

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2015SYW200
DA Number	717/2016/JP
Local Government Area	CITY OF PARRAMATTA COUNCIL
Proposed Development	DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A NINE STOREY RESIDENTIAL FLAT BUILDING DEVELOPMENT.
Street Address	CP SP 55055 - COMMON PROPERTY, 780-786 PENNANT HILLS ROAD, CARLINGFORD
Applicant/Owner	AUSTRALIAN CONSULTING ARCHITECTS
Number of Submissions	Six submissions received from three properties
Regional Development Criteria (Schedule 4A of the Act)	CIV over \$20 million – General Development
List of All Relevant s79C(1)(a) Matters	• List all of the relevant environmental planning instruments: s79C(1)(a)(i): - State Environmental Planning Policy No. 65- Design Quality of Residential Flat Development. - State Environmental Planning Policy (State and Regional Development) 2011. - The Hills Local Environmental Plan 2012 • 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) - Nil • List any relevant development control plan: s79C(1)(a)(iii) - DCP 2012 Part D Section 12 – Carlingford Precinct - DCP 2012 Part B Section 5 – Residential Flat Buildings - DCP 2012 Part C Section 1 – Parking - DCP 2012 Part C Section 3 – Landscaping • 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) - Nil • List any coastal zone management plan: s79C(1)(a)(v) - Nil • List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 • Environmental Planning & Assessment Act Regulation 2000.

Does the DA require Special Infrastructure Contributions conditions (s94EF)?	No.
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	Senior Town Planner Sophia Brown
Report date	30 June 2016

EXECUTIVE SUMMARY

The Development Application is for the construction of a nine (9) storey residential flat building comprising a total of 88 units consisting of 6 x studio units, 24 x 1 bedroom units, 50 x 2 bedroom units and 8 x 3 bedroom units.

The proposal has been assessed against the provisions of Section 79C of Environmental Planning and Assessment Act 1979, SEPP No. 65- Design Quality of Residential Flat Development, Apartment Design Guide, Local Environmental Plan 2012 and Development Control Plan 2012 Part D Section 1 – Carlingford Precinct, Part B Section 5- Residential Flat Building, Part C Section 1- Parking and Part C Section 3- Landscaping and is considered satisfactory.

The proposal exceeds the maximum allowable building height of 27 metres prescribed in The Hills Local Environmental Plan 2012 by 1 metre or 3.7%. The application is accompanied by a written request made under clause 4.6 of the LEP that seeks to justify the contravention of the development standard. The variation is supported on the basis that it does not impact on the amenity of adjoining properties in terms of overshadowing, visual impact, privacy or on the existing and future character of the streetscape. The proposal complies with the LEP's maximum floor space ratio.

The proposal is consistent with the controls and objectives of the site specific DCP and provides a built form that is envisaged for the site. The proposal has been assessed against the relevant provisions of the Hills Development Control Plan 2012. Variations to building height, apartment mix and size, parking and vehicular access have been identified. The variations are addressed in the body of the report and are considered to be satisfactory.

The application was notified and advertised for 15 days to adjoining property owners and six (6) submissions were received from three (3) properties. The submissions relate to lot size, height, setbacks, apartment mix, overshadowing, privacy, traffic and parking, bulk and scale, overdevelopment of the site, out of character with adjoining development, and property values. The issues identified in the submissions do not warrant refusal of the application.

Accordingly, the proposal is recommended for approval subject to conditions.

BACKGROUND**MANDATORY REQUIREMENTS**

Owner:	The Owners Strata Plan No. 5505	1.	<u>LEP 2012</u> – Satisfactory.
Zoning:	R4 High Density Residential	2.	<u>SEPP No. 65 – Design Quality of Residential Flat Development</u> – Complies.
Area:	3,404m ²	3.	<u>The Hills DCP 2012</u> – Part D Section 12 – Carlingford Precinct – Variations, see report.
Existing Development:	Two storey townhouse development	4.	<u>The Hills DCP 2012 Part B Section 5 – Residential Flat Buildings</u> – Variations, see report.
		5.	<u>DCP 2012 Part C Section 1- Parking</u> – Complies.
		6.	<u>DCP 2012 Part C Section 3- Landscaping</u> – Complies.
		7.	<u>Section 79C (EP&A Act)</u> – Satisfactory.
		8.	<u>Section 94 Contribution</u> – \$1,036,795.51
			<u>Capital Investment Value</u> – \$21,219,624.

SUBMISSIONS**REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	Yes, 15 days	1.	CIV exceeds \$20 million.
2. Notice Adj Owners:	Yes, 15 days		
3. Number Advised:	175		
4. Submissions Received:	Six (6) submissions received from three (3) properties.		

HISTORY**04/11/2015**

Subject Development Application lodged.

16/11/2015 to 2/12/2015

Proposal was advertised and notified to adjoining and surrounding properties. Six (6) submissions were received from three (3) properties

18/12/2015

Letter sent to the applicant seeking additional information regarding apartment mix, public drainage, lawful point of discharge, onsite stormwater detention, vehicular access and car park, waste storage and collection, and submissions.

26/02/2016

Additional information received.

04/03/2016

Email sent to the applicant seeking additional information regarding the waste storage area.

11/03/2016

Additional information received.

24/03/2016	Meeting held with applicant to discuss stormwater management and waste storage concerns.
18/04/2016	Additional information received.
12/05/2016	The NSW Government announced that 19 new Councils are created. The subject site is now located within the new City of Parramatta Local Government Area.

THE SITE AND SURROUNDS

The site is situated within the Northern Precinct of Carlingford, is located on the western side of Pennant Hills Road and has an area of 3,404m². The site is currently occupied by a two storey townhouse development containing 10 units.

Carlingford Court Shopping Centre is located on the opposite side of Pennant Hills Road to the east of the site. The site is within 800m of Carlingford Railway Station, and walking distance to bus stops on Pennant Hills Road providing access to Epping, Parramatta and Pennant Hills.

The site adjoins a seven storey residential flat building development (known as No. 15 Young Road) to the north and a three storey residential flat building development (known as No. 3 – 5 Post Office Street) to the south. The residential properties to the west are likely to be consolidated in the future with Cassandra Place to provide an apartment site.

To the south, the site adjoins a three storey residential flat building development (known as No. 3 – 5 Post Office Street).

PROPOSAL

The proposal is for the construction of a nine (9) storey residential flat building comprising a total of 88 units. Specifically the works include:

- Site preparation including earthworks, removal of trees and infrastructure and service works.
- Construction of two (2) x basement levels with 66 parking spaces in Basement Level 1 and 69 parking spaces in Basement Level 2, with a total 135 residential spaces. Eighteen (18) at grade visitor spaces are proposed.
- Construction of a nine (9) storey residential flat building containing a total of 88 units comprising:
 - 6 x studio units;
 - 24 x 1 bedroom units;
 - 50 x 2 bedroom units; and
 - 8 x 3 bedroom units.

The Development Application proposes to vary the building height standard of 27 metres as prescribed in The Hills Local Environmental Plan 2012 by 1 metre. The application is accompanied by a written request that seeks to justify the contravention of the development standard pursuant Clause 4.6 of LEP 2012.

ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

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

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

The proposed development has a Capital Investment Value of \$21,219,624 thereby requiring referral to, and determination by, a Joint Regional Planning Panel.

2. Compliance with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The Development Application was lodged on 4 November 2015. The direction from the Department of Planning and Environment is as follows:

"For apartment development applications lodged from 19 June 2015 and determined after 17 July 2015, the Apartment Design Guide, along with the changes to SEPP 65 applies."

Having regard to the above, the application is therefore subject to the relevant design criteria contained within the Apartment Design Guide.

Clause 6A of the SEPP provides that development control plans cannot be inconsistent with the Apartment Design Guide and applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

Clause 6A(2) states that if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. On this basis, the standards pertaining to apartment size prescribed in The Hills Development Control Plan 2012 Part D Section 12 – Carlingford Precinct are overridden by the SEPP in this case. Notwithstanding sub-clause 2, the proposal complies with the building setbacks prescribed under The Hills Development Control Plan 2012 Part D Section 12 – Carlingford Precinct.

Clause 30(1) of the SEPP provides the following:

"If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Based on the above design criteria, as the car parking provision is greater than the minimum amount of car parking specified in Part 3J of the ADG, this standard cannot be used as grounds for refusal.

Further, as the proposal complies with the minimum internal area for apartments specified in Part 4D of the ADG, this standard cannot be used as grounds for refusal.

Notwithstanding the above, the proposal does not meet the ADG design criteria for visual privacy (building separation).

The applicant has provided the following justification addressing the proposed variation to these ADG standards:

"The proposal is generally consistent with this Policy with the exception of the visual privacy controls, for which a variation is provided below.

Visual Privacy (Building Separation)

The ADG in Part 3F contains objectives and design criteria relating to setbacks for habitable and non-habitable rooms to achieve visual privacy between existing and proposed dwellings in an apartment development.

The Design Criteria for visual privacy states:

- 1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:-*

TABLE 2: ADG SEPARATION REQUIREMENTS		
Building Height	Habitable rooms & balconies	Non-habitable rooms
<i>Up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>
<i>Up to 25m (5-8 storeys)</i>	<i>9m</i>	<i>4.5m</i>
<i>Over 25m (9+ storeys)</i>	<i>12m</i>	<i>6m</i>

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see Figure 3F.2).

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.

TABLE 3: NON COMPLIANT SEPARATION DISTANCES		
Level	Requirement	Proposed
Ground	6m habitable rooms & balconies; 3m for non-habitable rooms.	NA – Complies
1	6m habitable rooms & balconies; 3m for non-habitable rooms.	South (side) – 7m to adjacent building
2	6m habitable rooms & balconies; 3m for non-habitable rooms.	South (side) – 9.77m to adjacent building
3	6m habitable rooms & balconies; 3m for non-habitable rooms.	South (side) – 10.34m to adjacent building
1-5	6m habitable rooms & balconies; 3m for non-habitable rooms.	North (side) – 23.4m to adjacent building
1	6m habitable rooms & balconies	West (rear) – 6m to rear boundary
2-5	6m habitable rooms & balconies	West (rear) – 6.9m to rear boundary
4-5	9m habitable rooms & balconies; 3m for non-habitable rooms.	West (rear) - 8m to boundary South (side) - 6m to boundary
6	9m habitable rooms & balconies; 3m for non-habitable rooms.	North (side) - 6m to boundary South (side) - 6m to boundary West (rear) - 11.5m to boundary
7	9m habitable rooms & balconies; 3m for non-habitable rooms	South (side) - 7m to boundary West (rear) - 11.5m to boundary
8	12m habitable rooms & balconies; 8m non-habitable rooms.	South (side) to 7m to boundary West (rear)- 11.5m to boundary
Between buildings on the site: G-3 4-7 8	12m; 18m; and 24m.	East/west windows - NA (complies) East/west windows - 12m No opposing windows

The objective of the Design Criteria relating to visual privacy is as follows:

Adequate building separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy.

Despite not achieving strict compliance with the setback requirements, the proposal is considered to be consistent with the intent of the controls as detailed below:

- The apartments generally contain a primary orientation to the street and the rear boundary towards the valley views. Windows are designed to allow for natural daylight to permeate into the dwellings without facilitating opportunities for lines of sight to the adjoining property.*
- The apartments on the ground level comply with the required setback and coupled with fencing and landscaping proposed, will not result in any significant privacy loss of adjoining properties;*
- At Levels 1 to 3, there are minor non-compliances with the required setbacks to balconies along the southern and northern boundaries as detailed above. Unit 1.04 has a balcony with the required southern boundary setback while Units 2.01 and 3.01 also have a minor portion of a balcony located in the required setback*

area. These balconies are relatively small and are for 1 bedroom units only and therefore it is unlikely that these balconies which significantly affect the privacy of the adjoining northern property. Furthermore, there are minimal windows and no private open space areas on this elevation of the adjoining development, as outlined in Figure 17, which directly overlook the subject site.



Figure 17: Elevation of the adjoining northern development facing the site

- The footprint of Levels 4 and 5 does not change from the lower levels, resulting in various non-compliances with the setback controls. Despite this, there are likely to be minimal privacy impacts on adjoining properties due to the main orientation of the units being towards the street, with the main orientation of the balconies to the street, and to the rear towards the valley outlook.
- The orientation and primary outlook from Units 4.10, 4.11, 5.10 and 5.11, along the southern boundary, is generally towards the central portion of the site overlooking the communal open space area within the site. Units 4.08 and 5.08, on the corner of the building, are also generally orientated to the street, leaving only Units 4.09 and 5.09 oriented towards the adjoining southern property. As shown in Figure 18, the elevation does not comprise any significant living room windows or private open space areas and therefore there is likely to be minimal overlooking between sites.



Figure 18: Elevation of the adjoining southern development facing the site

- At Level 6, the orientation of the units is generally as per the levels below, with wrap around balconies for the corner units allowing greater orientation to the front and rear boundaries and away from the adjoining properties to the side. At

Level 7, there is further tapering of the building and a reduction in balconies facing adjoining properties thereby reducing potential overlooking opportunities;

- The building setback increases from the lower levels which in the context of the proposed development is an appropriate design solution to achieve the permitted FSR at the site. The balconies are designed with privacy screens and projecting blade walls to ensure appropriate visual privacy is retained for the adjoining northern properties;*
- Level 8 comprises only two units which are orientated towards the centre of the site and away from adjoining properties. This level is substantially setback from boundaries due to the inseting of this level above the lower levels of the building. There is unlikely to be any significant privacy loss resulting from this level;*
- In terms of the setback to the western (rear) boundary, the development generally complies with the required setback with the exception of levels 4 and 5, being 1m under the controls. It is anticipated that this level will facilitate a low level activity with primary orientation to the west and the minimal number of windows; and*
- In terms of the building separation within the site, adequate privacy measures have been incorporated into the design of the building such that there will be minimal internally overlooking within the site. This is considered in more detail in Section 4.3.6 of this Statement.*

In light of the above, the proposal ensures that an appropriate degree of visual privacy is maintained to the adjoining properties and for future residents.

Adequate separation is achieved to each boundary despite the numerical non-compliances due to the use of architectural treatments, dwelling orientation and window arrangements. The proposal represents an efficient allocation of the permitted density at the site."

Comment:

The proposed variation is considered reasonable in the context of the overall development. The proposed building separation is considered to maintain the amenity of adjoining properties and of future residents of the development. The variation is supported in this regard.

Further to the above, the subject Development Application has been assessed against the relevant design quality principles contained within the SEPP as follows:

(i) Context

The development responds and reflects the context into which it is placed. The site is located in the Carlingford Precinct. The development conforms to the future desired character of the area.

(ii) Scale

The height of the development overall is acceptable in terms of solar access and residential amenity impacts. The proposal responds to the existing topography of the site within its context. The height generally ensures that the development responds to the desired future scale and character of the site.

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

(iii) Built Form

The design of the building elements are of a contemporary style with a number of elements being used to provide an architectural character. The ultimate form of development is achieved in the articulation of the elevations, the selection of colours and materials and high quality landscaped setting.

(iv) Density

The proposal provides an appropriate built form outcome and complies with the maximum Floor Space Ratio requirements for the site reflecting the desired density range for the site.

(v) Resources, Energy and Water Efficiency

The design achieves natural ventilation and insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

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

(vi) Landscape

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

(vii) Amenity

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

(viii) Safety and Security

The development has been designed with safety and security concerns in mind. The common open spaces are within direct view of occupants to allow passive surveillance. Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened.

(ix) Social Dimensions

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services.

(x) Aesthetics

The building mass is articulated to provide variable setbacks, using natural material colours, and a diversity of material textures to provide visual relief and strengthen the character of the architectural language. The choice of materials will be from a limited palette for the site.

3. Compliance with The Hills Local Environmental Plan 2012

The site is zoned R4 High Density Residential under The Hills Local Environmental Plan 2012. Under The Hills LEP 2012, the proposed development is defined as a 'residential flat building' as follows:

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

The subject site is zoned R4 High Density Residential. Residential flat buildings are a permissible form of development on land zoned R4 High Density Residential under The Hills LEP 2012 subject to consent granted by Council. Accordingly, the proposal is considered satisfactory with regard to The Hills LEP 2012.

Clause 4.1A of LEP 2012 'Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings' requires a minimum lot size for residential flat buildings of 4000m². The subject site has an area of 3,404m² resulting in a variation of 596m² or 14.9% which is addressed in Section 4 below.

Further, the Development Application proposes to vary the building height standard of 27 metres as prescribed in The Hills Local Environmental Plan 2012 by 1 metre. The application is accompanied by a written request that seeks to justify the contravention of the development standard pursuant Clause 4.6 of LEP 2012 which is addressed in Section 4 below.

4. 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	1.99:1 (6,773.96m ²)	1.99:1 (6,767m ²)	Yes
Allotment Size	4,000m ²	3,404m ²	No, see details of non-compliance below.
Building Height	27m	Max. 28m	No, see details of non-compliance below.

4.1 Allotment Size

Clause 4.1A(2) of LEP 2012 requires a minimum lot size of 4,000m² for residential flat buildings on land within the R4 High Density Residential zone as a means of achieving this objective. The subject site has an area of 3,404m² resulting in a variation of 596m² or 14.9%. However, it is noted that within the Hills Development Control Plan Part D Section 12 - Carlingford Precinct, there is no expectation that the site or its neighbouring sites should be amalgamated in order to achieve larger development sites unlike elsewhere within the precinct where an amalgamation plan is detailed.

The clause allows the consent authority to consider development for residential flat buildings on lots less than the minimum 4,000m² if it is satisfied of certain matters as set out in Clause 4.1A(3), as follows:

(a) the form of the proposed structures is compatible with adjoining structures in terms of their elevation to the street and building height, and

(b) the design and location of rooms, windows and balconies of the proposed structures, and the open space to be provided, ensures acceptable acoustic and visual privacy, and

(c) the dwellings are designed to minimise energy needs and utilise passive solar design principles, and

(d) significant existing vegetation will be retained and landscaping is incorporated within setbacks and open space areas.

The objective of Clause 4.1A is to achieve planned residential density in certain zones.

The applicant has provided the following statement addressing Clause 4.1A(3):

"Clause 4.1A(3) is addressed below, it is noted that the development exhibits design excellence and Council can be satisfied that the proposal complies with the in-built flexibility as provided within the Clause. A response to the above stated criteria is provided below.

a) The proposal is for the construction of a nine storey residential flat building located in an R4 high density residential zone. Similar adjacent development include residential flat buildings to the north and south of the subject site. The design of the proposal is responsive to the character of the locality as well as the desired future character of the area, which is for high density residential development. The proposal is sympathetic to surrounding development by recessing elevations as the building rises to reduce adverse privacy impacts. The proposal is located in a well serviced location, with extensive road infrastructure and shopping amenities within close proximity.

b) The proposed dwellings are designed to ensure acceptable acoustic and visual privacy within the development and to neighbouring properties. This has been achieved by orientation of the apartments as well as the use of architectural treatments that minimise direct lines of sight to the adjoining residential properties. Specifically, the proposal seeks to orient dwellings to the rear and front boundaries to assist with passive surveillance, solar access and to maintain privacy of internally adjoining dwellings.

The design treatment of balconies and the minimal number of large windows will result in an efficient allocation of the permitted density at the site in a way that does not compromise the privacy of existing and likely future development to the north, south and west.

c) The development is designed to minimise energy usage, a BASIX Certificate is submitted with the application and confirms that the proposal (once operational) will comply with the thermal comfort and energy efficiency requirements of the policy.

In terms of solar access, the proposal has been successfully designed to utilise passive solar design principles. The submitted shadow diagrams depict compliance with relevant principles and policies such as the Apartment Design Guide. The body of the Statement of Environmental Effects discusses solar access in detail and finds the dwellings to comply with this requirement.

d) There are several trees proposed to be removed from the front and side boundary areas of the subject site. The trees removed will be replaced with species suitable

for the area. The proposed planting will be provided in accordance with the Landscape Plan which will consist of species appropriate to the locality, thereby conserving and enhancing biodiversity and environmental conservation.

The Landscape Plan concentrates deep soil planting along the boundaries to soften the interface between the proposed building and the adjoining properties. Landscaping at the site frontage clearly defines the interface between the public and private domain with deciduous plantings to provide seasonal variation and interest in the building and its setting. Planting within the courtyards of the front units adjoining the Pennant Hills Road frontage increases the landscaped edge to the site and will allow for the proposal to complement the locality street level.

The relevant objective of the minimum lot size standard is stated in Clause 4.1A of The Hills LEP 2012 below:

"(1) The objective of this clause is to achieve planned residential density in certain zones."

The proposed variation is considered to be consistent with the lot size development standard objective and is justified as follows:

Objective (1):

This objective aims to ensure that residential density in the subject zones are achieved.

In this regard, the proposed development is generally the size that is anticipated and encouraged by the planning controls. The proposal is found to accommodate a high density residential development envisaged for the site, whilst complying with the objectives of the built form design standards such as building height and floor space ratio. The bulk and scale of the proposal is appropriately set out on the site in terms of the high quality built form proposed and the mix of colours and materials used to ensure the facades are adequately articulated. Furthermore, there are adequate services on the site to sustain the development. The proposed density is consistent with the surrounding built form being a transition to residential flat buildings.

The development achieves the floor space ratio (FSR) applicable to the site of 1.99:1 (6,767sqm) proposed. Compliance with the FSR design standard ensures that the specified density for the site is met and the desired character of the area is realised. The density anticipated is achieved while providing high amenity dwellings with adequate private open spaces in suitable locations.

The non-compliant minimum lot size of 4,000sqm does not negate the planned residential density of the R4 High Density Residential zone in accordance with Clause 4.1A. The proposal is found to provide an appropriate density and scale whilst generally complying with design controls listed in applicable State and Local planning policies. Therefore, the proposal is entirely consistent with the objective of Clause 4.1A Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings.

The proposal provides a land use that is suitable and encouraged within the locality and provides a variety of residential unit sizes within close proximity to the Carlingford town centre. The proposal is appropriately located within a high density residential environment. The amenity of existing residences will not be adversely affected as outlined in the submitted Statement of Environmental Effects. There will be no site isolation as a result of the proposal. There is also significant landscaping proposed as outlined on the accompanying landscape plan. The proposal is therefore consistent with the zone objectives.

The proposal will enable delivery of a well-designed high density residential development. The minimum allotment size does not result in any adverse impacts to neighbouring properties, the proposal supports the desired character of the area by providing a density and scale appropriate to the locality. Acceptable visual and acoustic privacy is provided within the development and to neighbouring properties, through well designed floor plans and dwelling orientation. The proposal minimises energy generation whilst complying with solar design principles. In addition, the development includes sufficient landscaping and open space adjacent to boundaries to improve amenity and reduce adverse visual/acoustic impacts.

In light of the above reasons, it would be unreasonable and unnecessary to insist on strict compliance with the subject standard. Furthermore, to insist on strict compliance with the lot size control would frustrate the orderly and economic development of the site thereby hindering the attainment of the objectives of the Environmental Planning and Assessment Act 1979."

Comment:

An assessment of the proposed built form outcomes/envelopes envisaged by the provisions of LEP 2012 and the Carlingford Precinct DCP has been prepared by the applicant in order to better understand the likely future context in which the development will sit. The development will be compatible with planned adjoining structures in terms of their elevation to the street and building height, with the applicant citing a case law in "*Project Venture v Pittwater Council [2005] NSWLEC 191*". The question asked in this Court proceeding was:

"Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites."

It is considered that the proposal would be compatible with surrounding development utilising *Project Venture v Pittwater Council [2005] NSWLEC 191*. The controls of LEP 2012 and the Carlingford Precinct DCP envisage a change in built form and character for the locality. The proposed development will have negligible impact in terms of amenity on the existing and future development along the eastern side of Pennant Hills Road due to six lanes of separation and negligible shadow impact.

The proposed development is compatible with its context as it satisfies the following essential elements of the desired future character as identified in LEP 2012 and DCP 2012:

- FSR: complies with the 1.99:1 FSR for the subject site.
- Setbacks: complies with 10 metre setbacks from Pennant Hills Road.
- Landscaping: provides vegetated "green edge" along Pennant Hills Road.
- Height: minor variation to the 27 metre height limit.
- The bulk and scale of the proposed development is consistent with the envisaged streetscape and is compatible with all development on Pennant Hills Road.

In view of the above, it is considered that the variation to the minimum lot size requirement is satisfactory as the proposed development would be consistent with the desired future character of the area with increased bulk and height along the western side of Pennant Hills Road whilst not causing adverse impact on the existing and future development east of Pennant Hills Road. The variation is supported in this regard.

4.2 Building Height

As shown in the above table, the proposal exceeds the maximum height limit of 27 metres as shown in the Height of Buildings Map referenced under Clause 4.3 in LEP

2012. The building has a maximum height of 28 metres (RL 151.50) limited to a section of the uppermost floor, and the roof parapet and lift overrun at the top storey (Level 8).

The diagram below demonstrates the minor variation to the LEP building height standard:

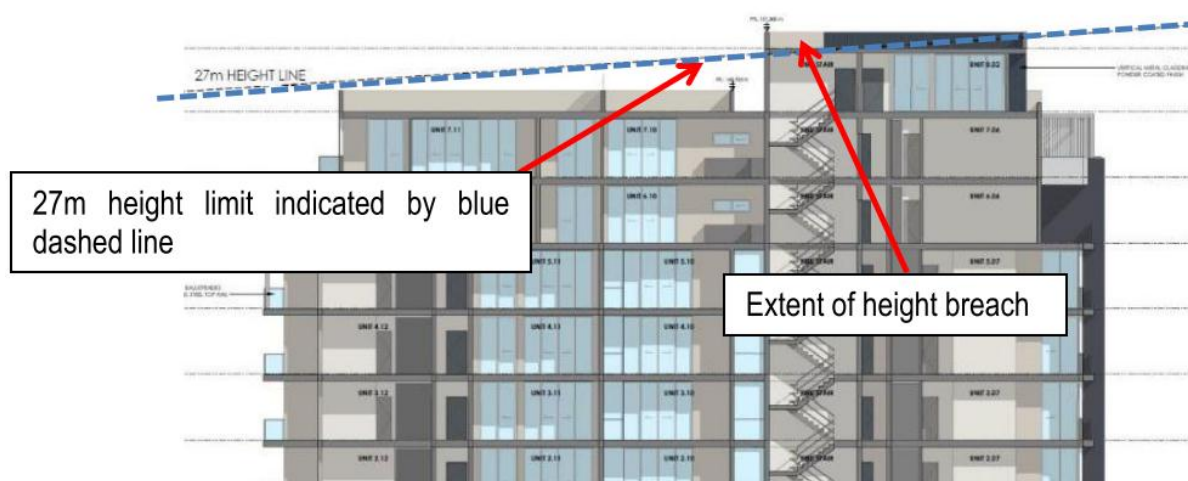


Figure 1: Section 1 showing height breach



Figure 2: Southern (side) elevation showing the height breach

The applicant seeks a variation to the above building height standard pursuant to clause 4.6 of LEP 2012 which allows Council to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

The objectives of the building height standard under Clause 4.3 are as follows:

(a) To ensure the height of buildings is compatible with that of adjoining development and the overall streetscape.

(b) To minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.

Clause 4.6 of LEP 2012 provides a mechanism to allow a consent authority to consider variations to LEP development standards. Clause 4.6(3) of LEP 2012 reads as follows:

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

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

The applicant has submitted a written request that seeks to justify the contravention of the building height standard as follows:

"With regard to point (a) above, in Wehbe V Pittwater Council (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard that is unreasonable unnecessary. It states, inter alia:

"An objection under SEPP 1 may be well founded and be consistent with the aims set out in Clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

The judgement goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would*

be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The relevant objectives of the maximum height standard are stated in Clause 4.3 of The Hills LEP 2012 below:

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

The proposed height variation is considered to be consistent with the height development standard objectives and is justified as follows:

Objective (a):

This objective aims to ensure that the height of buildings is compatible with adjoining development and the overall streetscape.

In this regard, the proposed development is generally the size that is anticipated and encouraged by the planning controls. The breach does not represent an additional storey in height to the development, but rather accommodates features which represent the uppermost part of the roof parapet to the top storey and gives the building a top which is consistent with the scale of the building. Indeed, most of the 'visible' part of the non-compliance relates to a parapet, which can be described as an architectural roof feature. In accordance with Clause 5.6 of the LEP, an architectural roof feature is exempt from compliance with the building height development standard.

The non-compliant roof top features are recessed from the roof perimeter and will not be readily visible from the street. These features are attractive and practical components of the roof. These features do not add to the bulk and scale of the built form but rather improve the visual interest of the roof top which may potentially be visible from other multi-storey buildings as the locality undergoes transition to a high density residential environment.

The proposed encroachment into the maximum building height is considered to be minor and will not substantially change the appearance of the proposal within the locality, nor will the additional height be readily apparent or obvious to the casual observer at street level.

While the immediately adjoining buildings are currently a mix of three (3) to five (5) storey buildings, there are numerous examples of recently constructed buildings of approximately seven (7) storeys as outlined in the Statement. These buildings, including the rear portion of the adjoining development to the north, represent the desired future character of the area which are to comprise buildings of 27 metres in height.

The proposal is also consistent with Clause 4.2 of Part D12 of The Hills DCP 2012 for the Carlingford Precinct in that the proposed building comprises nine (9) storeys, which is the limit for an area with a height limit of 27 metres under The Hills LEP 2012 as is the case for the subject site.

The proposal is compatible with the desired future character of the area and the overall future streetscape and is therefore consistent with Objective (a).

Objective (b):

This objective aims to minimise any overshadowing, loss of privacy and visual impacts of development on neighbouring properties. Each of these elements is considered below.

Overshadowing

In terms of overshadowing, as outlined in the Statement, the proposal will cast a shadow on the adjoining development to the west in the morning during midwinter, with this shadow being cast on the windows along the eastern elevation in the morning only of the dwelling houses facing Cassandra Place. This shadow progressively moves to the south such that by midday, there is no overshadowing of these adjoining western properties as a result of the proposal.

The shadow impact arising from the proposal at midday largely falls on the rear building of the adjoining development to the south. The shadow moves from this building by 3pm ensuring there is adequate solar access during the morning and late afternoon to the rear building of this adjoining southern property.

At 3pm, the shadow moves towards the front building adjoining Pennant Hills Road, to the south of the site. There are minimal habitable rooms and no private open space areas along this elevation of this adjoining building. This overshadowing is largely confined to the windows and side boundary area of this adjoining development, which will not be overshadowed in the morning during midwinter as a result of the proposed development. The additional overshadowing resulting from the increased height of 1 metre of the proposed development is negligible and is unlikely to adversely affect the adjoining properties in terms of overshadowing.

The overshadowing resulting from the proposal is illustrated in Figure 3.

Accordingly, the private open space and habitable room windows of adjoining buildings will retain adequate sunlight throughout the day in midwinter, notwithstanding the non-compliance with the height of a small portion of the proposed building. The shadow impacts allow for suitable sunlight to the adjoining properties during either the morning or afternoon periods during mid-winter. The degree of shadow cast by the proposal is generally consistent with that which could be expected of a development scheme that complies with the maximum height limit. The proposal satisfies this aspect of Objective (b).



Figure 3: Overshadowing of the proposal (Source: ACA, October 2015)

Visual Impact

The proposal achieves a high quality urban form with significant detailing and a variety of materials resulting in a building form which is consistent with the desired future character of the area. The use of a variety of materials, colours and differing treatments to balconies and louvers ensures any bulk of the building is reduced and allows the building to sit comfortably within the streetscape.

The proposed area of non-compliance results from the distribution of building mass on the site in a manner that minimises as far as practicable impacts on neighbouring properties (as discussed in the context of these objectives) and also minimises impacts on area character. In context, the proposal sits below other buildings on Pennant Hills Road due to the rise in topography.

The proposed area of non-compliance does not result in a size or scale of development that is incompatible with the desired future character of the locality and will not have any adverse visual impacts on adjoining development.

Importantly, the proposed development has been designed to complement and be compatible with, the desired future character for the area which is for higher density development than is currently existing in the locality. This desired future character, for this area which is in transition, is for buildings of 27 metres with a significantly higher floor space than is currently evident in the area. Therefore, the proposal achieves compatibility with the future desired character of the area as well as the adjoining development to the north.

In terms of views, the area of non-compliance will not result in any significant additional view loss compared with a compliant building. Views from adjoining buildings are generally to the west towards the valley view and their respective rear open space areas which will not be adversely affected by the proposal.

The overall height of the building and the area of non-compliance will not dominate the appearance of the proposed building or the locality.

Accordingly, the proposal satisfies this aspect of objective (b).

Loss of Privacy

The non-compliant parts of Level 8 do not incorporate any additional window openings that would provide for overlooking to the adjoining properties. Therefore, in terms of privacy, the area of non-compliance will not have any additional privacy impacts on adjoining properties.

The proposed development is therefore consistent with the objectives for building height, despite the non-compliance. The proposal responds appropriately to the site given the slope and creates impacts that could be expected of the applicable planning controls. The minor variation to the building height maximum is not expected to provide any tangible difference to solar access, views or visual amenity to surrounding properties when compared to a fully compliant scheme.

Returning to the Wehbe judgement, it is demonstrated that this objection is well founded and that approval of the objection would be consistent with the aims of the policy, as the objectives of the standard are achieved notwithstanding non-compliance with the standard.

With regards to Clause 4.6(3)(b), there are sufficient environmental planning grounds to justify contravening with the maximum height standard of the LEP.

The proposed height encroachment will enable the orderly and economic redevelopment of the subject site in accordance with the intentions of the Environmental Planning and Assessment Act, 1979. As outlined in Annexure B of this report, the proposal is consistent with the objectives for the R4 zone, which are:

- To provide for the housing needs of the community within a high density residential environment.*
- To provide a variety of housing types within a high density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To encourage high density residential development in locations that are close to population centres and public transport routes.*

The proposal provides a land use that is suitable and encouraged within the locality and provides a variety of residential unit sizes within close proximity to the Carlingford Town Centre. The proposal is appropriately located within high density residential environment. The amenity of existing residences will not be adversely affected as outlined in this statement. There will be no site isolation as a result of the proposal. There is also significant landscaping proposed as outlined on the accompanying landscape plan. The proposal is therefore consistent with the zone objectives.

The proposal requests variation to the height control that will enable delivery of a well-designed high density housing development. In addition of height in the absence of any significant amenity impacts is far more desirable than any further encroachments to the building separation and setback controls to achieve a viable amount of floor space given the nature of the site. The proposed scheme is considered to be the most suitable in terms of residential amenity and bulk and scale whilst providing for economic redevelopment of the site.

There is no planning purpose to be served by limiting the height strictly to the maximum height allowable given the site constraints and absence of amenity related impacts. Indeed, a suboptimal planning outcome would be achieved if strict compliance was insistent upon because there would be a loss of apartments and/or bedrooms, which is inconsistent with the abovementioned zone objectives which seek to maximise residential density within appropriate locations, near to centres and public transport. As such, the proposed height will not offend the objectives of the LEP height control.

In light of the above reasons demonstrating compliance with the relevant objectives it would be unreasonable and unnecessary to insist on strict compliance with the subject standard. Furthermore, to insist on strict compliance with the subject height control would frustrate the orderly and economic development of the site thereby hindering the attainment of the objectives of the Environmental Planning and Assessment Act 1979. Therefore the variation to the maximum building height standard is considered reasonable and consistent with the requirements of Clause 4.6(3) of the LEP."

Comment:

The applicant's justification is accompanied by a detailed shadow analysis which indicates that the proposed development at midwinter does not result in any adverse additional overshadowing of adjoining properties.

The proposed building height will not result in any significant adverse impacts on the amenity of the neighbouring buildings in terms of overshadowing, privacy, outlook and amenity. The buildings are appropriately sited, observing setbacks and building separation to ensure the privacy of adjoining properties is maintained.

Clause 4.6 (4) of LEP 2012 states:

Development consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

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

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

Comment: As detailed above, the proposal is an appropriate development outcome and is consistent with the objectives of the R4 High Density Residential zone.

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

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

In view of the above, it is considered that the variation to the building height standard satisfies Clause 4.6 of LEP 2012.

5. Compliance with The Hills Development Control Plan

The proposal has been assessed against the following provisions of The Hills Development Control Plan 2012:

- Part D Section 12 – Carlingford Precinct;
- Part B Section 5 – Residential Flat Buildings;
- Part C Section 1 – Parking; and
- Part C Section 3 – Landscaping.

The proposal has been assessed under the relevant Sections of The Hills Development Control Plan and achieves compliance with the exception of building height, apartment mix and size, and vehicular access.

DEVELOPMENT STANDARD	DCP 2012 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
4.2 Building Height (Part D Section 12 – Carlingford Precinct)	Building heights as specified in the Building Height Map in LEP 2012 equal to number of storeys, in this case: 27m – 9 storeys	28 metres/8 storeys	No, see comment below.
3.11 Apartment Mix (Part B Section 5 – Residential Flat Buildings)	No more than 25% of the dwelling yield is to comprise either studio or one bedroom	30 x studio/1 bedroom units (34% of the total)	No, see comment below.

DEVELOPMENT STANDARD	DCP 2012 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	apartments. No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.	8 x 3 bedroom units (9% of the total).	
Table 1 Car Parking Provisions (Part C Section 1 – Parking)	146 residential car parking spaces and 36 visitor car parking spaces (Total = 182 required).	131 residential car parking spaces and 18 visitor car parking spaces (Total = 149 provided).	No, see comment below.
3.18 Vehicular Access (Part B Section 5 – Residential Flat Buildings)	The driveway shall be centrally located within the development and a minimum 10 metres from any side boundary or street.	The proposed vehicular access point is located 2 metres from the northern side boundary.	No, see comment below.

a) Building Height

Clause 4.2.2 of The Hills Development Control Plan Part D Section 12 – Carlingford Precinct requires that the equivalent number of storeys within the 27m building height zone is 9 storeys. The proposal exceeds the height limit (28 metres) however complies with the maximum number of storeys (8 storeys).

Comment:

The objectives of the building height control within The Hills Development Control Plan Part D Section 12 – Carlingford Precinct are as follows:

- (i) *To ensure that buildings reflect the existing landform of the neighbourhood, including ridgelines and drainage depressions;*
- (ii) *To protect privacy and amenity of surrounding residential developments and allotments in accordance with Council ESD objective 7;*
- (iii) *To ensure that development responds to the desired scale and character of the street appropriate in different parts of the Precinct; and*
- (iv) *To allow reasonable daylight access to all developments and the public domain.*

The application is accompanied by a written request that seeks to justify the contravention of the development standard pursuant Clause 4.6 of The Hills Local Environmental Plan 2012 which is addressed in Section 4 above.

The proposed variation to the building height is considered acceptable. Without exceeding the maximum Floor Space Ratio and a minor breach in the 27 metre height control, the proposal is able to achieve 8 storeys on site in accordance with the objectives outlined above. It is considered that the proposed development will be consistent in terms of built form and scale. The variation is considered satisfactory in this regard.

b) Apartment Mix and Size

Clause 3.11 of The Hills Development Control Plan Part B Section 5 – Residential Flat Buildings requires the following in relation to apartment mix:

Apartment Mix

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

The originally submitted plans proposed an apartment mix of 51 x studio/1 bedroom units at 56.7% (maximum allowed 25%) and 6 x 3 bedroom units at 6.6% (minimum required 10%).

Amended plans have been submitted proposing an apartment mix of 30 x studio/1 bedroom units (34% of the total) and there are 8 x 3 bedroom units (9% of the total).

Minimum Internal Floor Area

The table under clause 3.11(d) prescribes the minimum internal floor area for each unit (excluding common passageways, car parking spaces and balconies) in a residential flat development containing 30 or more units, which shall not be less than the following:

Apartment Size Category	Apartment Size
Type 1	
1 bedroom	50m ²
2 bedroom	70m ²
3 or more bedrooms	95m ²
Type 2	
1 bedroom	65m ²
2 bedroom	90m ²
3 or more bedrooms	120m ²
Type 3	
1 bedroom	75m ²
2 bedroom	110m ²
3 or more bedrooms	135m ²

- Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- All remaining apartments are to comply with the Type 3 apartment sizes.

The table below details the unit size of each unit and their DCP typology as follows:

Unit No.	No. of Beds	Size (m ²)	DCP Typology
Ground Level			
G.01	3	102m ²	1
G.02	2	76m ²	1
G.03	2	76m ²	1
G.04	Studio	38m ²	1
G.05	2	76m ²	1
Level 1			
1.01	3	94m ²	1
1.02	2	76m ²	1
1.03	1	52m ²	1
1.04	2	73m ²	1
1.05	2	76m ²	1
1.06	2	76m ²	1
1.07	2	76m ²	1
1.08	Studio	38m ²	1
1.09	2	76m ²	1
Level 2			
2.01	1	59m ²	1
2.02	1	50m ²	1
2.03	Studio	38m ²	1
2.04	Studio	39m ²	1
2.05	2	76m ²	1
2.06	2	76m ²	1
2.07	1	52m ²	1
2.08	2	76m ²	1
2.09	1	50m ²	1
2.10	2	76m ²	1
2.11	2	76m ²	1
2.12	2	71m ²	1
2.13	2	77m ²	1
Level 3			
3.01	1	50m ²	1
3.02	2	77m ²	1
3.03	1	50m ²	1
3.04	1	53m ²	1
3.05	2	76m ²	1
3.06	2	76m ²	1
3.07	1	52m ²	1
3.08	2	76m ²	1
3.09	1	51m ²	1
3.10	2	76m ²	1
3.11	2	76m ²	1
3.12	2	71m ²	1
3.13	2	77m ²	1
Level 4			
4.01	1	51m ²	1
4.02	2	77m ²	1
4.03	1	50m ²	1
4.04	1	53m ²	1
4.05	2	76m ²	1
4.06	2	76m ²	1
4.07	1	52m ²	1
4.08	2	76m ²	1
4.09	1	50m ²	1
4.10	2	76m ²	1
4.11	2	76m ²	1
4.12	2	72m ²	1
4.13	2	77m ²	1
Level 5			
5.01	1	50m ²	1
5.02	2	77m ²	1
5.03	1	50m ²	1
5.04	1	53m ²	1
5.05	2	76m ²	1
5.06	2	76m ²	1
5.07	1	52m ²	1

5.08	2	76m ²	1
5.09	1	51m ²	1
5.10	2	76m ²	1
5.11	2	76m ²	1
5.12	2	72m ²	1
5.13	2	77m ²	1
Level 6			
6.01	1	51m ²	1
6.02	2	74m ²	1
6.03	Studio	37m ²	1
6.04	2	81m ²	1
6.05	2	81m ²	1
6.06	1	52m ²	1
6.07	3	97m ²	1
6.08	2	74m ²	1
6.09	3	98m ²	1
6.10	2	74m ²	1
Level 7			
7.01	1	51m ²	1
7.02	2	74m ²	1
7.03	Studio	37m ²	1
7.04	2	76m ²	1
7.05	2	76m ²	1
7.06	1	52m ²	1
7.07	3	97m ²	1
7.08	2	74m ²	1
7.09	3	98m ²	1
7.10	2	74m ²	1
Level 8			
8.01	3	112m ²	1
8.02	3	102m ²	1

In summary, the proposed apartment sizes are:

Unit Type	Size	No. of Units	Type	%
1 bedroom	50m ² - <65m ²	30	Type 1	100%
	65m ² -- <75m ²	0	Type 2	0%
	75m ² and above	0	Type 3	0%
2 bedroom	70m ² - <90m ²	50	Type 1	100%
	90m ² - <110m ²	0	Type 2	0%
	110m ² and above	0	Type 3	0%
3 bedroom	95m ² - <120m ²	8	Type 1	100%
	120m ² - <135m ²	0	Type 2	0%
	135m ² and above	0	Type 3	0%

The proposal exceeds the 30% maximum allowed in Type 1 apartment size category for 1 bedroom, 2 bedroom and 3 bedroom units (i.e. 100% in 1 bedroom units, 100% in 2 bedroom units and 100% in 3 bedroom units).

Comment:

The applicant submitted the following justification in support of the variation:

- "A range of unit sizes have been provided, including studios, 1 bedroom, 2 bedroom and 3 bedroom apartments;
- There are a large number of one bedroom units which will assist with the provision of affordable housing, particularly in a location well serviced by bus and train services and proximity to jobs and retail within the adjoining Carlingford Court Shopping Centre and Town Centre;

- *The unit sizes in most cases exceed the minimum internal living space requirements of the ADG allowing for potential flexibility of the unit floor area including 'work from home' and study nook opportunities; and*
- *The units comply with the private open space requirements of the ADG thereby allowing for adequate internal and external living areas for all units.*
- *Pursuant to Clause 6A of SEPP 65, this control has no effect as the apartment size and layout controls of the ADG prevail."*

In view of the above, it is considered that the proposal complies with the Apartment Design Guide and therefore cannot be refused on the basis of unit size under the provisions of Clause 30 (1) (b) of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

c) Car parking

The proposal does not comply with Council's parking requirements. The development requires 146 residential car parking spaces and 36 visitor car parking spaces (Total = 182 required). The proposal provides 131 residential car parking spaces and 18 visitor car parking spaces (Total = 149 provided). The total number of off-street car parking spaces proposed is deficient by 33 spaces.

The applicant has provided the following justification to the proposed departure from Council's car parking requirements:

"The on-site parking provided complies with the requirements of the ADG which defers to the RMS Guide to Traffic Generating Development.

The subject site is located within 800 metres of Carlingford Railway Station, and therefore the car parking requirement has been assessed in accordance with the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (Amendment No 3) 2015."

The objectives of the car parking standards are as follows:

- To ensure that all car parking demands generated by the development are accommodated on the development site;*
- To minimise car dependency for commuting and recreational transport use and to promote alternative means of transport including public transport, bicycling, and walking;*
- To provide adequate car parking for building users and visitors, depending on building type and proximity to public transport; and*
- To integrate the location and design of car parking with the design of the site and the building.*

Comment:

The proposed development makes provision for a total of 149 off-street parking spaces, comprising 131 residential car parking spaces and 18 visitor car parking spaces.

The applicant has provided a written justification relying upon the parking rate that applies to apartment developments within 800 metres of a railway station based on the design criteria outlined in the Apartment Design Guide. It is noted that parking provision cannot be used as a ground for refusal if a development complies with the parking rates as set out in the RTA Guidelines for Traffic Generating Developments. The changes to SEPP 65 were notified on the NSW legislation website on 19 June 2015, which commenced four weeks after this date on 17 July 2015. The direction from the Department of Environment and Planning is that for apartment development applications

lodged after 19 June 2015 and determined after 17 July 2015, the Apartment Design Guide, along with the changes to SEPP 65 will apply.

As the subject site is located within 800 metres walking distance from the Carlingford Railway Station, the parking rates identified under the RMS Guidelines are applicable and therefore the proposed 149 off-street parking spaces are considered to satisfy the parking demands for the proposed development. Using the RMS guide, a minimum of 75 resident parking spaces and 18 visitor parking spaces, with a total of 93 parking spaces will be required. The proposal would result in a surplus of 56 parking spaces when assessed under the RTA Guidelines. In this regard, no objection is raised to the proposed variation to Council's parking requirements.

d) Vehicular Access

Clause 3.18(c) of The Hills DCP Part B Section 5 – Residential Flat Buildings requires that the driveway be centrally located within the development and be a minimum of 10 metres from any side boundary or street. The proposed vehicular access point is located 2 metres from the northern side boundary.

Comment:

The objectives of the vehicular access within The Hills Development Control Plan Part B Section 5 – Residential Flat Buildings are as follows:

- (i) *To ensure that vehicles may enter and exit residential flat building developments in a safe and efficient manner in accordance with Council's ESD objective 7.*
- (ii) *To maintain the performance of roads that provides an arterial or sub-arterial function in accordance with Council's ESD objective 7.*

The applicant submitted the following justification in support of the variation:

"The frontage of the subject site to Pennant Hills Road is partially located within the traffic signals controls of the intersection of Carlingford Road with Pennant Hills Road. Vehicle access to the subject site cannot be gained from within this intersection, which significantly restricts opportunity for vehicle access to the site.

As illustrated in Figure 19, the location of the existing vehicle access point to the site, which is generally to be retained by the proposal is well clear of this intersection and provides the most appropriate location for the driveway. This driveway will allow for vehicles to enter and leave the site in a safe and efficient manner as outlined in the Traffic Report accompanying this application. It is therefore considered that the proposal is consistent with these objectives and a variation to these controls in this instance is warranted."

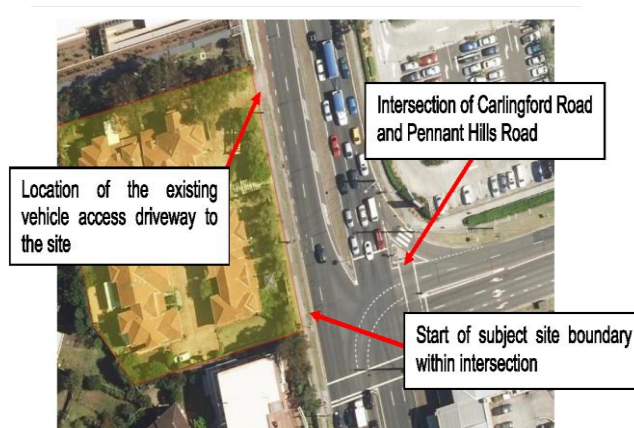


Figure 19: Location of intersection with respect to the site (Source: SIX maps)

In view of the above, it is considered that the variation to the vehicular access control is supportable as it allows vehicles to enter and exit the site in a safe and efficient manner.

6. Issues Raised in Submissions

The application was notified to adjoining property owners for 14 days and advertised in the local newspaper. Six (6) submissions were received from three (3) properties during the notification and exhibition period. Issues raised in the submissions are addressed in the table below.

ISSUE/OBJECTION	COMMENT	OUTCOME
The development needs to be setback further from the rear boundary or reduced in height as it will overshadow the dwelling houses to the east. The balconies and large windows of the development will overlook the dwelling houses to the west.	Privacy, amenity, sunlight, building separation, bulk and scale have been addressed in the report and are considered satisfactory.	Issue addressed
The development will reduce property values in the area.	This issue is not a planning consideration under Section 79C of the Act. In any event, no evidence is provided to substantiate this claim.	Issue addressed.
The proposed access driveway 2 metres away from the side boundary is a hazard on Pennant Hills Road and increase the risk of traffic accidents.	The Roads and Maritime Services has assessed the application including the traffic assessment submitted with the application and raised no objection to the proposed development subject to conditions of consent.	Issue addressed.
The development will increase the traffic in the area and will be dangerous for pedestrians and motorists.	The Roads and Maritime Services has assessed the application including the traffic assessment submitted with the application and raised no objection to the proposed development subject to conditions of consent.	Issue addressed.
The proposed residential flat building is an overdevelopment of the site.	The proposed development is permissible on land zoned R4 High Density Residential under The Hills LEP 2012. The proposed development is consistent with the aims and objectives of the R4 High Density Residential zone and complies with Floor Space Ratio requirements and therefore the planned density for the site.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
The subject site is much below the minimum land size of 4,000m ² required for a residential flat building.	The proposed development is permissible in R4 High Density Residential zone. The application is accompanied by a written justification addressing the variation to the minimum site area requirement. This variation is addressed in Section 4.1 of the report and satisfies the relevant criteria outlined in Clause 4.1A (3) of LEP 2012.	Issue addressed.
The development breaches the maximum height limit of 27 metres.	The Development Application is accompanied by a written objection to the maximum permitted building height, addressing Clause 4.6 of Local Environment Plan 2012. The proposal exceeds the 27 metre height limit by 1m or 3.7%. The variation is considered satisfactory as it does not result in unreasonable adverse impacts on adjoining properties in terms of overshadowing and overlooking.	Issue addressed.
The development is of a bulk and scale which is out of character with adjoining development.	The residential flat building has the appearance of apartment blocks and is permissible on land zoned R4 High Density Residential. The area has been zoned R4 High Density Residential and it is considered that the development is consistent with the future character of the area.	Issue addressed.
The application states that 118 visitor car spaces will be provided however is still an under provision of car spaces, and the development will have a demand for on-street parking on nearby streets.	The proposal complies with the Apartment Design Guide which refers to the RMS Guide to Traffic Generating Development. As the proposal complies with the ADG requirements, it cannot be used as a ground for refusal.	Issue addressed.
The development does not meet the minimum building separation requirements with minor encroachments to the proposed balconies on the rear, side and front setbacks.	The development complies with the required building setbacks, with setbacks measured from the front façade, and walls and windows of the building, not the balconies.	Issue addressed.
The development far exceeds the maximum permitted density for the	The development complies with the required maximum Floor Space Ratio for the site.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
site.	Compliance with the FSR design standard ensures that the specified density for the site is met and is consistent with the desired character of the area. The development will result in the provision of various housing types that will address the changing demographic profiles and housing requirements of the Carlingford Precinct.	
The development does not comply with the required dwelling mix.	As previously discussed in this report, the development is consistent with the dwelling mix objectives and will result in the provision of various housing types and sizes that will address the changing demographic profiles and housing requirements of the Carlingford Precinct.	Issue addressed.

SUBDIVISION ENGINEERING COMMENTS

No objection raised to the proposal.

TRAFFIC MANAGEMENT COMMENTS

No objection raised to the proposal.

TREE MANAGEMENT COMMENTS

No objection raised to the proposal.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection raised to the proposal.

WASTE MANAGEMENT COMMENTS

No objection raised to the proposal.

SYDNEY WATER

Comments and recommendations from Sydney Water will form part of any recommended conditions of consent (see Condition No.'s 38 and 67).

ROADS & MARITIME SERVICES COMMENTS

Comments and recommendations from the Roads and Maritime Services and Sydney Regional Development Advisory Committee are to form part of any recommended conditions of consent (see Condition No. 7, and map referred 'X' in Condition No. 7 under Attachment 6).

NSW POLICE COMMENTS

The proposal was referred to The Hills Local Area Command, NSW Police in accordance with the requirements of "Safer by Design Guidelines" prepared by the NSW Police in conjunction with the Department of Planning and the in accordance with the

memorandum of understanding between the Hills Shire Council and The Hills Local Area Command, NSW Police.

Comments and recommendations from the NSW Police will form part of any recommended conditions of consent (see Condition No. 8).

NSW RAILCORP (SYDNEY TRAINS)

The Development Application was referred to NSW Railcorp (Sydney Trains) given that the site is located within 25 metres of the proposed North West Rail Link corridor which is currently under construction. Railcorp (Sydney Trains) have provided their concurrence subject to conditions of consent to address potential design conflicts. On this basis, a condition of consent will be imposed to ensure that the requirements of Sydney Trains in their letter dated 6 June 2016 are complied with (see Condition No. 6).

CONCLUSION

The application has been assessed against Section 79C of the Environmental Planning and Assessment Act 1979, Local Environment Plan 2012 and Development Control Plan 2012.

The Development Application is accompanied by a written objection to the maximum permitted building height, addressing Clause 4.6 of Local Environment Plan 2012. The proposal exceeds the 27 metre height limit by 1m or 3.5%. The variation is considered satisfactory as it does not result in unreasonable adverse impacts on adjoining properties in terms of overshadowing and overlooking.

The subject site has an area of 3,404m² resulting in a variation of 596m² or 14.9% to the minimum lot size requirement of 4,000m² for residential flat buildings on land within the R4 High Density Residential zone. The variation is supported on the basis that the proposed development would be consistent with the desired future character of the area with increased bulk and height along the western side of Pennant Hills Road.

The application has been assessed against the requirements of The Hills Development Control Plan 2012 and variations have been identified in relation to height, apartment mix and size, parking and vehicular access. Justification has been provided by the applicant and is considered satisfactory. In terms of variation to the apartment size, these standards cannot be used as grounds for refusal as they comply with the requirements set out in SEPP 65 Apartment Design Guide.

The application was notified for 14 days and placed on exhibition for public comments and six (6) submissions were received from three (3) properties. The issues are addressed in the body of the report and do not warrant refusal of the application.

The application is recommended for approval subject to conditions.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO	DESCRIPTION	REVISION	DATE
A02-02	Site Plan	8	4/8/2016
A05-01	Basement 2	8	4/8/2016
A05-02	Basement 1	8	4/8/2016
A05-03	Ground Floor	8	4/8/2016
A05-04	Level 1	8	4/8/2016
A05-05	Level 2	8	4/8/2016
A05-06	Level 3	8	4/8/2016
A08-01	Section 1	8	4/8/2016
A08-02	Section 2	8	4/8/2016
A08-03	Section 3	8	4/8/2016
A08-04	Section 4	8	4/8/2016
A08-05	Section 5	8	4/8/2016
A09-01	North Elevation	8	4/8/2016
A09-02	East Elevation	8	4/8/2016
A09-03	South Elevation	8	4/8/2016
A09-04	West Elevation	8	4/8/2016
L-01/3	Landscape Plan	C	22/2/2016
L-02/3	Landscape Plan	C	22/2/2016
L-03/3	Landscape Plan	C	22/2/2016
A13-01	Finishes Schedule	8	4/8/2016

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. Construction Certificate

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

3. Building Work to be in Accordance with BCA

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

4. Provision of Parking Spaces

The development is required to be provided with 146 resident and 36 visitor off-street parking spaces. These car parking spaces shall be available for off street parking at all times.

5. External Finishes

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

6. Compliance with the Requirements of Sydney Trains

Compliance with the following requirements of the RMS outlined in their letter dated 6 June 2016:

1. No modifications may be made to the approved design without the consent of TfNSW and Sydney Trains.
2. Prior to the issue of a Construction Certificate you are required to engage an Electrolysis Expert to submit a report to Sydney Trains on the Electrolysis Risk to the development from stray currents. You must incorporate in the development all the measures recommended in the report to control that risk.
3. Prior to the issue of a Construction Certificate you are required to submit a report to Sydney Trains for review prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document title "Development Near Rail Corridors and Busy Roads – Interim Guidelines". This assessment is also to assess the likely noise and vibration that may emanate from the approved Parramatta to Epping Rail Link (PERL). You are required to incorporate in the development all the measures recommended in the report to control that risk.
4. TfNSW and Sydney Trains, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

7. Compliance with the Requirements of the Roads and Maritime Services

Compliance with the following requirements of the RMS outlined in their letter dated 28 November 2015:

1. Roads and Maritime has previously dedicated a strip of land as road along the Pennant Hills Road frontage of the subject property, as shown by grey colour on the attached aerial – "X".

All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Pennant Hills Road boundary.

2. All redundant driveways on Pennant Hills Road are to be removed and replaced with kerb and gutter to Roads and Maritime requirements.

The design and construction of the kerb and gutter crossing on Pennant Hills Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Pennant Hills Road.
4. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Pennant Hills Road during construction activities.
5. Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, details design plans and hydraulic calculations of any chargers are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site.

Details should be forwarded to:

Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement, please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

6. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012001.

The developer is to submit all the documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124
Telephone 8849 2114
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

7. All vehicles are to enter and leave the site in a forward direction.

8. The proposed development should be designed such that road traffic noise from Pennant Hills Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
9. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

8. Compliance with the Requirements of the NSW Police

Compliance with the following requirements of the NSW Police – Local Area Command outlined in their letter dated 2 November 2015:-

Surveillance

- Car parking area be painted white to help reflect light.
- CCTV be installed at entry points into the car park, exit points and scattered throughout the car park including entrances to the flats and the community facilities within the site such as in the lifts, stairwells, fire doors, etc, covering the disabled parking and the motorcycle/bike parking.
- Security access to be utilised at the entrance of the car parking area. This is highly recommended by use of fob, remote or code access.
- Shrubs and shade trees must be kept trimmed at all times. Lower tree limbs should be above average head height and shrubs should not provide easy concealment.
- 3-5 metres of cleared space is to be located either side of residential pathways and bicycle routes. Thereafter, vegetation can be stepped back in height to maximise sightlines.

Lighting and Technical Supervision

- Lighting shall meet minimum Australian Standards.
- Special attention shall be made to lighting the entry and exit points from the buildings, car park and access/exit driveways. Transition lighting is needed throughout the site to reduce vision impairment, i.e. reducing a person walking from dark to light places.

CCTV

- A CCTV system to monitor the common open spaces throughout the development, especially if no access control to the area is provided.
- Implementation of height indicator stickers on the entrance/exit doors. These used in conjunction with CCTV can give police an indication of an offender's height as they enter or exit and in turn may assist in the identification of possible offenders.

Territorial Reinforcement

- Territorial reinforcement can be achieved through design that encourages people to gather in public space and to feel some responsibility for its use and condition and with clear transitions and boundaries between public and private space.

Environmental Maintenance

- Avoid porous building surfaces when selecting materials for construction to minimise maintenance cost relating to graffiti vandalism.

Access Control

- Warning signs should be strategically posted around the building to warn intruders of what security treatments have been implemented to reduce

opportunities for crime, e.g. *'Warning, trespasser will be prosecuted'* or *'Warning, these premises are under electronic surveillance'*.

- Ensure the section of the security roller shutter near the manual door release is solid, improved strength to garage doors and better quality locking mechanism.
- All fire doors are to be alarmed so that no unauthorised access is permitted. A magnetic strip is also recommended so that the door will shut closed. Signage is recommended on all fire doors to show that doors are alarmed and to only be used in emergencies.
- Avoid creating outer ledges capable of supporting hands/feet and that balustrades should not provide anchor points for ropes. Also, for any fencing proposed for the development, it is recommended that palings are placed vertically to stop unauthorised access by persons using horizontally placed palings as a ladder to access ground floor units. If spacing is left between each paling, it should be at a width that limits physical access.

Other Matters

- Ground level units need to have upgraded security measures put in place such as doors and window being alarmed, thickened glass and sensor lights etc.
- Use of security sensor lights and a security company to monitor the site while construction is in progress.
- High quality letterboxes that meet the Australian standards - ISO9001:2008. The letterboxes should still be under CCTV surveillance to help deter letterbox mail theft.
- Recommends placing signs around the car park warning residents to watch those who come in the entry/exit door behind them. Residents are encouraged to wait until the door is fully closed behind them before continuing into the underground car park. This will help prevent potential offenders from gaining entry via the open door.
- Park smarter signage can help educate people to not leave valuable items in their cars and to ensure they secure their vehicles. Police recommend installing these signs around the car park.

9. Separate Application for Strata Subdivision

The strata title subdivision of the development is not included. A separate development application or complying development certificate application is required.

10. Street Trees

Street trees must be provided for the section of INSERT within or fronting the development site spaced between 7m and 10m apart and with a minimum of one tree per lot frontage. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

The establishment of street tree planting is included in the maintenance bond required to be paid. Alternatively, street trees can be planted by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

11. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

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

12. Minor Engineering Works

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

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

Any variance from these documents requires separate approval from Council.

Works on existing public roads or any other land under the care and control of Council must be approved and inspected by Council in accordance with the Roads Act 1993 or the Local Government Act 1993. A separate minor engineering works application and inspection fee is payable as per Council's Schedule of Fees and Charges.

i. RMS Approval

Submission of a set of construction plans endorsed by the RMS for the works required under this consent.

ii. Public Domain Plan

Activities on all streets including Pennant Hills Road frontage must be designed and constructed in accordance with Public Domain Plan – Carlingford Precinct.

Works shall include new footpath paving, new kerb and gutter, cycle way, footpath verge formation, street name signs, street trees, landscape works and the undergrounding of electricity and telecommunication services along on all road frontages within Council's road reserve.

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

iii. Driveway Requirements

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

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

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

The driveway must be 6m wide at the boundary splayed to 8m wide at the kerb. The driveway must be a minimum of 6m wide for the first 6m into the site, measured from the boundary.

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

iv. Disused Layback/ Driveway Removal

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

13. Structures Adjacent to Piped Drainage Easements

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

14. Road Opening Permit

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

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

15. Protection of Public Infrastructure

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

16. Excavation/ Anchoring Near Boundaries

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

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

Details demonstrating compliance with the above must be submitted to the Principal Certifying Authority and included as part of any Construction Certificate or Occupation Certificate issued.

17. Adherence to Construction and Demolition Waste Management Plan

All requirements of the Construction and Demolition Waste Management Plan submitted as part of the Development Application must be implemented during construction of the development, except where amended by other conditions of consent. The information submitted can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au.

18. Management of Construction and Demolition Waste

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. The separation and recycling of the following waste materials is required: metals, timber, masonry products and clean waste plasterboard. This can be achieved by source separation onsite, that is, a bin for metal waste, a bin for timber, a bin for bricks and so on. Alternatively, mixed waste may be stored in one or more bins and sent to a waste contractor or transfer/sorting station that will sort the waste on their premises for recycling. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au.

19. Disposal of Surplus Excavated Material

The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without the previous written approval of Council prior to works commencing on site. Any unauthorized disposal of waste, which includes excavated material, is a breach of the Protection of the Environment Operations Act 1997 and subject to substantial penalties. Receipts of all waste/ recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

20. Commencement of Domestic Waste Service

The property owner or agent acting for the owner must commence a domestic waste service with Council. The service must be arranged no earlier than one week prior to occupancy and no later than two days after occupancy of the development. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

21. Construction of Garbage Centre and Accessible Garbage Centre

All work involving construction of the garbage centre and accessible garbage centre must comply with the requirements below:

1. The areas must be of adequate size to comfortably store and manoeuvre the minimum required number of bins. The minimum number of bins are set out below:
 - a. **Garbage Centre:** 10 x 1100L bulk garbage bins, 8 x 660L bulk recycling bins, 3 x 240L garbage bins and 3 x 240L recycling bins.
 - b. **Accessible Garbage Centre:** 3 x 240L garbage bins and 3 x 240L recycling bins.
2. The layout of the areas must ensure that each bin is easily accessible and manoeuvrable in and out of the area with minimal or no manual handling of other bins.
3. The walls of the areas must be constructed of brickwork and the areas must be roofed.
4. The floor of the areas must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
5. The Garbage Centre must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors.
6. The areas must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door should be outside of the truck loading bay area.
7. All doors of the areas, when fully opened, must be flush with the **outside wall** and must not block or obstruct vehicle access or footways. All doors must be able to be fixed in position when fully opened.
8. The areas must be adequately ventilated (naturally or mechanically or a combination of both). Ventilation should not be connected to the same ventilation system supplying air to the units.
9. The areas must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the areas, it is not to conflict with the space designated for the placement of bins.
10. The areas must be provided with an internal light (artificial).
11. The maximum grade acceptable for moving bins for collection purposes is 7% (5% for bulk bins). Under no circumstance are these grades to be exceeded. They are to allow safe manoeuvring and servicing of the full bins by waste collection operators.
12. The areas must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Owners Corporation.
13. Finishes and colours of the areas must complement the design of the development.

Bin Measurements: 240L: 735 (d) 580 (w) 1080 (h) **660L:** 850 (d) 1370 (w) 1250 (h)
1100L: 1245 (d) 1370 (w) 1470 (h)

22. Onsite Waste Collection Requirements

Vehicle access and loading must be designed and constructed in accordance with AS2890.2-2002 for the standard 8.8m long Medium Rigid Vehicle (MRV). Waste

collection vehicles are required to enter and leave the site in a forward direction with minimal or no need for reversing. All manoeuvring areas must have a minimum clear vertical clearance of 3.5m (clear of services etc.). Adequate safety measures and safety precautions must be provided on site regarding waste collection and waste collection vehicle movements.

23. Tree Removal

Approval is granted for the removal of trees numbered 1-7, 14-19 as marked in Arboricultural impact assessment prepared by Redgum Horticultural dated October 2015.

All other trees are to remain and are to be protected during all works. Suitable replacement trees are to be planted upon completion of construction.

24. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 45 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

25. Retention of Trees

Trees numbered 8-13 & 20 are to be retained with remedial work to be carried out in accordance with the Arborist report prepared by Redgum Horticultural dated 1st October 2015.

26. Property Numbering

The responsibility for property numbering is vested solely in Council.

The property addresses for this development are: -

Lobby 1 – 780 Pennant Hills Road Carlingford

Units 101, 201-205, 301-305, 401-405, 501-505, 601-604, 701-704, 801

Lobby 2 – 782 Pennant Hills Road Carlingford

Units G01, 102-105, 206-210, 306-310, 406-410, 506-510, 605-610, 705-710, 802

Lobby 3 – 784 Pennant Hills Road Carlingford

Units G02-G05, 106-109, 211-213, 311-313, 411-413, 511-513, 611, 711

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

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

PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

27. Design Verification

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

28. Section 94 Contribution – Carlingford

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

Payments comprise of the following:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 bedroom units: 51	No. of 2 bedroom units: 33	No. of 3 bedroom units: 6	Sum of Units	No. Of Credits: 4	Total S94
Open Space - Land	\$ 3,888.19	\$ 4,991.22	\$ 5,680.62	\$ 9,375.77	\$ 198,297.69	\$ 164,710.26	\$ 34,083.72	\$ 397,091.67	\$ 37,503.08	\$ 359,588.59
Open Space - Capital	\$ 488.28	\$ 626.80	\$ 713.37	\$ 1,177.41	\$ 24,902.28	\$ 20,684.40	\$ 4,280.22	\$ 49,866.90	\$ 4,709.64	\$ 45,157.26
Transport - Capital	\$ 2,287.27	\$ 2,936.14	\$ 3,341.69	\$ 5,515.41	\$ 116,650.77	\$ 96,892.62	\$ 20,050.14	\$ 233,593.53	\$ 22,061.64	\$ 211,531.89
Administration	\$ 301.25	\$ 386.72	\$ 440.13	\$ 726.42	\$ 15,363.75	\$ 12,761.76	\$ 2,640.78	\$ 30,766.29	\$ 2,905.68	\$ 27,860.61
Stormwater Management	\$ 2,745.45	\$ 3,524.30	\$ 4,011.08	\$ 6,620.24	\$ 140,017.95	\$ 116,301.90	\$ 24,066.48	\$ 280,386.33	\$ 26,480.96	\$ 253,905.37
Community Facilities	\$ 1,500.31	\$ 1,925.92	\$ 2,191.93	\$ 3,617.74	\$ 76,515.81	\$ 63,555.36	\$ 13,151.58	\$ 153,222.75	\$ 14,470.96	\$ 138,751.79
Total	\$ 11,210.75	\$ 14,391.10	\$ 16,378.82	\$ 27,032.99	\$ 571,748.25	\$ 474,906.30	\$ 98,272.92	\$ 1,144,927.47	\$ 108,131.96	\$ 1,036,795.51

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. 14.

Council's Contributions Plans can be viewed at www.thehills.nsw.gov.au or a copy may be inspected or purchased at Council's Administration Centre.

29. Erosion & Sediment Control Plan

Submission of an Erosion and Sediment Control Plan to the Principal Certifying Authority, including details of:

- Allotment boundaries
- Location of the adjoining roads
- Contours
- Existing vegetation
- Existing site drainage
- Critical natural areas
- Location of stockpiles
- Erosion control practices
- Sediment control practices
- Outline of a maintenance program for the erosion and sediment controls
(NOTE: For guidance on the preparation of the Plan refer to 'Managing Urban Stormwater Soils & Construction' produced by the NSW Department of Housing).

30. Works in Existing Easement

All adjoining properties either benefited or burdened by the existing easement must be notified of the proposed works within the easement in writing, including commencement and completion dates, before a Construction Certificate is issued.

31. Works on Adjoining Land

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

32. Stormwater Management OSD and WSUD

A. Detention – Upper Parramatta River Catchment Area

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Upper Parramatta River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook.

The Stormwater Concept Design Project Ref: 201488 prepared by C&M Consulting Engineers is for development application purposes only and is not to be used for construction. The detailed design must reflect the following concept drawings:

Drawing	Reference	Revision	Date
General Arrangement Plan – Upper Basement	01488_202	4	11/04/2016
General Arrangement Plan – Ground Floor	01488_203	4	11/04/2016
Stormwater Drainage Catchment Plan	01488_601	2	20/01/2016

Onsite Detention Tank Details	01488_621	2	01/02/2015
Onsite Detention Tank Details	01488_622	3	11/04/2016
Onsite Detention Tank Calculations	01488_622	1	01/02/2016

The detailed design must incorporate the following necessary changes:

- a) Onsite Detention storages must be designed to be accommodated the necessary treatment devices required below under the Water Sensitive Urban Design Elements.

Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer and submitted with:

- A completed OSD Drainage Design Summary Sheet;
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes;
- A completed OSD Detailed Design Checklist;
- A maintenance schedule.

The design and construction of the OSD system must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate.

A Design Compliance Certificate (DCC) certifying the detailed design of the OSD system can be issued by Council subject to the following being provided:

- i. A completed application form;
- ii. Four copies of the design plans and specifications;
- iii. Payment of the applicable application and inspection fees.

B. Water Sensitive Urban Design Elements

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

Determination of the size of humeceptor and number of filter cartridges must be in accordance with the MUSIC model to be provided with the detailed design.

The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

- 90% reduction in the annual average load of gross pollutants
- 85% reduction in the annual average load of total suspended solids
- 65% reduction in the annual average load of total phosphorous
- 45% reduction in the annual average load of total nitrogen

All model parameters and data outputs are to be provided.

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

- Water Sensitive Urban Design – Technical Guidelines for Western Sydney, 2004, <http://www.wsud.org/tools-resources/index.html>

- Australian Runoff Quality – A Guide to Water Sensitive Urban Design, 2005, <http://www.ncwe.org.au/arq/>

33. Security Bond – External Works

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

The bond must be lodged with Council before a Construction Certificate is issued.

The bond is refundable upon written application to Council and is subject to all work being completed to Council's satisfaction.

34. Security Bond Requirements

A security bond may be submitted in lieu of a cash bond. The security bond must:

- a) Be in favour of The Hills Shire Council;
- b) Be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking);
- c) Have no expiry date;
- d) Reference the development application, condition and matter to which it relates;
- e) Be equal to the amount required to be paid in accordance with the relevant condition;
- f) Be itemised, if a single security bond is used for multiple items.

Should Council need to uplift the security bond, notice in writing will be forwarded to the applicant 14 days prior.

35. Draft Legal Documents

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

36. Internal Pavement Structural Design Certification

Prior to a Construction Certificate being issued, a Certified Practicing Engineer (CPEng) must submit a letter to Council confirming the structural adequacy of the internal pavement design. The pavement design must be adequate to withstand the loads imposed by a loaded heavy rigid waste collection vehicle (i.e. 28 tonne gross vehicle mass) from the boundary to the waste collection point including any manoeuvring areas.

PRIOR TO WORK COMMENCING ON THE SITE

37. Sydney Water Building Plan Approval

A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority upon request prior to works commencing.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> , Sydney Water Tap in™, or telephone 13 20 92.

38. Sydney Water Building Plan Approval

You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over the next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or next to assets).

39. Notification

Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with Form 7 of the Regulation.

40. Principal Certifying Authority

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

41. Builder and PCA Details Required

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

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

42. Consultation with Service Authorities

Applicants are advised to consult with Telstra, NBN Co and Australia Post regarding the installation of telephone conduits, broadband connections and letterboxes as required.

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

43. Stabilised Access Point

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

44. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. In order of precedence the location of fencing shall be as per Tree Protection Plan as per Arborist report for project.

The erection of a minimum 1.8m chain-wire fence to delineate the TPZ is to stop the following occurring:

- Stockpiling of materials within TPZ;
- Placement of fill within TPZ;
- Parking of vehicles within the TPZ;
- Compaction of soil within the TPZ;
- Cement washout and other chemical or fuel contaminants within TPZ; and
- Damage to tree crown.

45. Tree Protection Signage

Prior to any works commencing on site a Tree Protection Zone sign must be attached to the Tree Protection Fencing stating "Tree Protection Zone No Access" (The lettering size on the sign shall comply with AS1319). Access to this area can only be authorised by the project arborist or site manager.

46. Mulching within Tree Protection Zone

Prior to any works commencing on site all areas within the Tree Protection Zone are to be mulched with composted leaf mulch to a depth of 100mm.

47. Trenching within Tree Protection Zone

Any trenching or excavation for installation of drainage, sewerage, irrigation or any other services within the Tree Protection Zone of trees identified for retention is to be under the supervision of a project arborist.

Certification of supervision must be provided to the Certifying Authority within 14 days of completion of trenching works.

48. Demolition Works and Asbestos Management

The demolition of any structure is to be carried out in accordance with the Work Health and Safety Act 2011. All vehicles transporting demolition materials from the site are to have covered loads and are not to track any soil or waste materials on the road. Should demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoard or fence. All demolition works involving the removal and disposal of asbestos (of an area more than 10 square metres) must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au. Asbestos removal must be carried out in accordance with the WorkCover, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

49. Discontinuation of Domestic Waste Services

Council provides a domestic waste service to the property subject to this Development Application. This service must be cancelled prior to demolition of the existing dwelling or where the site ceases to be occupied during works, whichever comes first. You will continue to be charged where this is not done. No bins provided as part of the domestic waste service are to remain on site for use by construction workers, unless previous written approval is obtained from Council. To satisfy this condition, the Principal Certifying Authority must contact Council on (02) 9843 0310 at the required time mentioned above to arrange for the service to be discontinued and for any bins to be removed from the property by Council.

50. Erosion and Sedimentation Controls

Erosion and sedimentation controls shall be in place prior to the commencement of site works and maintained throughout construction activities, until the site is landscaped and/or suitably revegetated. These requirements shall be in accordance with *Managing Urban Stormwater – Soils and Construction (Blue Book)* produced by the NSW Department of Housing.

This will include, but not be limited to a stabilised access point and appropriately locating stockpiles of topsoil, sand, aggregate or other material capable of being moved by water being stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

51. Site Water Management Plan

A Site Water Management Plan is to be prepared. The plan shall be in accordance with *"Managing Urban Stormwater - Soils and Construction" (Blue Book)* produced by the NSW Department of Housing. The plan is to address the management, treatment and disposal of water that may collect in any excavation on site. Water contaminated with suspended solids at a level greater than 50 mg/L may not be discharged to the stormwater system.

The plan is to be kept on site at all times and made available upon request.

52. Traffic Control Plan

A Traffic Control Plan is required to be prepared and submitted to Council for approval. The person preparing the plan must have the relevant accreditation to do so. Where amendments to the plan are required post approval, they must be submitted to Council for further approval prior to being implemented.

A plan that includes full (detour) or partial (temporary traffic signals) width road closure requires separate specific approval from Council. Sufficient time should be allowed for this to occur.

53. Sediment and Erosion Control

The approved sediment and erosion control measures, including a stabilised all weather access point, must be in place prior to works commencing and maintained during construction and until the site is stabilised to ensure their effectiveness. For major works, these measures must be maintained for a minimum period of six months following the completion of all works.

54. Public Infrastructure Inventory Report

A public infrastructure inventory report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. This includes, but is not limited to, the road fronting the site along with any access route used by heavy vehicles. If uncertainty exists with respect to the necessary scope of this report, it must be clarified with Council before works commence. The report must include:

- a) Planned construction access and delivery routes; and
- b) Dated photographic evidence of the condition of all public assets.

55. Adjoining Property Dilapidation Report

A dilapidation report must be prepared and submitted by a structural engineer recording the condition of any dwelling or ancillary structures on adjoining properties around the development site within the likely zone of influence from any excavation, dewatering or construction induced vibration.

DURING CONSTRUCTION

56. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work.

57. 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. 675276M_02 dated 14 April 2016 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.

58. Survey Report

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

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

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

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

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

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

60. Stockpiles

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

61. Rock Breaking Noise

Upon receipt of a justified complaint in relation to noise pollution emanating from rock breaking as part of the excavation and construction processes, rock breaking will be restricted to between the hours of 9am to 3pm, Monday to Friday.

Details of noise mitigation measures and likely duration of the activity will also be required to be submitted to Council's Manager – Environment and Health within seven (7) days of receiving notice from Council.

62. Construction Noise

The emission of noise from the construction of the development shall comply with the *Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)*.

63. Dust Control

The emission of dust must be controlled to minimise nuisance to the occupants of the surrounding premises. In the absence of any alternative measures, the following measures must be taken to control the emission of dust:

- Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the construction work;
- All dusty surfaces must be wet down and suppressed by means of a fine water spray. Water used for dust suppression must not cause water pollution; and
- All stockpiles of materials that are likely to generate dust must be kept damp or covered.

64. Asbestos Removal

Asbestos containing material, whether bonded or friable, shall be removed by a licenced asbestos removalist. A signed contract between the removalist and the person having the benefit of the development application is to be provided to the Principal Certifying Authority, identifying the quantity and type of asbestos being removed. Details of the landfill site that may lawfully receive the asbestos is to be included in the contract.

Once the materials have been removed and delivered to the landfill site receipts verifying the quantity received by the site and a clearance certificate are to be provided to the Principal Certifying Authority.

65. Standard of Works

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

66. Project Arborist

The Project Arborist must be on site to supervise any works in the vicinity of or within the Tree Protection Zone (TPZ) of any trees required to be retained on the site or any adjacent sites.

Supervision of the works shall be certified by the Project Arborist and a copy of such certification shall be submitted to the Private Certifying Authority within 14 days of completion of the works.

PRIOR TO THE ISSUE OF A FINAL OCCUPATION AND/OR SUBDIVISION CERTIFICATE

67. Section 73 Certificate must be submitted to the Principal Certifying Authority before the issuing of an Occupation Certificate

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

Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Building and developing > Developing your land > water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority before occupation of the development/release of the plan of subdivision.

68. Provision of Electricity Services

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

69. Provision of Telecommunications Services

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

70. Design Verification Certificate

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

71. Landscaping Prior to Issue of Occupation Certificate

Landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) in accordance with the approved plan. All

landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

72. Carpark and other Ventilation Systems

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- a) Australian/New Zealand Standard AS/NZS 1668.1:1998 – The use of ventilation and air conditioning in buildings – fire and smoke control in multi-compartment buildings;
- b) Australian Standard AS 1668.2 – 2002 - The use of ventilation and air conditioning in buildings – ventilation design for indoor air contaminant control;

Certification that the ventilation for the basement carpark complies with the Standard shall be provided to the Certifying Authority prior to the issue of an occupation certificate.

73. Acoustic Compliance Report

The acoustic consultant shall certify the installation of the required noise suppressant components as recommended in acoustic report prepared by Rodney Stevens Acoustics dated 26 October 2015. Certification is to be provided prior to the issue of a final occupation certificate.

74. Internal Pavement Construction

Prior to an Occupation Certificate being issued, a Certified Practicing Engineer (CPEng) must submit a letter to Council confirming that the internal pavement has been constructed in accordance to the approved plans, and is suitable for use by a loaded heavy rigid waste collection vehicle.

75. Final Inspection of Garbage Centre and Accessible Garbage Centre

Prior to an Occupation Certificate being issued, a final inspection of the Garbage Centre and Accessible Garbage Centre including all associated facilities must be undertaken by Council. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for waste collection by Council. The time for the inspection must be arranged with Council at least 48 hours prior to the suggested appointment time.

76. Agreement for Onsite Waste Collection

Prior to an Occupation Certificate being issued, an Indemnity Agreement is to be obtained from Council, completed, signed and returned to Council for approval. This is to enable Council and its contractor to enter onto private property with its collection vehicles to enable it to collect waste and recyclables.

77. Completion of Engineering Works

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

78. Works as Executed Plans

Works as executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the engineering works are completed. The WAE plans must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments.

The plans must be accompanied by pavement density results, pavement certification, concrete core test results, site fill results, structural certification, CCTV recording, signage details and a public asset creation summary, where relevant.

79. OSD System Certification

The Onsite Stormwater Detention (OSD) system must be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issuing of an Occupation Certificate.

The following documentation is required to be submitted upon completion of the OSD system and prior to a final inspection:

- a) Works as executed plans prepared on a copy of the approved plans;
- b) A certificate of hydraulic compliance (Form B.11) from a suitably qualified engineer or surveyor verifying that the constructed OSD system will function hydraulically;
- c) A certificate of structural adequacy from a suitably qualified structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

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

80. Pump System Certification

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

81. Water Sensitive Urban Design Certification

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

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

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

82. Confirmation of Pipe Locations

A letter from a registered surveyor must be provided with the WAE plans certifying that all pipes and drainage structures are located within the proposed drainage easements.

83. Stormwater CCTV Recording

All piped stormwater drainage systems and ancillary structures which will become public assets must be inspected by CCTV. A copy of the actual recording must be submitted electronically for checking.

84. Public Asset Creation Summary

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

85. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the subdivision works is required to be submitted to Council. The bond will be held for a minimum defect liability period of six months from the certified date of completion of the subdivision works. The minimum bond amount is \$5,000.00. The bond is refundable upon written application to Council and is subject to a final inspection.

86. Public Infrastructure Inventory Report - Post Construction

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

87. Adjoining Property Dilapidation Report Post Construction

Before a Subdivision Certificate is issued, an updated dilapidation report must be prepared and submitted to Council. The updated report must identify any damage to adjoining properties and the means of rectification for the approval of Council.

88. Creation of Restrictions / Positive Covenants

Before an Occupation Certificate is issued the following restrictions/ positive covenants must be registered on the title of the subject site via a request document, Section 88B instrument associated with a plan or the like. Council's standard recitals must be used.

i. Restriction – Bedroom Numbers

The subject site must be burdened with a restriction using the "bedroom numbers" terms included in the standard recitals.

ii. Restriction/ Positive Covenant – Onsite Stormwater Detention

The subject site must be burdened with a restriction and a positive covenant using the "onsite stormwater detention systems" terms included in the standard recitals.

iii. Restriction/ Positive Covenant – Water Sensitive Urban Design

The subject site must be burdened with a positive covenant that refers to the WSUD elements referred to earlier in this consent using the "water sensitive urban design elements" terms included in the standard recitals.

iv. Positive Covenant – Stormwater Pump

The subject site must be burdened with a restriction and a positive using the "basement stormwater pump system" terms included in the standard recitals.

USE OF THE SITE

89. Waste and Recycling Management

A caretaker must be engaged by the Owners Corporation and is to be responsible for ensuring that all bins are accessible by collectors from the garbage centre adjacent to the loading bay on the collection days specified by Council. The caretaker should also be responsible for regularly washing the bins and their storage areas.

90. Lighting

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

91. Final Acoustic Report

Within three months from the issue of an Occupation Certificate, an acoustical compliance assessment is to be carried out by an appropriately qualified person, in accordance with the NSW EPA's - Industrial Noise Policy and submitted to Council's Manager - Environment and Health for consideration.

This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the mechanical ventilation provided for the basement carpark and any other plant and equipment does not give rise to "offensive noise" as defined under the *Protection of the Environment Operation Act 1997*.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. The Hills LEP 2012 Zoning Map
4. Site Plan
5. Elevations
6. Map 'X' Referred in RMS Condition No. 7

ATTACHMENT 1 – LOCALITY PLAN



SUBJECT SITE



PROPERTIES NOTIFIED (INCLUDING HORNSBY COUNCIL & RMS PROPERTY)



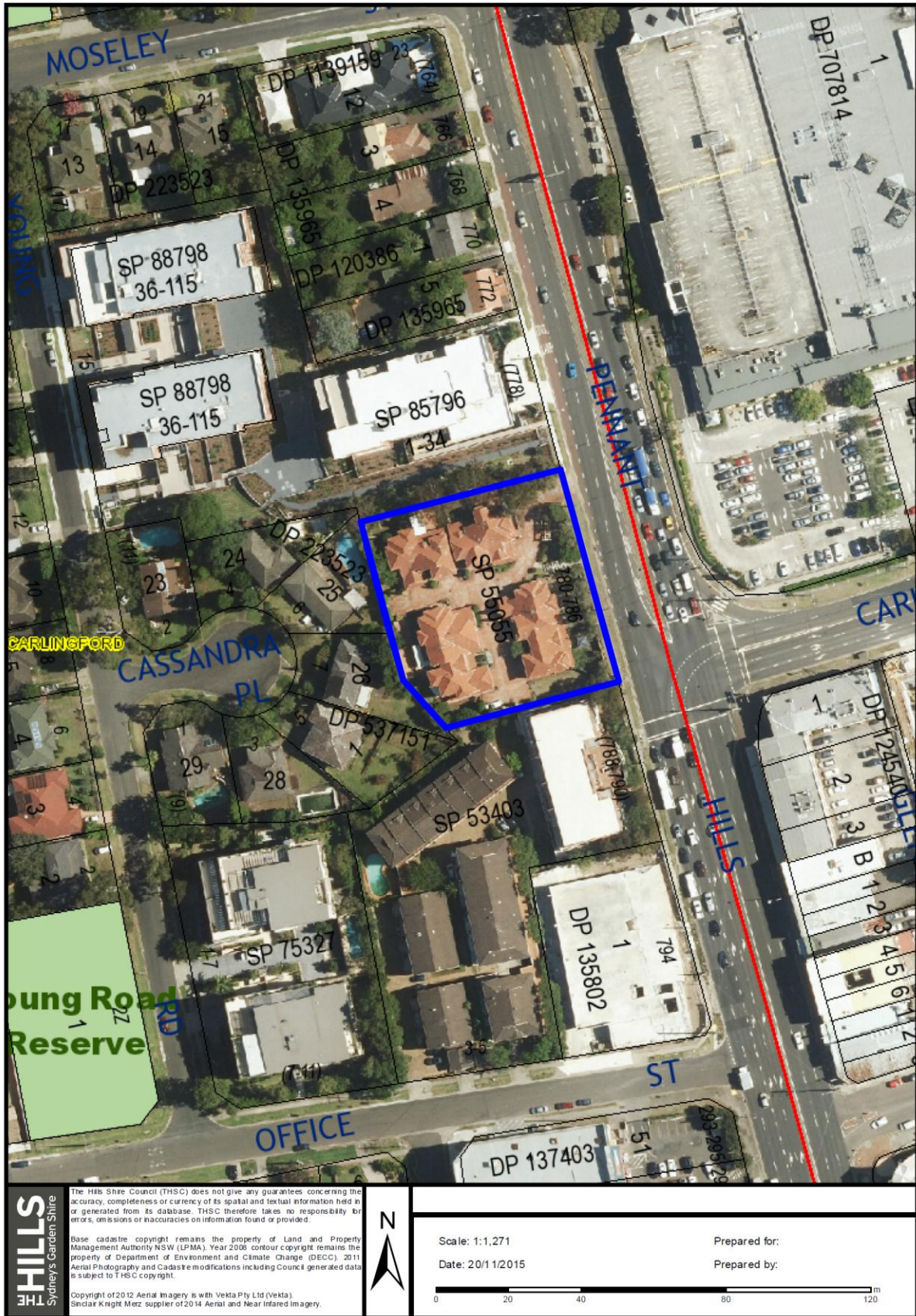
6 SUBMISSIONS RECEIVED FROM 3 PROPERTIES - 1 PROPERTY OUTSIDE SCOPE OF MAP

THE HILLS
Sydney's Garden Shire

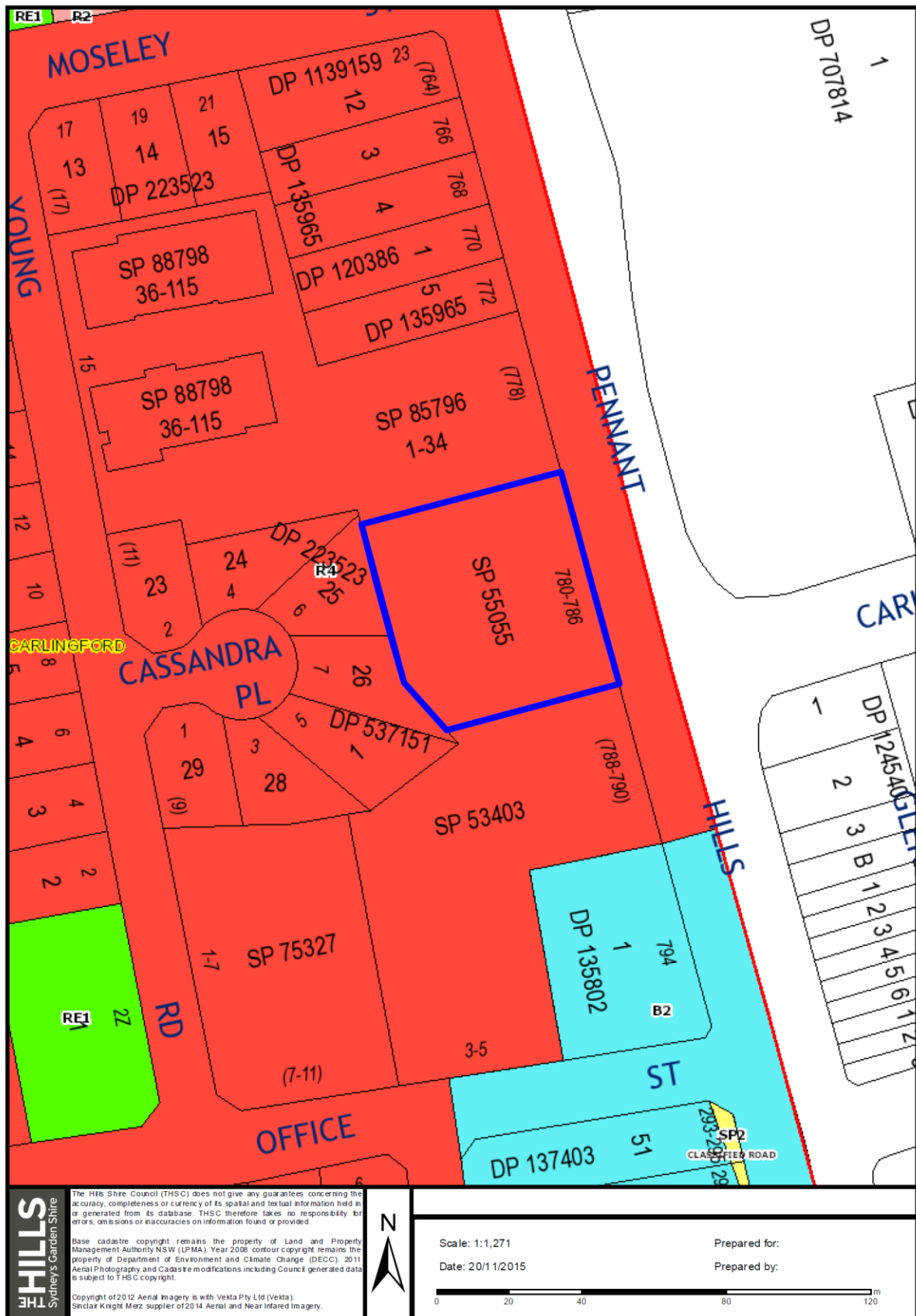
THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE
BASE CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LPi). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

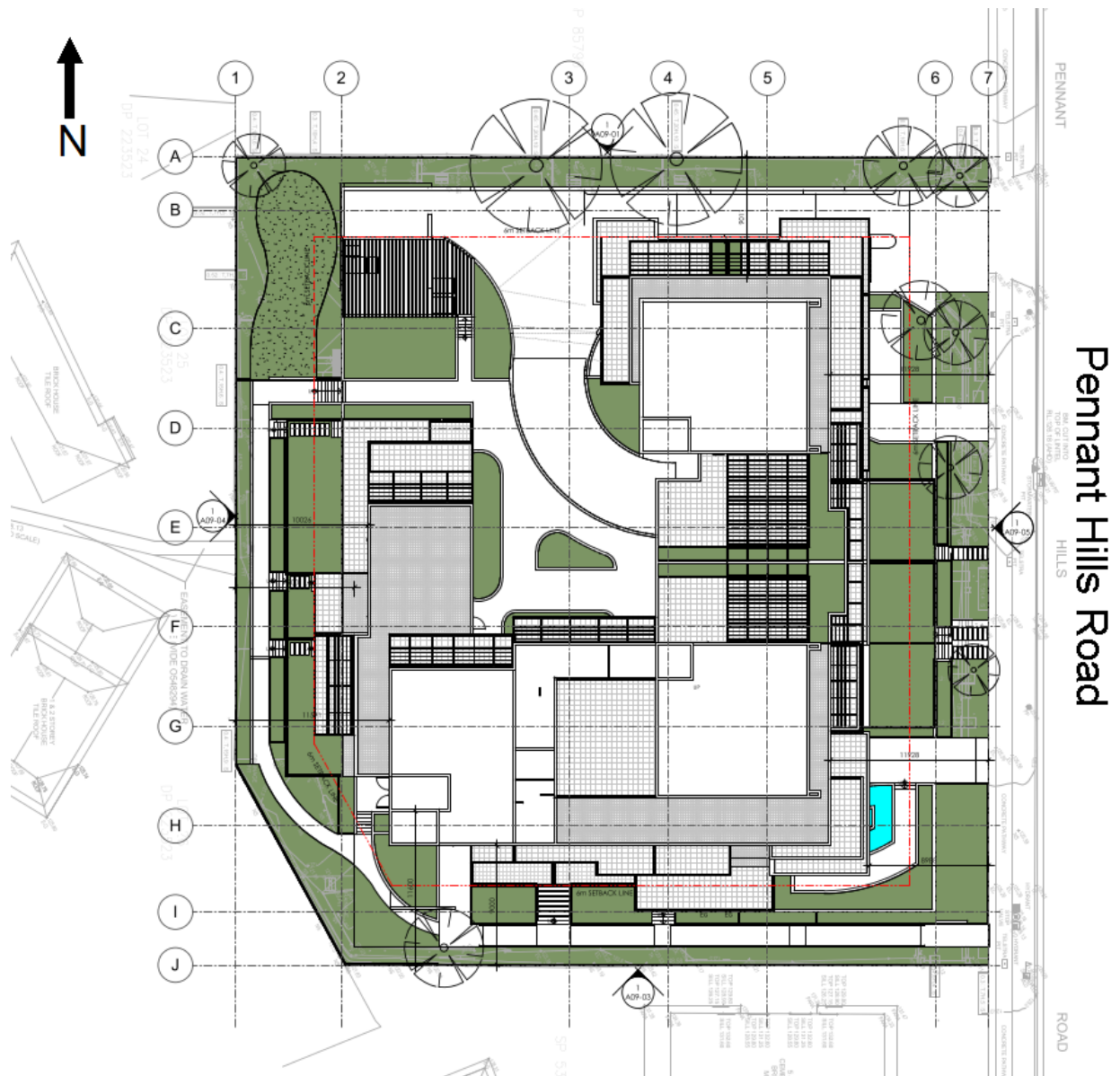
ATTACHMENT 2 – AERIAL PHOTOGRAPH



ATTACHMENT 3 – THE HILLS LEP 2012 ZONING MAP



ATTACHMENT 4 – SITE PLAN



ATTACHMENT 5 – ELEVATIONS









ATTACHMENT 6 – MAP 'X' REFERRED IN RMS CONDITION NO. 7

