

## JOINT REGIONAL PLANNING PANEL (Sydney West Region)

JRPP No	2014SYW015
DA Number	215/2013/JP/D
Local Government Area	<b>THE HILLS SHIRE COUNCIL</b>
Proposed Development	<b>SECTION 96(2) MODIFICATION TO AMEND AN APPROVED SENIORS LIVING DEVELOPMENT. THE PROPOSED MODIFICATIONS INCLUDE REDUCING THE NUMBER OF BEDS IN THE RESIDENTIAL AGED CARE FACILITY FROM 160 TO 142 AND INCREASING THE NUMBER OF SELF CARE HOUSING UNITS FROM 39 UNITS TO 53.</b>
Street Address	<b>LOT 101 DP 1129876 AND LOT 2 DP 1160957 – NO. 6 FAIRWAY DRIVE, KELLYVILLE AND CASTLE HILL COUNTRY CLUB, FAIRWAY DRIVE, BAULKHAM HILLS</b>
Applicant/Owner	<b>CRANBROOK CARE RACF PTY LIMITED</b>
Number of Submissions	NIL
Regional Development Criteria (Schedule 4A of the Act)	GENERAL DEVELOPMENT WITH A CIV OF OVER \$20 MILLION
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• SEPP HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY 2004</li> <li>• WATER MANAGEMENT ACT 2000</li> <li>• THE HILLS LEP 2012</li> <li>• THE HILLS DCP 2012</li> </ul>
List all documents submitted with this report for the panel's consideration	NIL
Recommendation	APPROVAL SUBJECT TO CONDITIONS
Report by	SENIOR TOWN PLANNER SANDA WATTS

## EXECUTIVE SUMMARY

The Section 96(2) application is for the modification of an approved seniors living development. The modifications include reducing the number of residential aged care beds from 160 to 142 and increasing the number of self-care housing units from 39 units to 53.

The proposed change in bed numbers and units numbers results in converting the approved low-care residential aged care facility building located to the south of the main residential aged care building to self-care units. Minor internal and external modifications are proposed to this building, as well as other minor modifications to the other self-care units. The amendments include modification to the mix of apartment types which results in 10 x 1 bedroom, 33 x 2 bedrooms and 10 x 3 bedrooms.

The proposed modification results in an amendment to the approved floor space ratio, with the proposed floor space ratio (FSR) for the self-care units increasing to 0.54:1 from the approved FSR of 0.5:1. The residential aged care facility maintains the approved FSR of 1:1. The FSR development standard in SEPP Housing for Seniors or People with a Disability 2004 is identified as a standard that cannot be used to refuse development consent, which is set at 0.5:1 for self-care housing developments. The increase in FSR for the self-care units is considered supportable in this instance. The bulk and scale of the development will be similar to what was approved, as the increase in the FSR is a result of a portion of the development being changed from residential aged care facility to self-contained units.

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.

In the absence of the JRPP process, this matter would be determined by Council staff under Delegated Authority.

## BACKGROUND

## MANDATORY REQUIREMENTS

Owner:	Cranbrook Care RACF Pty Limited	1.	Section 79C (EP&A Act) - Satisfactory
Zoning:	R2 Low Density Residential and SP2 Stormwater Management System	2.	Section 96 (EP&A Act) - Satisfactory
Area:	20,710m <sup>2</sup>	3.	SEPP Housing for Seniors or People with a Disability 2004 - Variations approved within the original Development Application and additional variation proposed with the current Section 96(2) modification.
Existing Development:	Single dwelling and part of Castle Hill Golf Course	4.	SEPP State and Regional Development 2011 - Satisfactory
		5.	The Hills LEP 2012 - Satisfactory
		6.	The Hills DCP 2012 - Satisfactory
		7.	Section 94 Contribution - Stage 1 \$316,415.32 and Stage 2 - \$474,784.19

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

1. Exhibition:	Yes, 30 days	1.	Capital Investment Value exceeds \$20 million
2. Notice Adj Owners:	Yes, 30 days	2.	Section 96(2) Modification Applications require determination by the Joint Regional Planning Panel
3. Number Advised:	13		
4. Submissions Received:	Nil		

**HISTORY****19/04/2011**

Development Application No. 1258/2011/ZA approved a two lot subdivision excising the trunk drainage land. The purpose of the DA was to relocate the trunk drainage corridor to the western boundary to facilitate future residential development.

**28/08/2013**

The Joint Regional Planning Panel granted Development Consent No. 215/2013/JP for the construction of a Seniors Living Development consisting of a 160 bed residential care facility, 39 self-care housing units, parking for 136 vehicles, and the re-construction of a dam in conjunction with Castle Hill Country Club.

**13/03/2014**

The Joint Regional Planning Panel granted Development Consent No. 215/2013/JP/B for modifications to the approved seniors living development including reconfiguration of buildings.

**24/06/2014**

Section 96(1A) Modification to approved seniors living development – Amendments to Section 94 Contributions approved at the Ordinary Council Meeting (DA 215/2013/JP/A).

**27/11/2014**

Section 96(1A) Modification to approved seniors living development to create a staged development approved under delegated authority (DA 215/2013/JP/C).

**30/03/2015**

Subject Section 96(2) Modification lodged. The proposed modifications includes reducing the number of beds in the residential aged care facility from 160 to 142 and increasing the number of self-care housing units from 39 units to 53. As a result, minor internal and external modifications to the built form are proposed.

**20/04/2015**

Letter sent to the applicant requesting further trunk drainage details. Additional information submitted the same day.

**PROPOSAL**

The existing approved development is for the construction of a Seniors Living Development consisting of a 160 bed residential care facility, 39 self-care housing units, parking for 136 vehicles, and the re-construction of a dam in conjunction with Castle Hill Country Club.

The proposed Section 96(2) Modification Application seeks to make the following amendments to the approved development:

- Reduce the residential aged care facility (RACF) by 18 from the approved 160 beds to 142 by converting the RACF southern wing to self-care housing (SCH).
- Increase the SCH from the approved 39 units to 53 units which will result in 10 x 1 bedroom, 33 x 2 bedroom and 10 x 3 bedroom units.
- Internal adjustments to the SCH units and modifications to the mix of apartments.
- Minor amendments to the elevations.
- Increase balcony areas for the building that is proposed to be modified from a RACF to SCH.
- Minor amendments to the basement layout, including the provision of an additional 2 spaces.

## **ISSUES FOR CONSIDERATION**

### **1. Compliance with Section 96 of the EP & A Act 1979**

Section 96(2) of the Environmental Planning and Assessment Act, 1979 requires the following:

#### ***"(2) Other modifications***

*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*
- (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*
- (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*
- (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."*

With respect to the above requirements the following is outlined:-

- The proposed development is an amendment to an approved seniors living development to reduce the number of residential aged care beds and increase the number of self-care units. The built form will generally remain as approved as the amended to room/unit numbers is due to a change of a single building from low-care residential aged care beds to self-care units.
- No changes are proposed to the approved stormwater scheme or the riparian corridor. As a result the proposed modifications are still considered to be substantially the same development as already approved.

- The modification application was referred to the NSW Office of Water who raised no concern to the works proposed, and no changes to the approved General Terms of Approval are required.
- The modified application has been notified in accordance with the Regulations and The Hills DCP Part A – Introduction.
- No submissions were received to the proposed amended development.

As a result of the above assessment, the proposed modification application is appropriate as a Section 96(2) Modification Application and is considered satisfactory.

#### Applicant's Justification for Proposed Modification

The applicant has provided the following justification for the proposed modifications to the development:

*"The driver for these changes has been a result of the review of the Aged Care (Living Longer Living Better) Act 2013 that was passed and amended the Aged Care Act 1997. Whilst demand for RACF accommodation has been increasing rapidly in line with Australia's ageing demographic, supply is still being controlled, with operators (like Cranbrook Care) required to apply for new bed place approval via the Aged Care Approval Round each year. In addressing the supply issues for aged care the Commonwealth introduced the Commonwealth Aged and Community Care Program to administer funds to a broad range of programs. The main program is the Residential Care Program, which delivers care packages to the community. The care is delivered to a resident's home or SCH, and as such the requirement to enter into a RACF is being delayed until the care needs of the resident are more demanding and there is a high care need.*

*These changes have led Cranbrook Care to review the RACF Southern wing that was the accommodate low care RACF residents, however after reviewing the reforms and the market conditions for low care RACF accommodation we have concluded that this accommodation should be SCH to allow care to be delivered to the residents via the Residential Care Program. There is no change to the form of the building which was previously low care hostel in form, other than some internal layout adjustments and a name change in the type of accommodation from RACF to SCH."*

## **2. Compliance with SEPP Housing for Seniors or People with a Disability 2004 and The Hills Local Environmental Plan 2012**

The site is currently zoned R2 Low Density Residential and SP2 Stormwater Management System under The Hills Local Environmental Plan 2012. Seniors Housing is a permissible development under The Hills LEP 2012 and the State Environmental Planning Policy Housing for Seniors or People with a Disability 2004.

It is considered that the modified proposal complies with the requirements of the SEPP in respect to the definition of a residential care facility and self-contained dwellings.

### **a. Variation to Rear Setback**

Clause 40 of the SEPP contains height restrictions which relate to development in residential zones where residential flat buildings are not permitted. Clause 40(4) is outlined below.

*"Height in zones where residential flat buildings are not permitted if the development is proposed in a residential zone where residential flat buildings are not permitted:*

- (a) *the height of all buildings in the proposed development must be 8 metres or less, and*

*Note: Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height.*

- (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

*Note: The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*

- (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height."*

The approved development included a two storey encroachment into the "rear 25% area of the site" as the height of the buildings adjoining the rear property boundary are 2 storeys. The approved building had a minimum setback of 3 metres. The subject Section 96(2) seeks to further encroach into the rear setback, with a minimum setback of 1.75 metres.

It is noted that case law demonstrates that for a Section 96 application, a Clause 4.6 Exception or SEPP 1 Objection to Development Standards is not required.

The relevant judgments states that Section 96 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". A Section 96 Modification authorises the development to be approved notwithstanding any breach of development standards. Section 96 is a broad power to approve, subject to its own stand-alone tests (such as the "substantially the same" test, and a requirement to consider all relevant s.79C matters). Section 96 does not rely upon having any SEPP 1 objection or clause 4.6 variation in order to enliven that power to approve.

The Courts have stated that SEPP 1 cannot ever be used at section 96 stage, as SEPP 1 expressly only applies 'where a development application is made', not when a modification application is made. As such, a SEPP 1 objection has no application to Section 96 modifications.

Nevertheless, the proposed encroachment of the 2 storey structure into the rear 25% of the site is minor and does not result in any adverse amenity impacts such as overshadowing or overlooking as the rear of the site is the golf course. There are no impacts of the non-compliance with the development standards in terms of privacy, amenity, solar access or visual impact.

#### **b. Clause 40 - Development standards—minimum sizes and building height**

A consent authority must not consent to a Development Application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

DEVELOPMENT STANDARD	SEPP REQUIREMENT	APPROVED DEVELOPMENT	PROPOSED MODIFICATIONS	COMPLIANCE
Site size	The size of the site must be at least 1,000m <sup>2</sup>	20,719m <sup>2</sup>	No changes proposed	Yes

Site frontage	The site frontage must be at least 20 metres wide at the building line.	Site width (frontage to Fairway Drive) is 187m <sup>2</sup>	No changes proposed	Yes
Height in zones where residential flat builds are not permitted.	(a) 8 metre maximum  (b) 2 storeys where adjacent to a boundary  (c) building within the rear 25% not be greater than 1 storey	(a) The development does not exceed 8 metres.  (b) 2 storeys adjacent to boundary.  (c) Development is 2 storeys within the rear 25%	No changes proposed  No changes proposed  A further variation into the rear 25% setback is proposed. Minimum 1.755m to rear boundary, adjacent to the golf course (approved 3.1m from boundary).	Yes  Yes  No, however a revised SEPP 1 objection is not required as one was submitted and found to be satisfactory with the original DA.

**c. Clause 48 – Standards that cannot be used to refuse development consent for residential care facilities**

A consent authority must not refuse consent to a Development Application made pursuant to this chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds: building height, density and scale, landscaping and parking.

DEVELOPMENT STANDARD	SEPP REQUIREMENT	APPROVED DEVELOPMENT	PROPOSED MODIFICATIONS	COMPLIANCE
Density and Scale	Maximum FSR 1:1	1:1	1:1	Yes
Landscaped area	Minimum 25m <sup>2</sup>	4000m <sup>2</sup> required (25 x 160), 4868m <sup>2</sup> proposed.	3550m <sup>2</sup> (25 x 142), 4868m <sup>2</sup> proposed.	Yes
Parking	1 per 10 beds 1 space per 2 employees on duty 1 parking space suitable for ambulance	160/10=16 spaces 40/2 = 20 spaces Total = 36 spaces required, 42 spaces provided.	142/10=14.2 spaces 38/2 = 19 spaces Total = 33.2 (34) spaces required, 38 spaces provided (with 3 being stacked).	Yes



		Ambulance parking can be accommodated at the front of the building as well as within the basement parking area.	Ambulance parking can be accommodated at the front of the building as well as within the basement parking area.	
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**d. Clause 50 – Standards that cannot be used to refuse development consent for self-contained dwellings**

A consent authority must not refuse consent to a Development Application made pursuant to this chapter for the carrying out of development for the purpose of a self-contained dwelling on any of the following grounds: building height, density and scale, landscaping, solar access and parking.

DEVELOPMENT STANDARD	SEPP REQUIREMENT	APPROVED DEVELOPMENT	PROPOSED MODIFICATIONS	COMPLIANCE
Building Height	8 metres or less.	8 metres to the ceiling of the topmost floor.	No changes proposed	Yes
Density and Scale	Maximum FSR 0.5:1	0.5:1	0.54:1	No, refer below.
Landscaped area	Minimum 30% of the site.	3420m <sup>2</sup> required, 5950m <sup>2</sup> (overall 10818m <sup>2</sup> ) proposed.	3420m <sup>2</sup> required, 6140m <sup>2</sup> (overall 11008m <sup>2</sup> ) proposed.	Yes
Deep Soil Landscaping	Minimum 15% deep soil landscaping to support growth of trees and shrubs.	1701m <sup>2</sup> required, 4720m <sup>2</sup> proposed.	1701m <sup>2</sup> required, 5925m <sup>2</sup> proposed.	Yes
Solar Access	Living rooms and private open spaces for 70% of dwelling receive a minimum of 3 hours sunlight between 9am and 3pm at the winter solstice.	28 of the 39 units or 72% meet the solar access requirement.	40 of the 53 units or 75% meet the solar access requirement.	Yes
Parking	Parking is to be provided at a rate of 0.5 spaces per bedroom.	31 x 2 bedroom units 8 x 3 bedroom units Total bedroom = 86 x 0.5 = 43 spaces required, 94 provided.	10 x 1 bedroom 33 x 2 bedroom units 10 x 3 bedroom units Total bedroom = 106 x 0.5 = 53 spaces required, 100 provided.	Yes



### Density and Scale

Clause 50 - Standards that cannot be used to refuse development consent for self-contained dwellings, states that if a development for self-contained dwelling has a floor space ratio of 0.5:1 or less, the development cannot be refused on that basis. The approved development had a floor area of 0.5:1 for the self-care portion of the development. The subject Section 96 Modification, seeks approval to increase the number of self-care units, which results in an increased floor space ratio of 0.54:1.

The applicant has provided the following comment in relation to the increased floor space:

*"The FSR development standard is identified as a standard that cannot be used to refuse development consent. There is no clauses to be addressed supporting a variation, the consent authority is requested to support this minor variation with the architectural plans demonstrating no adverse impacts on the density and scale of the development."*

The proposed increase in floor space is considered appropriate in this instance as it does not result in any adverse impacts such as overshadowing or privacy. The bulk and scale of the development will be similar to what was approved, as the non-compliance in the floor space is a result of a portion of the development being changed from residential aged care facility to self-contained units. There is no change to the form of the building that was previously a low care hostel, other than some internal layout adjustments and a name change in the type of accommodation from RACF to SCH.

In addition to the comments above, the application remains consistent with the following relevant provisions of the SEPP;

- Clause 24 and 25 - Site Compatibility Certificate
- Clause 26 - Location and Access to Facilities
- Clause 28 - Water and Sewer Services
- Clause 32 - Design of residential development
- Clause 33 - Neighbourhood Amenity and Streetscape
- Clause 34 - Visual and Acoustic Privacy
- Clause 35 - Solar Access and Design for Climate
- Clause 36 - Stormwater
- Clause 37 - Crime Prevention
- Clause 38 - Accessibility
- Clause 39 - Waste Management

### **3. Compliance with The Hills DCP 2012**

The proposal has been assessed against the relevant requirements under The Hills DCP 2012, in particular Part D Section 7 – Balmoral Road Release Area, and Part B Section 5 – Residential Flat Buildings. The original application granted approval to the variation of the pre-planned road layout under the DCP. The amended proposal does not further modify the approved development with regards to DCP requirements.

In view of the above, it is considered that the proposed modifications to the development are satisfactory and will not adversely impact on the environmental amenity of the locality.

### **SECTION 94 – FORWARD PLANNING COMMENTS**

Council's Forward Planning Section has reviewed the proposed modification and no objection is raised subject to the modification to the conditions relating to contributions. The following comments are made:

*"A concession was previously granted under Section 96 215/2013/JP/A considered by Council in relation to the calculation of the contribution fees on the basis that the Residential Care Facility component of the development should not be levied contributions for Open Space or Community Facilities based on the facilities and the levels of amenity provided as part of the Seniors Living Development and the expected occupants of the Residential Care Facility.*

*As the self-care units are designed for independent living by occupants who are capable of, and often use the full range of services and facilities that the Contributions Plan anticipates, it was determined that it was appropriate to levy the self-care units in accordance with the Contributions Plan. However, as the occupancy of self-care units may be of a lower order than encountered in traditional multi-unit housing complexes, an additional concession was granted and the self-care units were levied based on the 1 bedroom rate and granted a 50% concession for Open Space based on the facilities and the levels of amenity provided as part of the Seniors Living Development and the expected occupants of the self-care units.*

*The subject application maintains the majority of units as residential care units. As such it is considered that the methodology used to calculate the Section 94 conditions in the earlier Section 96 application 215/2013/JP/A remains valid."*

#### **SUBDIVISION ENGINEERING COMMENTS**

Council's Senior Subdivision Engineer has reviewed the proposed modifications and no objection is raised, subject to the modification to condition No. 114, to include a legal agreement with Castle Hill Country Club in the form of a deed for the encroachment over the drainage easement.

#### **NSW OFFICE OF WATER**

NSW Office of Water has reviewed the proposed modifications and no objection is raised to the amended plans and no changes to the approved General Terms of Approval are required.

#### **CONCLUSION**

The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, SEPP Housing for Seniors or People with a Disability 2004, The Hills Local Environment Plan 2012 and The Hills Development Control Plan 2012 and is considered satisfactory.

The proposed modification is considered to be substantially the same development as originally approved by the JRPP and is considered satisfactory with respect to Section 96(2) of the Environmental Planning and Assessment Act 1979.

The proposed modifications do not result in any adverse impacts such as overshadowing, solar access or privacy.

The modification application was notified to adjoining properties and no submissions were received.

Accordingly approval subject to conditions as modified is recommended.

#### **RECOMMENDATION**

The Section 96(2) application for modification of Development Consent 215/2013/JP be approved as follows:

## CONDITIONS OF CONSENT

Condition Nos. 1, 87, 89, 106, 107, 109, 112, 114 be **deleted** and **replaced** with:

### **1. Development in accordance with submitted plans**

The development being carried out in accordance with the following plans approved by Development Consent 215/2013/JP, 215/2013/JP/A, 215/2013/JP/B, 215/2013/JP/C and as amended by plans stamped 215/2013/JP/D returned with this consent:

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

### REFERENCED PLANS

DRAWING NO.	DESCRIPTION	ISSUE	DATE
DA-0000A	Cover Sheet & Location Plan	D	13/03/2015
DA-0000C	Density Calculation Drawing	D	13/03/2015
DA-0001	Site Plan – Basement Level Plan	D	13/03/2015
DA-0002	Site Plan – Ground Floor Plan	D	13/03/2015
DA-0003	Site Plan – Level 1	D	13/03/2015
DA-0004	Site Plan – Level 2	D	13/03/2015
DA-0005	Site Plan – Roof Plan	D	13/03/2015
DA-1201	SCH – Block 1 & 2 Floor Plan – Basement Level	D	13/03/2015
DA-1202	SCH – Block 1 & 2 – Ground Floor Plan	D	13/03/2015
DA-1203	SCH – Block 1 & 2 – Level 1 Floor Plan	D	13/03/2015
DA-1204	SCH – Block 1 & 2 – Level 2 Floor Plan	D	13/03/2015
DA-1205	SCH – Roof Plan	D	13/03/2015
DA-1301	SCH – Block 3,4 & RCF South Wing Basement Floor Plan	C	13/03/2015
DA-1302	SCH – Block 3.4 & RCF (part) Ground Floor Plan	C	13/03/2015
DA-1303	SCH – Block 3.4 & RCF (part) Level 1 Floor Plan	C	13/03/2015
DA-1304	SCH – Block 3.4 & RCF Level 2 Floor Plan	C	13/03/2015
DA-1305	SCH – Block 3,4 & RCF Roof Plan	C	13/03/2015
DA-5320	Contextual Elevations	D	13/03/2015
DA-5321	Contextual Elevations	C	13/03/2015
DA-5322	Contextual Elevations	D	13/03/2015
DA-5323	Fairway Drive Fence Elevations	F	13/03/2015
DA-6101	RACF – Site Section Sheet 1	D	04/03/2015

## GENERAL MATTERS (STAGE 1)

### **87. Provision of Parking Spaces**

The development is required to be provided with a total of 38 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

## PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE (STAGE 1)

### **89. Section 94 Contribution – Balmoral Road Release Area**

The following monetary contributions must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development.

Payments comprise of the following:-

## Stage 1

### ***Aged care facility accommodation***

	<i>Purpose: 1 Person</i>	<i>No. of 1 Bedroom units: 142</i>	<i>Sum of Units</i>	<i>No. of Credits: 0</i>	<i>Total S94</i>
Transport Facilities - Capital	\$ 1,879.72	\$ 266,920.68	\$ 266,920.68	\$ -	\$ <b>266,920.68</b>
Administration	\$ 138.06	\$ 19,604.74	\$ 19,604.74	\$ -	\$ <b>19,604.74</b>
Drainage Facilities - Capital	\$ 210.49	\$ 29,889.91	\$ 29,889.91	\$ -	\$ <b>29,889.91</b>
<b>Total</b>	<b>\$ 2,228.28</b>	<b>\$ 316,415.32</b>	<b>\$ 316,415.32</b>	<b>\$ -</b>	<b>\$ 316,415.32</b>

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

This condition has been imposed in accordance with Contributions Plan No. 12.

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

## GENERAL MATTERS (STAGE 2)

### **106. Provision of Parking Spaces**

The development is required to be provided with a total of 100 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

### **107. Street Numbering Identification**

Fairway Drive will be renumbered in the future with the number 6 being allocated to a different property within Fairway Drive. Until such time that Fairway Drive is renumbered no street number can be allocated to this site. As a result of this NO reference is to be made to the number 6 in regards to street number or signage within the site. The address, until final allocation, will be Lot 101 Fairway Drive Kellyville

As per previous correspondence a diagrammatic plan is to be erected on site at driveway entry points. Clear and accurate external directional signage is to be erected on all buildings, stairways, lift shafts, units and lobby entry doors.

## PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE (STAGE 2)

### **109. Section 94 Contribution – Balmoral Road Release Area**

The following monetary contributions must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development.

Payments comprise of the following:-

## Stage 2

### ***Aged care facility accommodation***

	<i>Purpose: 1 person</i>	<i>Purpose: Credit</i>	<i>No. of persons: 53</i>	<i>Sum of Units</i>	<i>No. of Credits: 1</i>	<i>Total S94</i>
Open Space - Land (50%)	\$ 4,973.45	\$ 18,865.47	\$ 263,592.59	\$ 263,592.59	\$ 18,865.47	\$ <b>244,727.12</b>
Open Space - Capital (50%)	\$ 1,319.94	\$ 5,006.83	\$ 69,956.56	\$ 69,956.56	\$ 5,006.83	\$ <b>64,949.73</b>
Transport Facilities - Capital	\$ 1,879.72	\$ 3,565.11	\$ 99,625.16	\$ 99,625.16	\$ 3,565.11	\$ <b>96,060.05</b>
Community Facilities - Land	\$ 196.71	\$ 373.09	\$ 10,425.63	\$ 10,425.63	\$ 373.09	\$ <b>10,052.54</b>
Community Facilities - Capital	\$ 805.87	\$ 1,528.43	\$ 42,711.11	\$ 42,711.11	\$ 1,528.43	\$ <b>41,182.68</b>
Drainage Facilities - Capital	\$ 210.49	\$ 261.85	\$ 11,155.97	\$ 11,155.97	\$ 261.85	\$ <b>10,894.12</b>
Administration	\$ 138.06	\$ 399.22	\$ 7,317.18	\$ 7,317.18	\$ 399.22	\$ <b>6,917.96</b>
<b>Total</b>	<b>\$ 9,524.23</b>	<b>\$ 30,000.00</b>	<b>\$ 504,784.19</b>	<b>\$ 504,784.19</b>	<b>\$ 30,000.00</b>	<b>\$ 474,784.19</b>

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

This condition has been imposed in accordance with Contributions Plan No. 12.

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

## **DURING CONSTRUCTION (STAGE 2)**

### **112. 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. 619669M be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

## **PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE (STAGE 2)**

### **114. 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 – Waterway & Riparian Corridor**

A restriction as to user restricting development over or the varying of the finished waterway and associated structures including the modified dam, drainage culverts, watercourse, retaining structures, riparian corridor and associated components as constructed.

##### **ii. Positive Covenant – Waterway & Riparian Corridor**

A positive covenant to ensure the maintenance of the completed waterway and associated structures including the modified dam, drainage culverts, watercourse, retaining structures, riparian corridor and associated components as constructed.

##### **iii. Positive Covenant – Flood Emergency Response Plan**

A positive covenant to ensure the implementation of the Flood Emergency Response Plan required under this consent.

##### **iv. Restriction – Driveway Access**

A restriction must be created restricting the finished driveway levels as completed in accordance with the consent.

##### **v. Positive Covenant – Ultimate Drainage Strategy**

A positive covenant to ensure the completion of ultimate drainage strategy as detailed under the condition titled 'Engineering Works and Design' within 3 months from the time of Council's written advice.

##### **vi. Legal Agreement – Drainage Easement Encroachment**

A legal agreement in the form of a deed for the encroachment proposed over the drainage Easement must be registered. The completion of a deed of agreement

acceptable to, and in favour of, Castle Hill Country Club (beneficiary of the easement) preserving their right of access to drainage structures and overland flow path along the drainage easement.

This deed of agreement must be registered via a positive covenant. Council has standard wording that is available upon request.

**b) Registration of Request Documents**

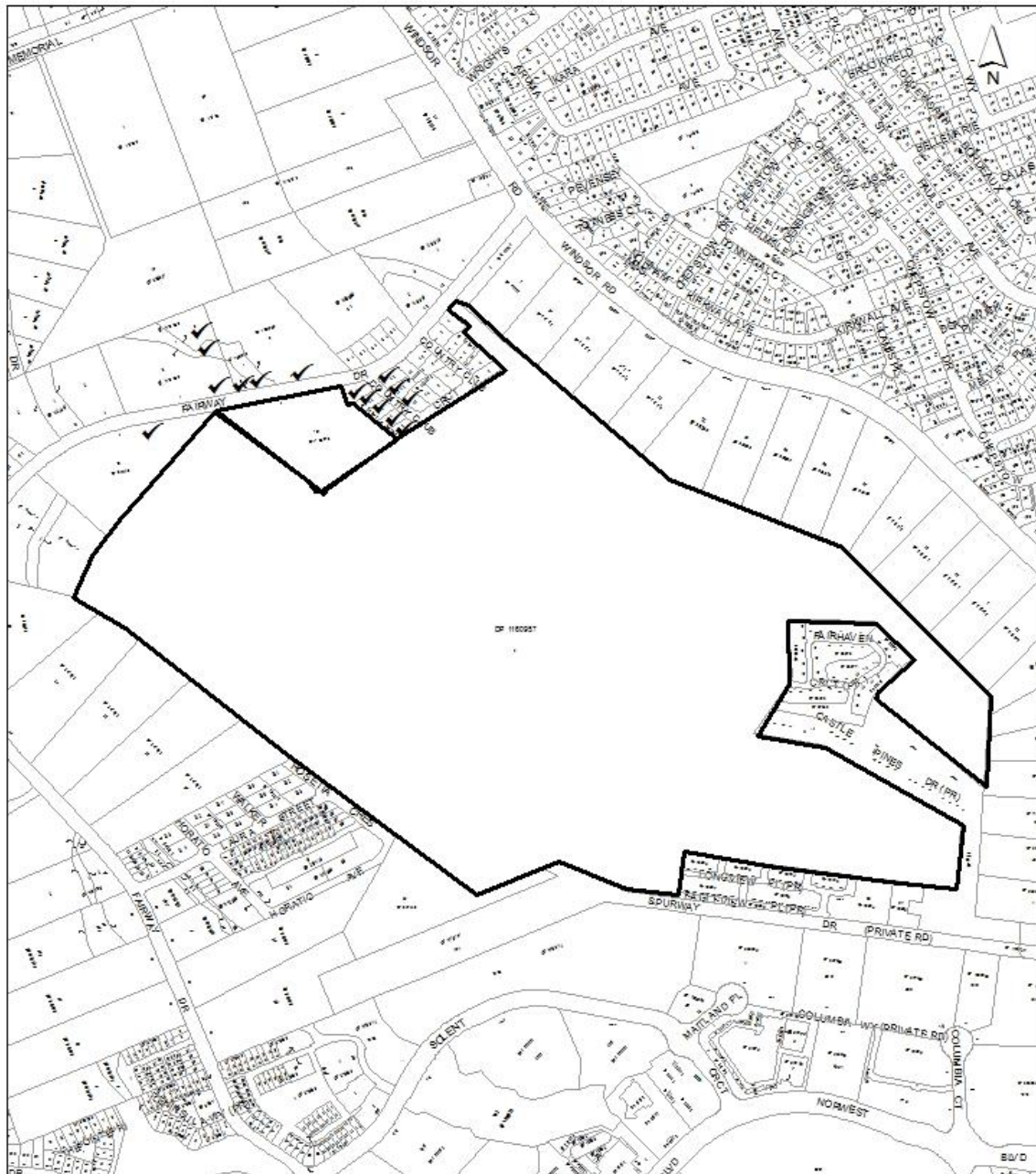
The endorsed request documents must be lodged with the NSW Department of Lands

**ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. Approved Site Plan
4. Proposed Site Plan



## ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

**THE HILLS**  
Sydney's Garden Shire

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## ATTACHMENT 2 – AERIAL PHOTOGRAPH





# ATTACHMENT 3 – APPROVED SITE PLAN (DA 215/2013/JP/B)



## ATTACHMENT 4 – PROPOSED SITE PLAN

