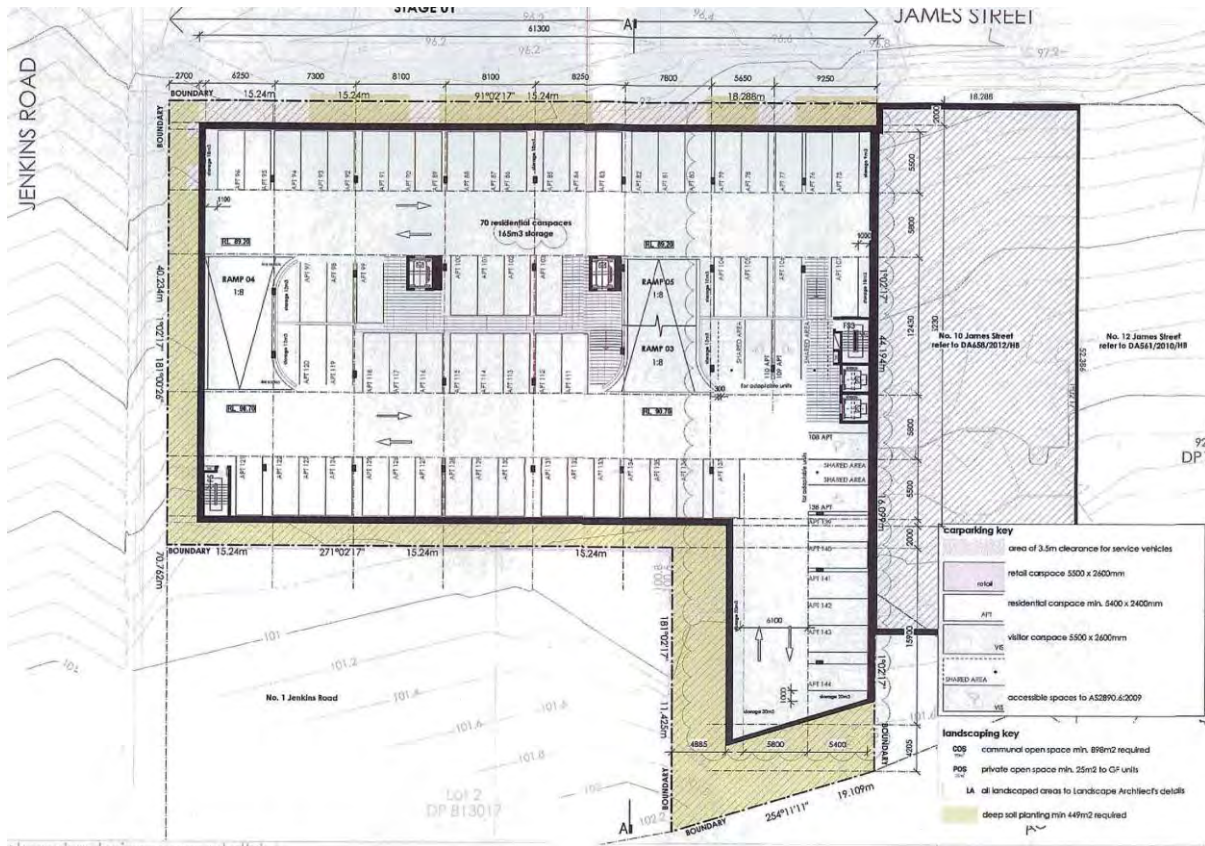


APPROVED BASEMENT 03 PLAN (RL 87.70)

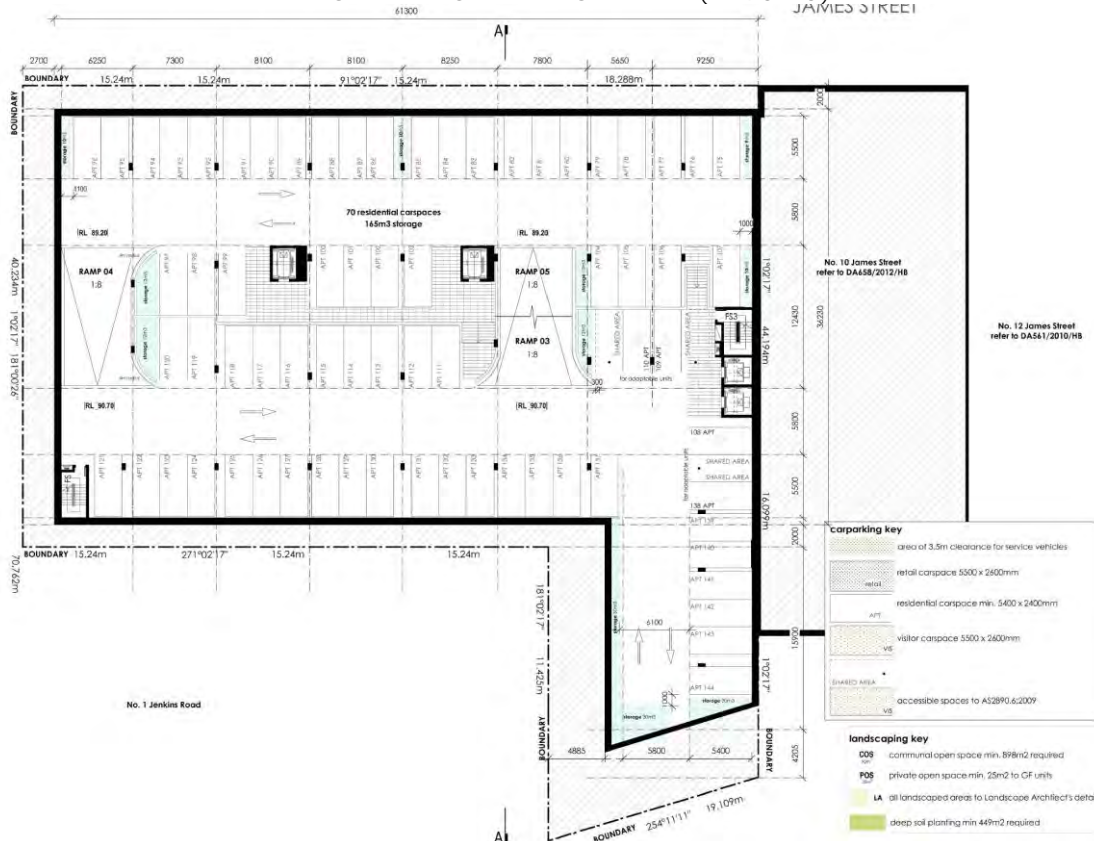


PROPOSED BASEMENT 03 PLAN (RL 87.70)



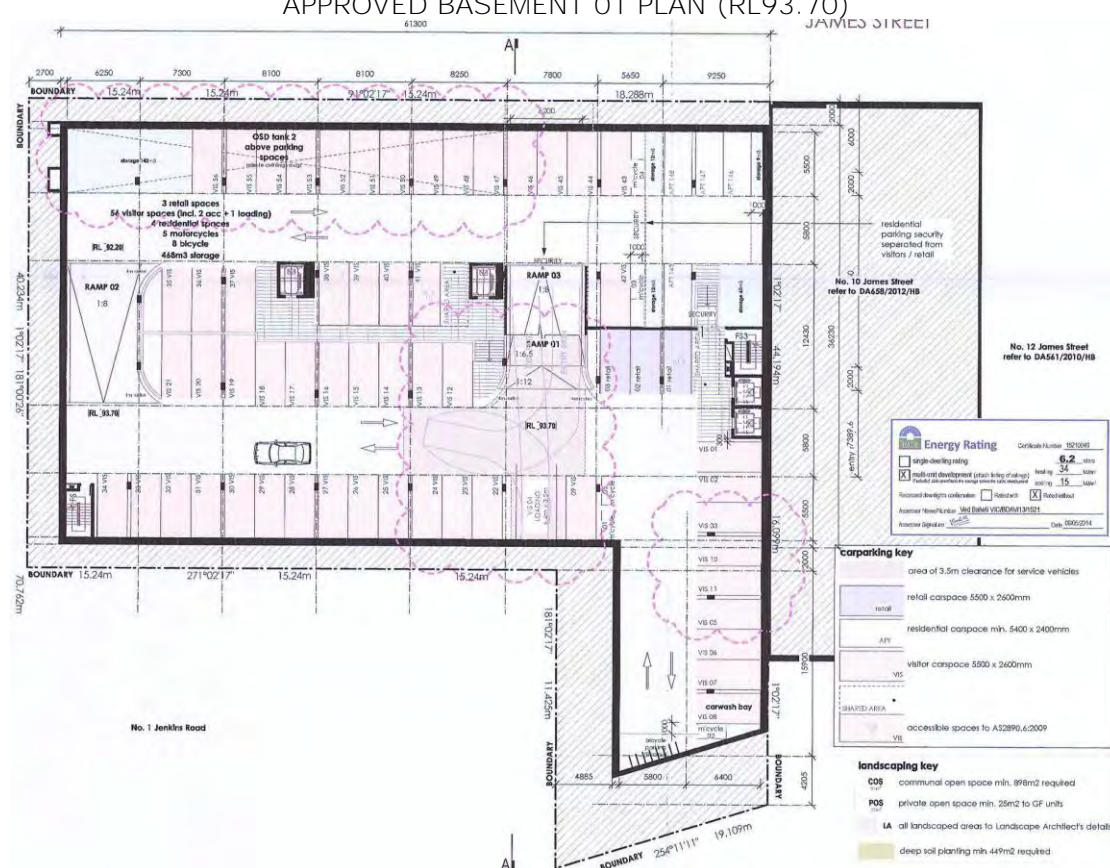
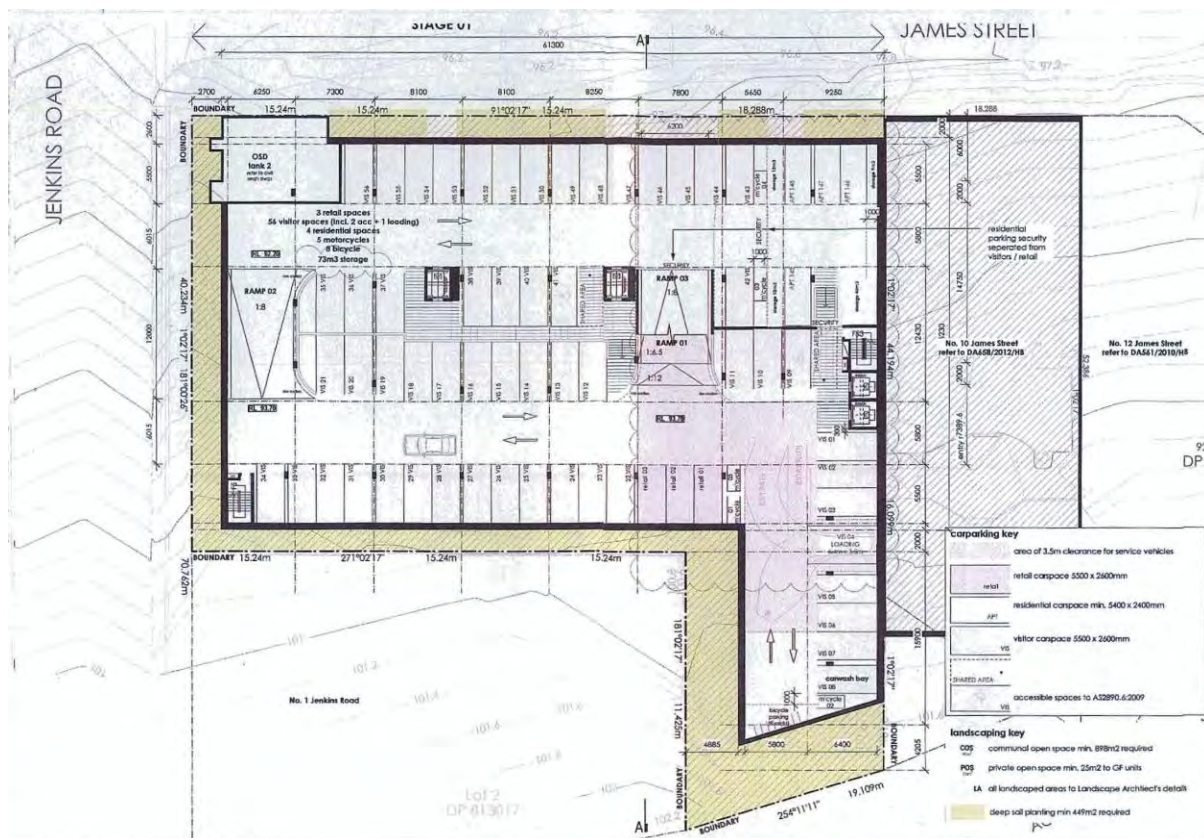


APPROVED BASEMENT O2 PLAN (RL90.70)

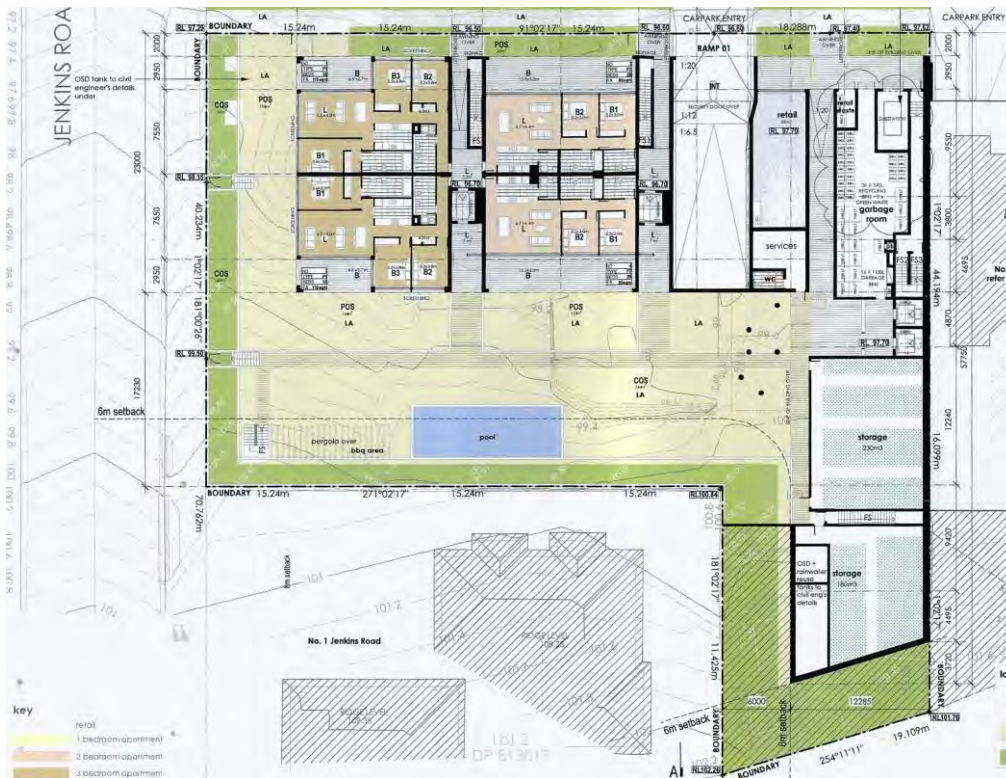


PROPOSED BASEMENT O2 PLAN (RL90.70)

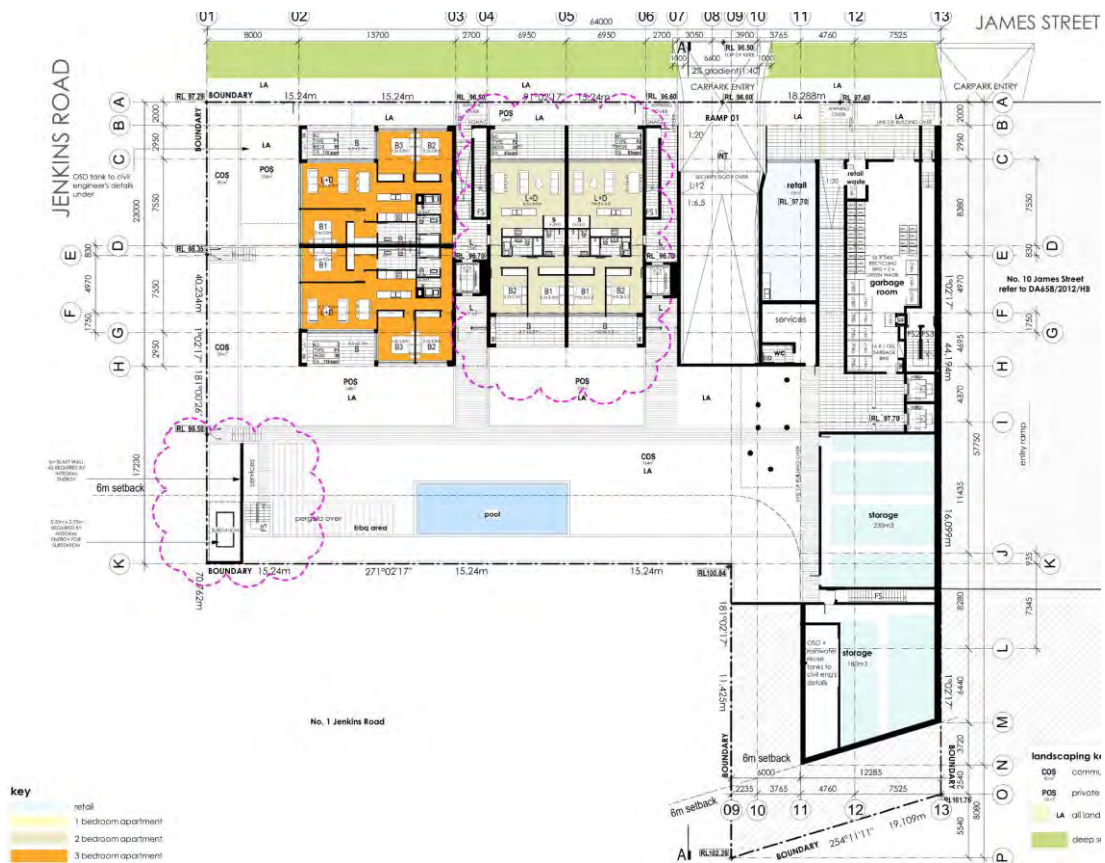






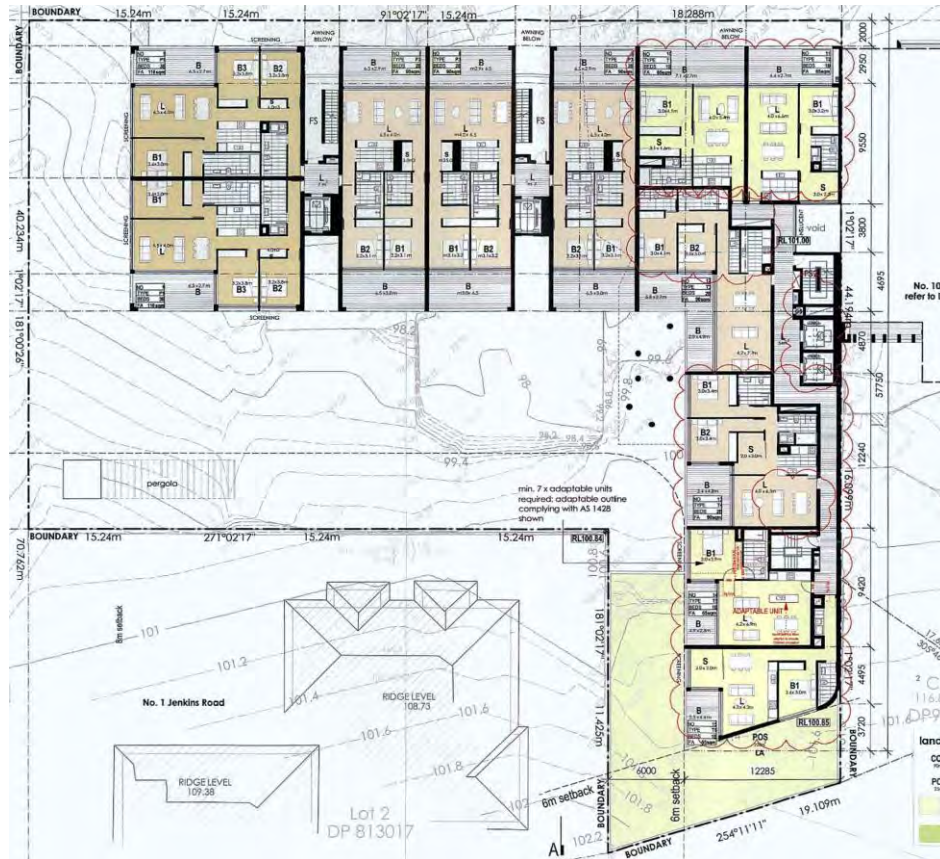


APPROVED LEVEL 01 PLAN (RL96.70)



PROPOSED LEVEL 01 PLAN (RL96.70)

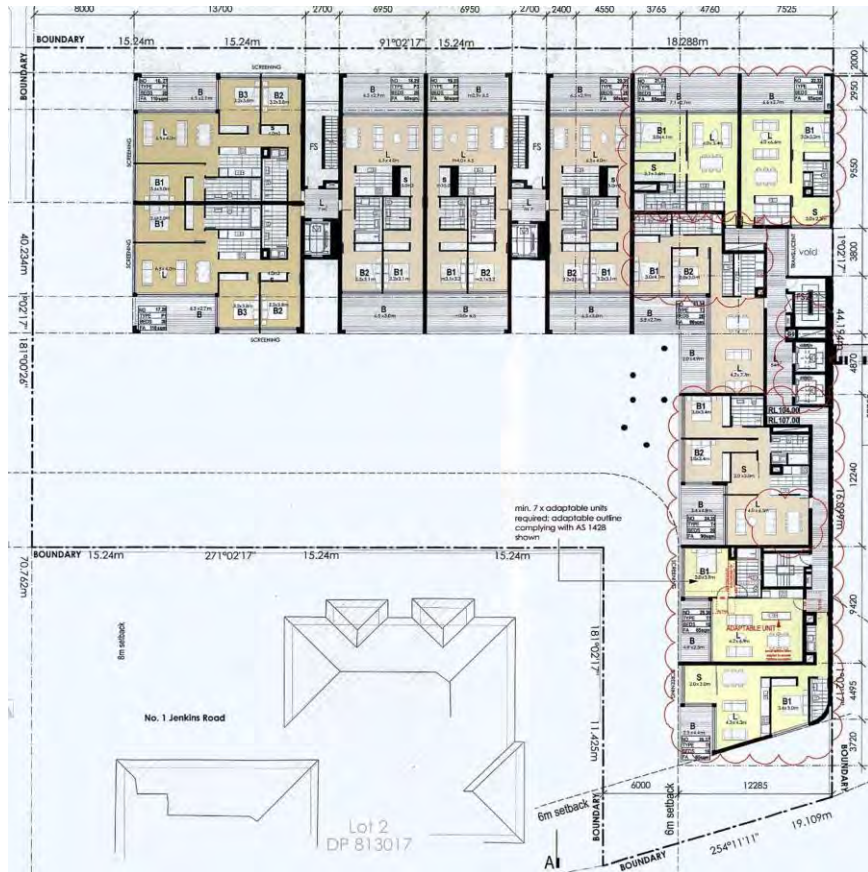




APPROVED LEVEL 02 PLAN (RL101.00)



PROPOSED LEVEL 02 PLAN (RL101.00)



APPROVED LEVEL 03 & 04 PLAN (RL104.00 & RL107.00)



PROPOSED LEVEL 03 & 04 PLAN (RL104.00 & RL107.00)





APPROVED LEVEL 05 & 06 PLAN (RL110.00 & RL113.00)



PROPOSED LEVEL 05 & 06 PLAN (RL110.00 & RL113.00)



APPROVED LEVEL 07 PLAN (RL116.00)

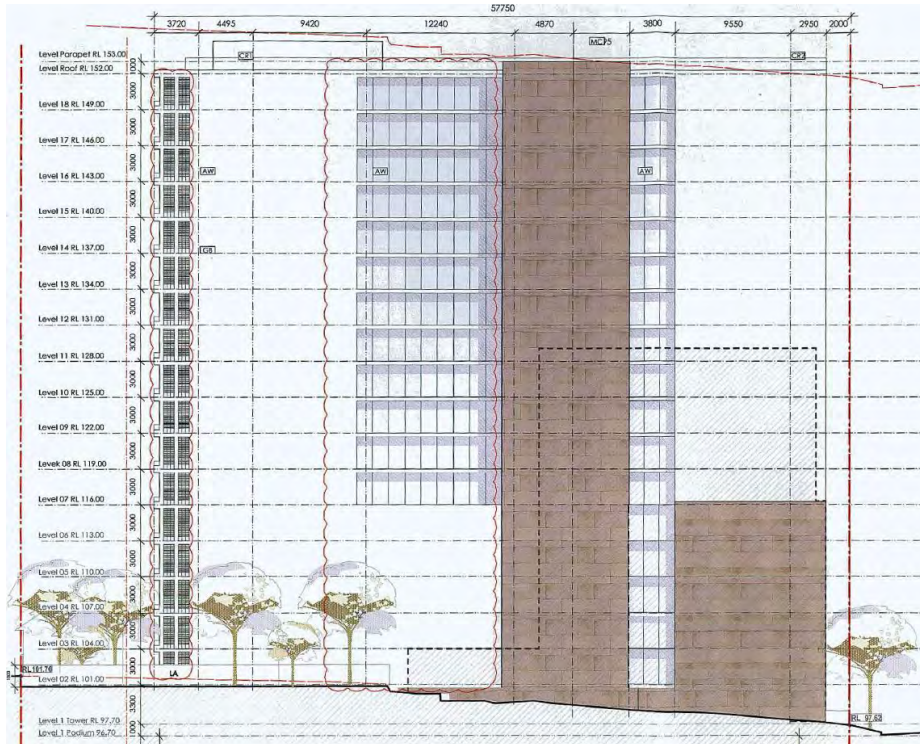


PROPOSED LEVEL 07 PLAN (RL116.00)

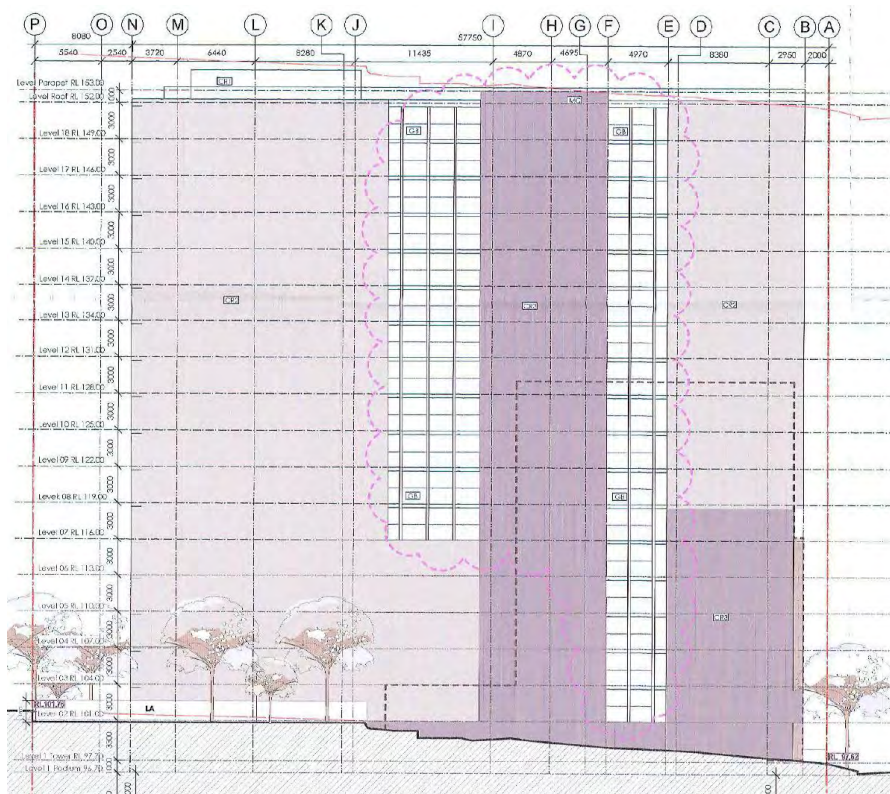




## ATTACHMENT 7 – APPROVED & PROPOSED ELEVATIONS (4 PAGES)

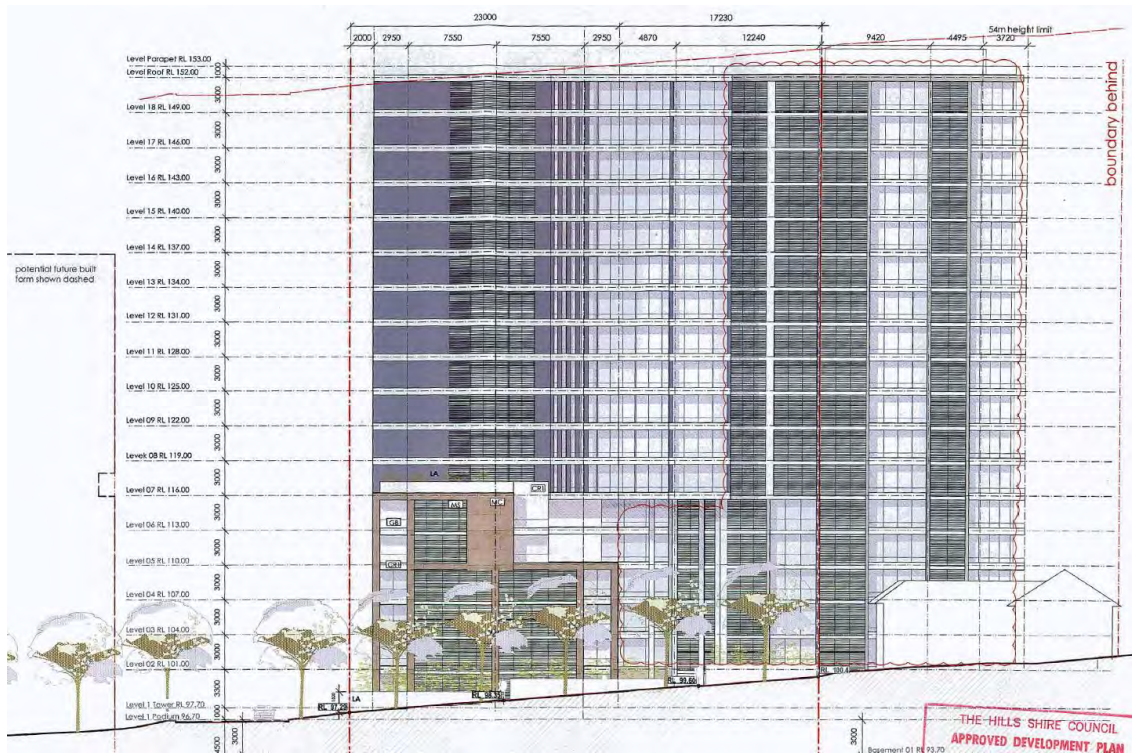


APPROVED EAST ELEVATION



PROPOSED EAST ELEVATION



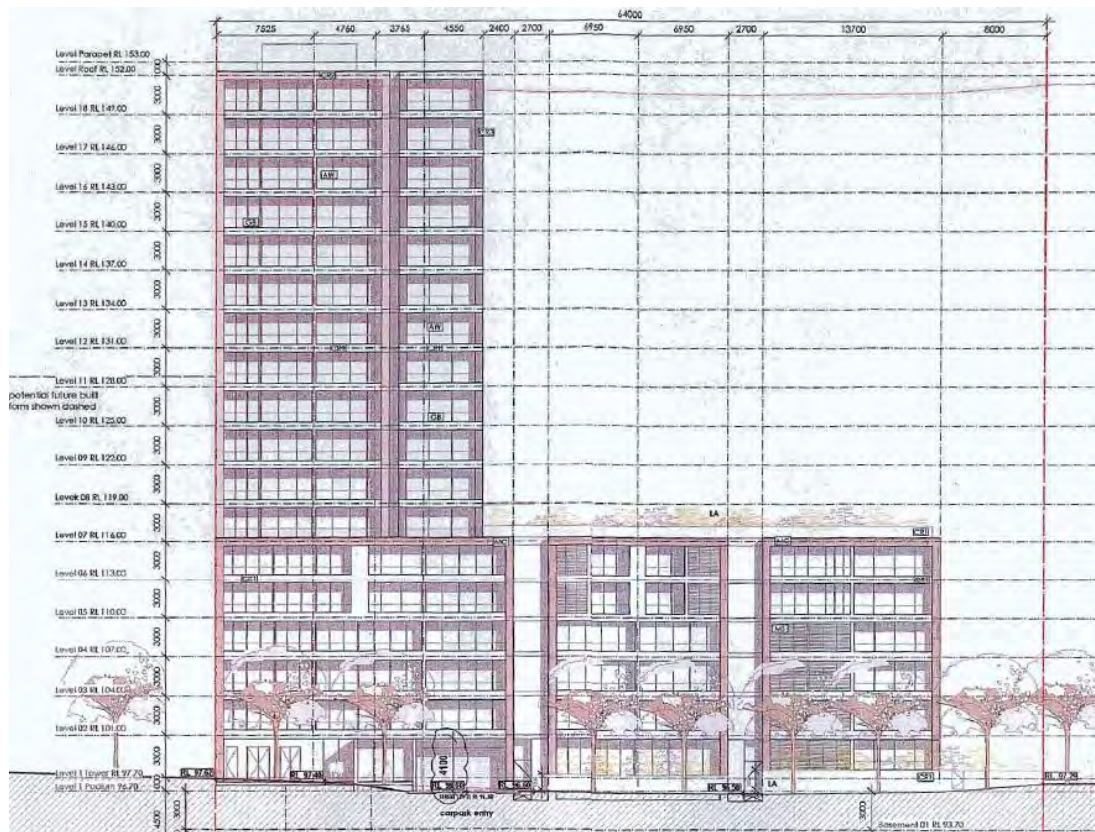


APPROVED WEST ELEVATION



PROPOSED WEST ELEVATION



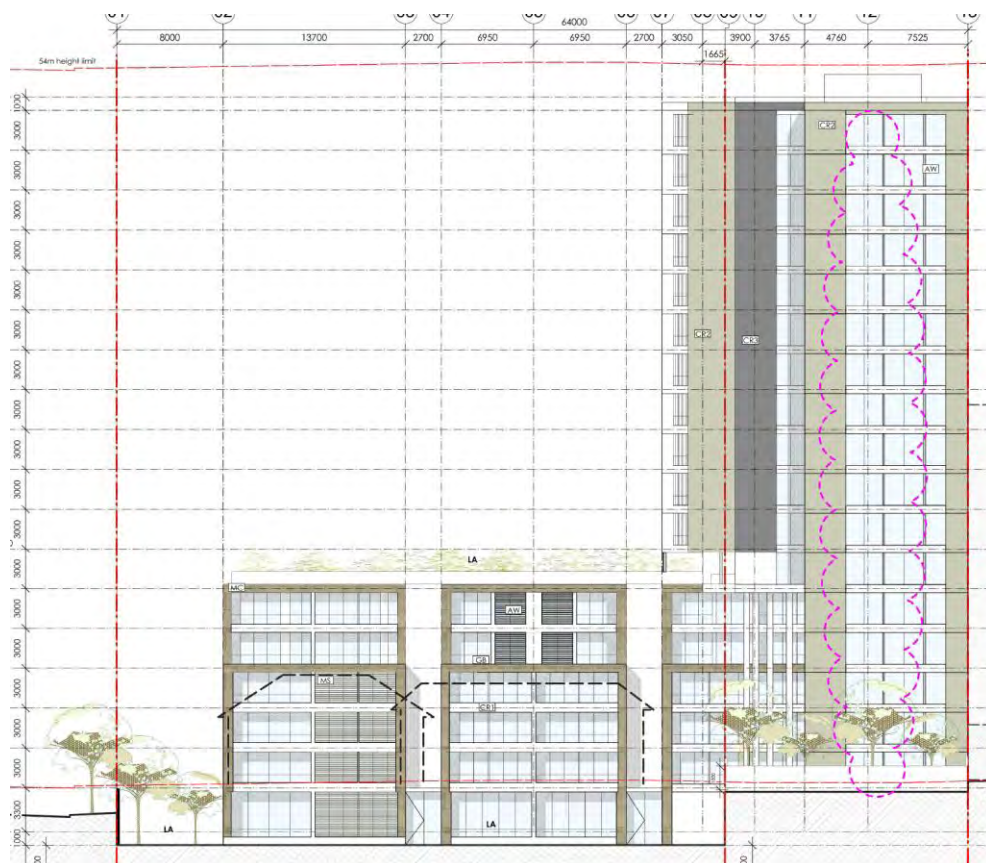
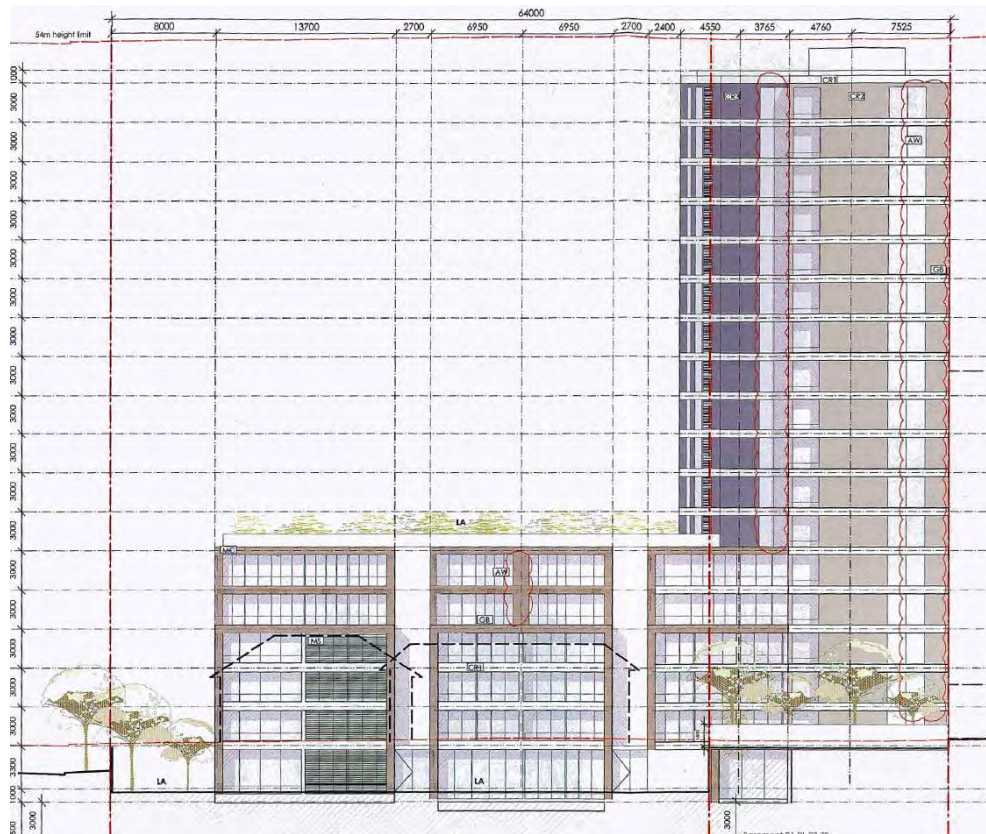


APPROVED NORTH ELEVATION



PROPOSED NORTH ELEVATION





ATTACHMENT 8 – PHOTOMONTAGE & EXTERNAL FINISHES

