

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2015SYW213
DA Number	913/2016/JP
Local Government Area	THE HILLS SHIRE COUNCIL
Proposed Development	RESIDENTIAL FLAT BUILDING DEVELOPMENT
Street Address	LOTS 101 – 103 DP 1195876, NO. 2B AND LOT 103 HECTOR COURT AND LOT 102 AFFLECK CIRCUIT, KELLYVILLE
Applicant	DAVID KREPP
Number of Submissions	First Notification: 34 submissions and a petition signed by an additional 30 persons. Second Notification: Nine
Regional Development Criteria (Schedule 4A of the Act)	CIV EXCEEDING \$20 MILLION
List of All Relevant s79C(1)(a) Matters	• LEP 2012 • DCP Part B Section 5 – Residential Flat Buildings • DCP Part D Section 7 – Balmoral Road release Area • SEPP 65 - Design Quality of Residential Flat Development • SEPP 32 – Urban Consolidation of Land • SEPP (State and Regional Development) 2011 • SEPP Building Sustainability Index BASIX 2004 • SEPP 55 - Remediation of Land • SREP 20 – Hawkesbury Nepean River
Does the DA require Special Infrastructure Contributions conditions (s94EF)?	Yes, however the proposal is recommended for refusal.
List all documents submitted with this report for the panel's consideration	All submissions
Recommendation	Refusal
Report by	Principal Executive Planner Kristine McKenzie
Report date	20 October 2016

Summary of S.79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	No, the applicant withdrew a Clause 4.6 variation request.
Conditions Have draft conditions been provided to the applicant for comment?	No

EXECUTIVE SUMMARY

The Development Application is for an apartment building development containing 86 apartments. The development comprises three x five storey buildings containing 21 x 1 bedroom units, 58 x 2 bedroom units and 7 x 3 bedroom units. The site is a corner lot and has frontage to Hector Court, Affleck Circuit and the future extension of Severn Vale Drive. Two/three levels of basement parking are provided which contain parking for 186 vehicles comprising 151 resident spaces and 35 visitor spaces.

The site is zoned R4 High Density Residential under Local Environmental Plan (LEP) 2012 and apartment buildings are a permissible use in the zone. The site has a 16 metre height limit under LEP 2012. The proposal has a maximum height of 16.4 metres which is a variation of 2.5%. The applicant submitted a Clause 4.6 variation request with the original plans at the time of lodgement of the Development Application however when the applicant submitted the revised plans the Clause 4.6 variation request was withdrawn on the basis that the applicant has sought to rely on Clause 5.6 of LEP 2012 which relates to architectural roof features. The proposed lift over-runs are not considered to be an architectural roof feature and therefore a Clause 4.6 variation is required. The proposal also exceeds the DCP height control which limits apartment development to four storey. The proposal has height of five storeys.

The proposal also exceeds the DCP density requirement which is limited to a range of 150-175 persons per hectare. The proposed density is 288.21 persons per hectare. The proposed density is considered unsatisfactory because it is not responsive to the surrounding low density development.

The application also includes a number of other variations to Council's DCP in relation to setbacks, Unit layout and design, urban design guidelines, unit layout and design, open space and storage which are considered unsupportable in conjunction with the density proposed. The development proposal results in a development that is considered to have limited regard for the existing character of the locality, results in an unacceptable built form and is an over-development of the site. In addition, the applicant has not demonstrated that engineering, drainage and waste management can be adequately addressed within the proposed design.

The proposal does not adequately address a number of matters under Section 79C of the Environmental Planning and Assessment Act in relation to the above. The proposal is however satisfactory in relation to SEPP 55 - Remediation of Land.

The proposal was notified on two occasions. During the first notification period, 34 submissions and a petition signed by an additional 30 persons were received, and during the second notification period nine submissions were received. The issues raised in the submissions relate to traffic, height, density, overdevelopment, bulk and scale, streetscape and amenity impacts.

The application is recommended for refusal as it is an overdevelopment of the site which would result in a greater number of units and persons on site than anticipated under local planning controls and which is excessive and out of context with existing and future character.

In the absence of the JRPP process, this matter would be determined by the Development Assessment Unit.

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Hector Court Pty Ltd and Fabcot Pty Ltd	1.	<u>LEP 2012</u> – Unsatisfactory.
Zoning:	R4 High Density Residential	2.	<u>DCP Part B Section 5 – Residential Flat Buildings</u> - Unsatisfactory.
Area:	5829m ²	3.	<u>SEPP 65 Design Quality of Residential Flat Buildings</u> – Unsatisfactory.
Existing Development:	Dwelling and Ancillary Buildings	4.	<u>SEPP Building Sustainability Index BASIX 2004</u> – Satisfactory
		5.	<u>Section 79C (EP&A Act)</u> – Unsatisfactory.
		6.	<u>Section 94 Contribution</u> – Currently \$2,304,145.47

SUBMISSIONS

REASON FOR REFERRAL TO JRPP

1. Exhibition:	Yes, 14 days.	1.	CIV exceeding \$20 Million
2. Notice Adj Owners:	Yes, 14 days.		
3. Number Advised:	29		
4. Submissions Received:	First Notification: 34 submissions and a petition signed by an additional 30 persons. Second Notification: Nine		

HISTORY

25/03/2014 Development Application 587/2014/ZE approved by the Development Assessment Unit for an integrated housing development comprising 12 dwellings and associated Torrens Title subdivision of the dwellings and a facilitating subdivision to create Lots 101 – 103. The proposed integrated housing development was proposed on Lot 102.

10/12/2015 Subject Development Application lodged.

- 14/12/2015** Email sent to the applicant requesting owner's consent from Fabcot Pty Ltd (owner of Lot 103) given that Lot 103 is used to gain vehicle access to the site.
- 19/02/2016** Letter sent to the applicant raising concern that the proposal is an overdevelopment of the site given the number of variations proposed to the DCP requirements, especially in regard to height and density and advising that the proposal in its current form is unlikely to be supported.
- The letter also requested the submission of owner's consent, reduction in height of the proposal in order to comply with the 16m LEP height limit, DCP compliance, relationship, context and interface to adjoining land, drainage and engineering matters, waste management, acoustic impact, landscaping and street/unit numbering.
- 24/02/2016** Conciliation Conference held.
- 03/03/2016** Meeting held with the applicant and Council staff to discuss the issues raised at the Conciliation Conference and the matters raised in the letter to the applicant dated 19 February 2016. The applicant was advised that the proposal is required to be amended to comply with height and density controls.
- 08/04/2016** Meeting held with the applicant and Council staff to discuss the proposal. The applicant tabled three options for discussion. These options were reviewed by Council staff.
- 14/04/2016** Email sent to the applicant regarding the three options. The applicant was advised that the proposal was required to be amended to comply with the DCP density requirement, LEP height limit, DCP height limit and DCP unit mix requirement. On the basis of compliance with these matters, the applicant was advised that consideration could be given to a reduced rear setback (adjoining the B2 Local Centre zoned land) and unit sizes which are compliant with the ADG.
- 29/06/2016** Additional information submitted in response to the request for additional/revised information dated 19 February 2016. This included the reduction in units from 87 to 86 units.
- 12/07/2017** Amended/revised information notified to adjoining property owners and those who made a submission to the original information.

PROPOSAL

The proposal is for the demolition of the existing dwelling and structures and the construction of a residential flat building development containing 86 apartments. The development comprises three x five storey buildings containing 21 x 1 bedroom units, 58 x 2 bedroom units and 7 x 3 bedroom units.

The site is a corner lot and has frontage to Hector Court, Affleck Circuit and the future extension of Severn Vale Drive. Two/three levels of basement parking are provided which contain parking for 186 vehicles, comprising 151 resident spaces and 35 visitor spaces. The vehicle access to the site is from a future extension of Severn Vale Drive which will be a public road. Should approval have been recommended, the extension of Severn Vale Drive would have been required to be constructed as part of the consent.

The proposed external materials include face brick and rendered walls.

CONCILIATION CONFERENCE

During the first notification period 34 submissions and a petition signed by an additional 30 persons were received. As a result, a Conciliation Conference was held on 24 February 2014.

The following outcomes were achieved:

- a. Council staff will consider the issues raised during the Conference and this will help inform their assessment.

Comment: All issues raised within the written submissions and raised at the Conciliation Conference have been considered as part of the assessment of the Development Application.

- b. Council staff will require further information from the applicant and request that they address concerns raised at the meeting regarding how the proposal relates to surrounding development.

Comment: Following the Conciliation Conference, a meeting was held with the applicant to discuss the issues raised at the Conciliation Conference and matters raised in Council's letter to the applicant dated 19 February 2016.

- c. Council's Traffic team will be requested to review:

- Need for the closure of Hector Court and the opening of the Severn Vale Drive extension.

Comment: The closure of Hector Court and the signalisation of the intersection of Severn Vale Drive and Memorial Avenue has been identified within the DCP as required local road upgrade works in order to improve traffic safety and improve traffic function and a clear road hierarchy. The closure of Hector Court is dependent on the development of adjoining parcels to the north of the subject site and the upgrade of Memorial Avenue by RMS.

- Changes in traffic flow around the area.

Comment: The revised road hierarchy and associated closures and road openings will result in changes to traffic flow in the area. It is acknowledged that this will alter the existing traffic arrangements on some roads, however these changes have been identified within the DCP and will lead to improved traffic safety and flow.

- Traffic improvements/upgrades in the area.

Comment: The Balmoral Road Release Area DCP identifies where traffic improvements are to be implemented. In broad terms the key changes within the immediate area are:

- The closure of Hector Court;
 - Construction of an extension of Severn Vale Drive to Memorial Avenue and the signalisation of the intersection.
 - Upgrade of Memorial Avenue (work to be undertaken by RMS) to four lanes.
 - Closure of Fairway Drive (at the future extension of Stone Mason Drive) to prohibit access to Windsor Road; and
 - The construction of new local roads as part of on-going subdivision of the area.
- Increase in traffic in the area due to the new railway stations.

Comment: The Sydney Metro North West rail link includes three stations in close proximity to the site, being Norwest Station, Bella Vista Station and Kellyville Station. The closest station to the site will be Norwest Station which is approximately 2.4 kilometres

from the site. The traffic generated by the railway station precincts has been considered in the traffic report commissioned by Transport for NSW as part of the overall structure plans. The opening of the rail link will change traffic flow in the area and will reduce commuter road trips. Kellyville and Bella Vista Stations will attract commuters as they will have parking stations which will likely generate additional traffic on Memorial Avenue hence the need for the four lane upgrade works.

- Consideration of future sporting complexes and shopping centres.

Comment: The location of future recreation and retail space has been considered as part of the planning process associated with the preparation of the DCP. As part of this review, traffic impacts have been considered which in part has contributed to the need for local road improvements such as traffic lights at Severn Vale Road/Memorial Road intersection and the Wrights Road/Windsor Road intersection.

- Confirmation of bus routes in the area.

Comment: Hillsbus will determine the bus routes in the area to satisfy their contractual obligations to Transport for NSW. Route services will operate on Fairway Drive, Severn Vale Drive and Free Settlers Drive, and T-Way services will operate along Memorial Road.

- Accident history on Memorial Avenue.

Comment: A number of accidents have occurred on Memorial Road in the past, generally at intersections. The road upgrade works and signalised intersections will assist in reducing accidents and will improve road safety.

- Relocation of the rail stations in the area.

Comment: The location of railway stations has been determined by the State Government.

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 \$23,308,020 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

2. Compliance with LEP 2012

a. Background to the Zoning

The zoning of the area known as the Balmoral Road Release Area was originally zoned as Rural 1(a) under LEP 1991. In 2003 and 2004 Council considered the rezoning of the Balmoral Road Release Area and in September 2004 Council resolved to prepare a draft Local Environmental Plan (LEP) and Development Control Plan (DCP). The draft LEP proposed that the subject site be zoned Residential 2(a1) which allowed apartment buildings. Amendment No. 5 of LEP 2005 came into force in April 2006 and the site was rezoned to Residential 2(a1).

In March 2006 the NSW Government directed all Councils within the State to prepare a new LEP based on a standard template. This included a translation of zones from the old naming system to the new naming system. The zoning of the site then became R4 High Density Residential under LEP 2012. Apartment buildings continued to be a permissible use in the R4 High Density Residential.

b. Permissibility

The site is zoned R4 High Density Residential under LEP 2012. The proposal is defined as a residential flat building development as follows:

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

A residential flat building is a permissible use within the R4 High Density Residential zone.

c. Zone Objectives

The objectives of the R4 High Density Residential zone 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.*

Comment:

It is considered that the proposed development is not necessarily inconsistent with the zone objectives however concern is raised that the proposal does not meet the intent of the R4 High Density Residential zone given the density proposed.

d. LEP Standards

The LEP limits height on this site to 16 metres. The original proposal sought to exceed the LEP height standard to a maximum height of 17 metres to the top of the lifts. The proposal has since been amended and the following heights apply:

Building	Maximum Height to Roof	Maximum Height to Top of Lifts
Building 1	13.2 – 16m	13.8 – 16.4m
Building 2	15.4 – 16m	16.3m
Building 3	15.8 – 16m	15.9 – 16.2m

The applicant has advised as follows:

The plans have been amended to ensure the buildings are fully compliant with the maximum height permitted of 16 metres under The Hills LEP 2012.

The submitted Clause 4.6 is therefore withdrawn.

The footprint of the units on the upper level has been reduced and one unit on the upper level of building 1 has been removed. As amended the height to the roof of all buildings is compliant with the maximum height permitted under the LEP. The lift overrun to each Building results in a minor variation of between 200 to 400mm above the height control.

However, as discussed in detail in the submitted SEE, the lifts are designed as architectural roof features that are a key component of the design of the building. The lift overruns are a continuation of the external façade and result in a linear vertical element that rises up the building. The lift overruns are an extension from the ground level to the top of the building and provide a striking vertical expression on the facades. The lift overruns are finished in rendered masonry that assists in the forms breaking the length of the buildings.

As amended the proposed buildings are fully compliant with the maximum building height permitted.

It is noted that the DCP also limits the height to four storeys. The proposal has a height of five storey.

Comment:

LEP 2012 limits the height for the site to 16 metres. The proposed height is a maximum 16.4 metres to the top of the lift. This represents a maximum 2.5% variation to the LEP standard. Attachment 6 shows the LEP height limit in relation to the buildings.

The objectives of 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.*

The objectives of Clause 4.6 of LEP 2012 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The objectives of the R4 High Density Residential zone 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.*

Clause 5.6 of LEP 2012 states:

5.6 Architectural roof features

(1) The objectives of this clause are as follows:

- (a) to allow architectural roof features that will integrate with building composition and form and encourage a high quality built form.*
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:*
 - (a) the architectural roof feature:*
 - (i) comprises a decorative element on the uppermost portion of a building, and*
 - (ii) is not an advertising structure, and*
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and*
 - (iv) will cause minimal overshadowing, and*
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

The proposed variation to the building height is not considered to be an architectural design feature and as such a Clause 4.6 variation is required. The proposal is considered to be unsatisfactory and cannot be determined in a positive manner given the non-provision of the Clause 4.6 variation request.

The proposed lift over-runs are a clear feature of the roof line. The lift over-runs do not add to the architectural design of the roof and do not result in a high quality built form. As such the proposal is considered to be unsatisfactory in regard to the objective of the clause.

In regard to height, it is also noted that the DCP limits apartment development to four storey in nature. The proposed additional storey has added to the bulk and scale of the development. In addition, the density of the proposal adds to the scale of the development and has resulted in an over-development of the site.

The proposal is considered unsatisfactory in regard to the objectives of Clause 4.3 of LEP 2012 as the height of the buildings is not compatible with the adjoining development or the streetscape. In this regard the land to the south and west has been developed for two storey residential dwellings which reflect the low density nature of the area.

Whilst it is acknowledged that the site is zoned R4 High Density Residential and the proposed use is permissible, the proposed height does not adequately consider the adjoining low density single residential development to the west and south which generally comprises two storey detached dwellings. The proposed five storey design is out of character with the existing surrounding development and does not adequately address the interface.

On the basis of the height above the LEP limit, the non-provision of a Clause 4.6 variation and the proposed number of storeys, the development is considered unsatisfactory.

3. SEPP 55 – Remediation of Land

Clause 7 (Contamination and remediation to be considered in determining development application) of SEPP 55 – Remediation of Land states:

- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The applicant has submitted a Preliminary Site Investigation report by Trace Environmental which has concluded that:

Based on the results of the PSI, there is considered to be a low potential for contamination to be present at the site as a result of the current and historic land uses of the property, and the site is therefore considered suitable for the proposed medium density residential redevelopment. In view of this, a Detailed Site Investigation (DSI) is not considered necessary prior to the proposed residential redevelopment of the site.

In the event that soil is excavated and requires off-site disposal during redevelopment, the soil should be tested and classified in accordance with NSW EPA guidelines prior to off-site disposal. Any imported material brought onto the site, to achieve construction levels or for landscaping purposes, must be validated as being suitable for the proposed medium density residential land use.

As such not objection is raised to the proposal on the basis of site contamination.

4. Compliance with DCP Part B Section 5 – Residential Flat Buildings

The following table details the proposal's compliance with the DCP:

DEVELOPMENT STANDARD (CLAUSE NO.)	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
1.1 Permissible Zones	R1 General Residential, R4 High Density Residential, B2 Local Centre, B4 Mixed Use	The subject site is zoned R4 High Density Residential and the proposal is a permissible use.	Yes
3.1 Site Requirements	The minimum lot size for residential flat buildings is specified in Clause 4.1A of The Hills Local Environmental Plan 2012, as follows: Within: R1 General Residential – 4,000m² R4 High Density Residential – 4,000m² B2 Local Centre – 4,000m² B4 Mixed use – 4,000m² Min. road frontage – 30m A residential flat building shall not	5829m² (Lots 101 and 102 only – this area does not include the temporary access over Lot 103). The site has a frontage of 50.53m to Hector Court and 207.61m to Affleck	Yes

	isolate adjoining lots so that they are incapable of multi dwelling housing development, meaning there will be sufficient area to meet the minimum site area requirement in Clause 4.1A Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings of the LEP 2012.	Circuit. The proposal does not isolate any adjoining sites.	
3.3 Setbacks – Building Zones	Where trees are located within the 10 front setback, 8m rear setback and 6m side setback, the building zone boundaries will be set so that all buildings are 5m from the trees or clear of the drip line of the trees whichever is the greater distance. Front (one street frontage) - 10m Front (two street frontages): Primary frontage – 10m Secondary frontage – 6m Side – 6m Rear – 8m	There are no significant trees that are worthy of retention. Affleck Circuit is considered to be the primary frontage as it is the longest frontage. The site has three street frontages, including the frontage to Severn Vale Road (not yet constructed). Hector Court – 6m setback required – variations proposed to the courtyards into the setback. Affleck Circuit – 10m setback required – encroachments are proposed including to the fire stairs, entry area and courtyards into the setback. Severn Vale Road – 6m setback required – variations proposed to the courtyards into the setback. Rear setback (to northern boundary – 8m required - variations proposed to the balconies into the setback.	No – see comments below.
3.4 Building Heights	Refer to building height maps of The Hills Local Environmental Plan 2012. No buildings shall contain more than 4 storeys above natural ground level.	See comments above in regard to LEP height. The proposed buildings are five storeys in height.	No – see comments below.
3.5 Building Separation and Treatment	12m	Minimum 12m separation.	Yes

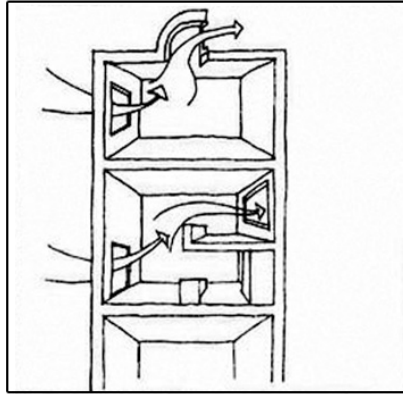
3.6 Landscaped Area	50% of site area	The site is 5829m ² and 50% of the site is 2914.5m ² . There is 3712m ² of landscape works proposed which is 64%.	Yes
3.7 Building Length	Max. 50m	The following buildings lengths are proposed: Building 1 – 50m Building 2 – 41.5m Building 3 – 50m	Yes
3.8 Building Design and Streetscape	Must refer to Council's "Multi-Unit Housing: Urban Design Guidelines 2002" Designs must be in harmony in terms of form, mass, colour and structure with existing and likely future development in the street. Siting and design to ensure clear definition of street edge and reinforce street corners. Building lines together with landscaping treatments should distinguish the public and private realms. Must not be repetitive in design and incorporate harmonious design variations such as verandas, entrances, facades, etc. <u>Walls and Rooflines:</u> - Articulation provided to reduce bulk - With variety of colours to reduce monotony and add enhance the streetscape - With windows to enhance façade appearance - Well balanced vertical and horizontal proportions - Break up large horizontal facades (whether walls or roofs) into smaller sections no longer than 10m - Use of well-proportioned and balanced projections and recesses on facades. - Provision of architectural features in the façade such as entry porches, pergolas, etc. <u>Garages:</u> - Comprise more than one material and colour to enhance visual attractiveness and interest. - Concealed or screened by planting from the street and public view, as much as possible. <u>Entrances:</u> - Clearly visible from the public and semi-public areas. Lighting to be	The proposal is considered to be unsatisfactory in regard to its design and character. The proposed five storey development does not respond to the existing low density character of the area and is not in keeping with the desired scale and mass of development. The proposal does not reflect the existing scale of development in the area and does not respond to the interface between the two forms of development.	No

	provided for safety at night. - Entries to be readily apparent from the street and clearly visible from inside the dwelling for casual surveillance. - Space around building entrance to be sufficiently large to stand out and have a distinctive architectural form. - Entries to be distinctive, attractive and welcoming. - Provide sheltered transitional areas around building entries. - All ground floor dwellings to have their own entry at ground level. - Building entries to be visible from, or address the site front boundary, and clearly delineated and observable from the driveway. <u>Views and Siting:</u> - Siting of building to take advantage of any views to nearby/adjoining landscaped open space or any public reserve. - Siting and design to take advantage of any views to open space, public reserves and bushland to promote natural surveillance and enhance visual amenity for residents. - Avoid blank courtyard walls along boundaries shared with open space or reserves. - Provide opportunities to create and orient dwellings to permit direct views from living areas into the open space/reserve. - Avoid courtyards facing a street or public place. If cannot be avoided due to design constraints, design to comply with Section 3.27 Fencing giving consideration to streetscape and visual impact issues.		
3.9 Urban Design Guidelines	Demonstrate conformity with "Baulkham Hills Multi Unit Housing – Urban Design Guidelines 2002"	The proposal is considered to be unsatisfactory in regard to its design and character. The proposed five storey development does not respond to the existing low density character of the area and is not in keeping with the desired scale and mass of development. The proposal does not reflect the existing scale of development in the area and does not respond to the interface between	No

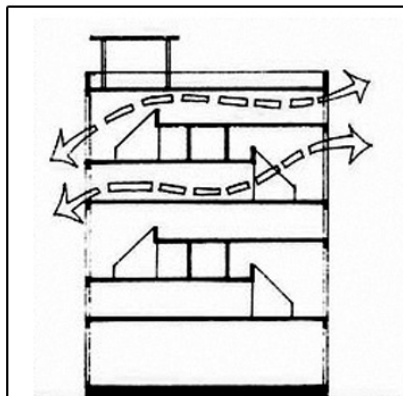
		the two forms of development.																											
3.10 Density	150-175 persons per hectare	The proposed density is 288.21ppha.	No – see comments below.																										
3.11 Unit Layout and Design	Apartment Mix (a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments. (b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms. Residential Flat Development (30 or more units) (d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following: <table><tr><th>Apartment Size Category</th><th>Apartment Size</th></tr><tr><td colspan="2">Type 1</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 or more bedrooms</td><td>95m²</td></tr><tr><td colspan="2">Type 2</td></tr><tr><td>1 bedroom</td><td>65m²</td></tr><tr><td>2 bedroom</td><td>90m²</td></tr><tr><td>3 or more bedrooms</td><td>120m²</td></tr><tr><td colspan="2">Type 3</td></tr><tr><td>1 bedroom</td><td>75m²</td></tr><tr><td>2 bedroom</td><td>110m²</td></tr><tr><td>3 or more bedrooms</td><td>135m²</td></tr></table> Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments. Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments. All remaining apartments are to comply with the Type 3 apartment sizes.	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	The proposal does not meet the unit size, mix and type requirements. There are 24.4% one bedroom units and 8.1% three bedroom units. Proposed Unit Sizes are: 1 bedroom Type 1 – 50-56m² 2 bedroom Type 1 – 75-86m² 3 bedroom Type 1 – 95-107m² All units proposed are Type 1 units.	No – see comments below.
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																												
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3 or more bedrooms	120m ²																												
Type 3																													
1 bedroom	75m ²																												
2 bedroom	110m ²																												
3 or more bedrooms	135m ²																												
3.12 Building Materials	Must comply with the Local Government Act, 1993, Local Government regulations and Building Code of Australia Reflect and complement the existing character and streetscape. Choice of materials to consider both their environmental and economic	The proposed building materials are satisfactory and are appropriate for the form of development.	Yes																										

	costs. Use graffiti resistant materials in areas accessible by the general public and communal areas within the development. Use colours that are visually pleasing and reflect the predominant colours in the area. Avoid materials and colours with excessive glare. Avoid materials that are likely to contribute to poor internal air quality. Select materials that will minimise the long-term environmental impact over the whole life of the development. Preference to materials derived from renewable sources or are sustainable and generate lower environmental cost, recycled material/s with low embodied energy, better lifecycle costs and durability.		
3.13 Open Space	Private: Ground level – 4m x 3m (min) Above ground – min. 10m² with min. depth 2.5m Common: 20m² per dwelling	All of the ground floor units exceed 12m² and have appropriate dimensions. Variations are proposed to: Block 1 – 108, 208 and 308 (all 9m²). Block 2 – 111, 211 and 311 (all 8m²). Block 3 – 115, 215 and 315 (all 8m²). Based on 86 units, a common open space area of 1720m² is required. An area of 1750m² is provided.	No – see comments below.
3.14 Solar Access	Adjoining buildings / open space areas – 4 hours between 9am and 3pm on 21 June Common open space – 4 hours between 9am and 3pm on 21 June	Adequate solar access is provided to the common open space area.	Yes

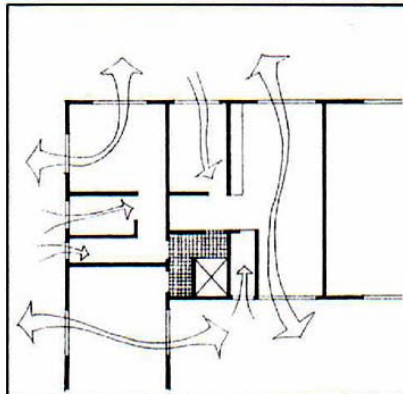
3.15 Ventilation



Cross ventilation can be achieved through roof vents and air shafts. Apartments with mezzanines and two storey apartments assist in air movement.



Good cross ventilation can be achieved with double orientation apartments, having split levels and corridors on alternative floors



Cross ventilation is best achieved through narrow floor plans

- Consider prevailing breezes in relation to building orientation, window design and internal circulation.
- Place windows to allow for cross ventilation i.e. on opposite sides of the building rather than adjacent walls where possible. These windows are to be lockable in a partly open position.
- Promote air circulation and consider the installation of fans, roof vents, louvered windows and high-level windows to aid air circulation.

Adequate ventilation is provided to all units in accordance with SEPP 65 and the Apartment Design Guidelines.

Yes

	- Provide security screen doors at unit entries. - Minimise air gaps by incorporating door and window seals.		
3.16 Lighting	- Lighting to be in accordance with the Building Code of Australia. - Adequate lighting to ensure the security and safety of residents and visitors. - Maximise the use of natural lighting through window placement and skylights. - In common areas lights are to be time switched and energy efficient fitting should be used. - Motion detectors are to be used for unit entries, lobbies and outdoor security. - Incorporate dimmers, motion detectors, and automatic turn-off switches where appropriate. - Provide separate switches for special purpose lights.	The proposal can comply with the BCA.	Yes
3.17 Stormwater Management	- Drainage easements required where the development property does not drain directly into the existing stormwater drainage system or a public road. Development Consent will not be issued until the submission of documents demonstrating the creation of any necessary easements over downstream properties. - Discharge points are to be controlled and treated to prevent soil erosion, and may require energy dissipating devices on steeper topography, to Council's requirements. - Where necessary, downstream amplification of existing drainage facilities will be required including Council infrastructure if required. - Developments within the Upper Parramatta River Catchment must comply with any requirements of the Sydney Catchment Management Authority. - On-site detention, water recycling, or water quality management systems may be required to Council's and/or the Sydney Catchment Management Authority and/or the Hawkesbury Catchment requirements, to counteract an increase in stormwater runoff. - Design of drainage systems to be in accordance with Council's Design Guidelines for Subdivisions/ Developments. - Water Sensitive Urban Design (WSUD) principles to be employed in	Council's Engineers have raised concerns with the proposal.	No – see comments below.

	the management of the site's stormwater in terms of water retention, reuse and cleansing. In this regard, the drainage design is to include measures to manage the water quality of stormwater runoff. At a minimum the design is to integrate bio-retention filters along roadways, driveways and within open space areas; - On site detention tanks are only permitted in common areas within a proposed development (for example driveways, common open space) and not within private courtyards.		
3.18 Vehicular Access	- Access to the site to be in accordance with the requirements of The Hills DCP Part C Section 1 – Parking. - Provision of adequate vehicular entry and exit and circulation areas. The design must: - provide a safe environment for both pedestrians and vehicles using the site and surrounding road networks; - ensure vehicular ingress and egress to the site is in a forward direction at all times; - provide for service vehicles where possible; and - be designed to minimise the visual impact of hard paved areas. - A centrally located driveway, a minimum of 10 metres from any side boundary or street. - Minimum driveway width of 6 metres at the property boundary for a distance of 6 metres within the development to ensure easy entry/exit of vehicles. - Driveway gradients to be in accordance with Australian Standard – AS 2890.1 – 1993 – Part 1 – Parking Facilities – Off Street Car Parking.	Council's Engineers have raised concerns with the proposal. The proposed driveway access is not centrally located and has a setback from the northern boundary of approximately 350mm.	No – see comments below.
3.19 Car parking	<u>Rate per unit & visitor parking:</u> 1 space per 1 bedroom unit 2 spaces per 2 or 3 bedroom unit Visitor – 2 spaces per 5 dwellings <u>Parking Dimension:</u> - Lockable single garages min. dimension – 5.5 metres x 3 metres (exclusive of storage) - Lockable double garages min. dimension – 5.5 metres x 5.4 metres (exclusive of storage) - Visitor parking dimensions – 5.5 metres x 2.6 metres <u>Manoeuvring and Ramps:</u> - First 6 metres of the driveway inside the property boundary to be a maximum of 5%	Based on: 21 x 1 bedroom @ 1 space = 21 67 x 2/3 bedroom @ 2 spaces = 130 spaces 151 resident spaces required. Based on 86 units, 35 (34.4) visitor spaces are required. Total: 186 spaces required. There are 186	Yes

	- Ramp grades to comply with Australian Standard 2890.1 - Manoeuvring in accordance with Australian Standard 2890.1	spaces provided which comprise 151 residential spaces and 35 visitor spaces. This includes 5 accessible resident spaces and 1 accessible visitor space. The carparking layout will be required to comply with the Australian Standards. There are no stacked spaces proposed. One carwash bay is also provided within a visitor parking space, and four motorcycle spaces are provided.	
3.20 Storage	10m ³ within a lockable garage with an area 5m ² and dimension 2 metres	The majority of units do not provide 10m ³ , and the area is split between internal and garage storage.	No – see comments below.
3.21 Access and Adaptability	Lift provided if greater than 2 storeys Accessible housing: 5% in a development >20 units	Lifts have been provided in all buildings. Five units (5.7%) are accessible.	Yes
3.22 Pedestrian/Bicycle Links	<u>Within the Site</u> - Access to dwellings should be direct and without unnecessary barriers. No steps between the street frontage and the principal building entrances. - Provide clearly defined pedestrian pathways between proposed development and proposed footpaths along sub-arterial roads. - Adequate lighting in common and access areas. - All pathways and ramps to conform to the minimum dimensional requirements set out in AS1428 Part 1-1998 Design for Access and Mobility and AS1428 Part 2-1992 and Council's Policy "Making Access for All" (2002). - All surfaces to be stable, even and constructed of slip resistant materials. Any stair nosings should have a distinctive colour and texture. - Building and unit numbering and all signage is to be clear and easy to understand. International Symbols of	There is appropriate access to the site for pedestrian and bicycle access. All works would comply with the BCA.	Yes

	Access should be displayed where buildings, crossings, amenities, car parking, pathways and ramps are accessible, as detailed in The Hills Shire Council policy entitled "Making Access For All" (2002). - Pathway locations must ensure natural surveillance of the pathway from primary living areas of adjoining units. Dwelling entries must not be hidden from view and must be easily accessible. - A bicycle lockup facility to be provided close to the main entry to the building. <u>Local Pedestrian Links</u> - Where possible, a pedestrian link through the site must be provided as part of the development to increase the connectivity of the area for local pedestrians. The following factors should be considered when identifying the most appropriate location for the link of the pathway: - The link must be no less than 3m wide; - Should be a straight-line link through the site linking streets or other public spaces; and - Cannot include stairs and any ramps. Must have a reasonable gradient - refer to AS 1428.1 - 1988 Design for Access and -) The design and layout of any building adjoining and landscaped spaces adjoining the pathway should ensure there is natural surveillance of the pathway to protect the amenity of users. A solid fence along the boundary of the pathway restricting views of the pathway from adjoining properties <u>not acceptable</u>. - The pedestrian link must be dedicated to Council as a public footway and the footpath, and lighting must be provided at no cost to Council.		
3.23 Privacy – Visual and Acoustic	- Minimise direct overlooking of main internal living areas and private open space of dwellings both within and adjoining the development through building design, window locations and sizes, landscaping and screening devices (refer to section 3.13 Open Space). - Consider the location of potential noise sources within the development such as common open space, service areas, driveways, and road frontage, and provide appropriate measures to protect acoustic privacy such as careful location of noise-sensitive rooms (bedrooms, main living areas) and	The proposal has adequately addressed privacy and overlooking between units within the development. The site is separated from existing residential development located across Affleck Circuit and Hector Court.	Yes

	double glazed windows. - Dwellings adjoining arterial roads to be designed to acceptable internal noise levels, based on AS 3671 – Road Traffic Noise Intrusion Guidelines.		
3.24 Services	- Development consent not to be granted until satisfactory arrangements are made with relevant authorities for the provision of services. - Pump out sewage management systems <u>not acceptable</u> for apartment building developments. - Site services and facilities (such as letterboxes, clothes drying facilities and garbage facility compounds shall be designed so as: - To provide safe and convenient access by residents and the service authority; and - Visually integrated with the development and have regard to the amenity of adjoining development and streetscape. - All electricity and telephone services on site must be underground. - Laundries shall be provided to each dwelling.	All services are available to the site.	Yes
3.25 Waste Management – Storage and Facilities	- Waste collection and separation facilities to be provided for each dwelling. Each dwelling should have a waste storage cupboard in the kitchen capable of holding at least a single days waste, and sufficient to enable separation of recyclable material. - Adequate storage for waste materials must be provided on site and any such waste must be removed at regular intervals and not less frequently than once per week for garbage and fortnightly for recycling. - Screen views of waste and storage facility from any adjoining property or public place while ensuring there is some natural surveillance from within the development to minimise vandalism and other anti-social activity. - Waste storage areas to be kept clean, tidy and free from offensive odours at all times.	Access to the site for waste vehicles has not been adequately addressed.	No – see comments below.
3.26 Waste Management Planning	Submission of a Waste Management Plan – demolition, construction and on-going use.	Access to the site for waste vehicles has not been adequately addressed.	No – see comments below.
3.27 Fencing	- Fencing materials chosen must protect the acoustic amenity and privacy of courtyards. Courtyard fences shall be constructed of masonry.	The proposal provides adequate fencing details.	Yes

	- Boundary fencing/ walls fronting a street shall be setback a minimum of 2 metres, to permit landscaping, and shall include recesses and other architectural features. - Fencing or walls shall be combined and integrated with site landscaping. - The following fencing or finishes are not acceptable because of its poor visual appearance: - Pre-painted solid, metal fencing; or - Rendered finishes where the entire fence is fully rendered.		
3.28 Developer Contributions	In accordance with the current Section 94 rate – to be conditioned.	A condition would address this matter.	Yes

a. Density

The DCP limits density to 150-175 persons per hectare. The proposed density is 288.21 persons per hectare. This represents a 65% variation to the top of the density band.

The objectives of the DCP standard are:

- (i) *To ensure residential flat building development does not over-tax existing services and facilities.*
- (ii) *To provide opportunities for a suitable density housing form that is compatible with the existing surrounding development.*

The applicant has submitted the following as justification for the proposed variation:

As amended the development results in a reduction in the proposed density. The proposed development seeks to accommodate an additional 66 (reduction from 71) persons above the density rate identified in the DCP.

However as addressed in detail in the submitted Statement of Effects, with the introduction of the amendments to SEPP 65 the density control in the DCP is no longer a valid control. The assessment in the SEE confirmed that there is a disparity between the density control that was based on a specific size of unit and the unit sizes prescribed by the ADG endorsed by SEPP 65.

As a result, the density control in the DCP is no longer a valid planning control to control the density of development.

The original SEE submitted by the applicant commented as follows (note the original variation request was not updated to reflect the revised unit numbers and density):

The Hills DCP includes a density control to limit development of land in the LGA to a certain number of dwellings. The density control is based on a persons per hectare rate.

Section 3.10 of The Hills DCP 2012 Part B Section 5 – Residential Flat Buildings, outlines the maximum density control applicable to residential flat building developments.

The maximum population density permitted is 175 persons per hectare with a desirable range between 150-175 persons per hectare. The density is based upon the following occupancy rates:

Dwelling Type	Occupancy Rate (Persons)
Existing dwelling	3.5
1 bedroom unit	1.3
2 bedroom unit	2.1
3 bedroom unit	2.7
4 bedroom unit	3.5

Based on a site area of 5829m² being an area equivalent to 0.5829 hectares a maximum density of 102 persons would be permitted on the subject site, based on the current density rates.

The proposed unit mix and the number of persons likely to be accommodated on site is calculated below:

1 bed x 20 x 1.3 = 26

2 bed x 57 x 2.1 = 119.7

3 bed x 10 x 2.7 = 27

Total = 172.7 persons to be potentially accommodate across the subject site area of 5829m².

The proposed development seeks to accommodate an additional 70.7 persons above the density rate identified in the DCP.

As outlined above, the occupancy rate is based on a number of persons per unit type. Accordingly, the maximum density in the DCP is directly linked to the configuration of units and their unit size.

The introduction of the Apartment Design Guide and amendments to SEPP 65 overrides the apartment sizes in the DCP. Clause 30 of the SEPP provides standards that cannot be used as grounds to refuse development consent. Subclause (b) includes 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'. In addition, Clause 6A of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide in relation to a range of requirements, including 'apartment size'.

Accordingly, there is a disparity between the density control that was based on a specific size unit and the current unit sizes prescribed by the ADG. As a result, the density control in the DCP is no longer a valid planning control to control the density of development.

It is reasonable to expect a larger proportion of residential units across a development site when the overall minimum unit size has decreased, as it will result in excess floor space creating the opportunity for additional dwellings.

It is on this basis that the density control in the DCP as is currently formed is no longer a relevant control.

Furthermore, the density control in the DCP was originally based on larger unit sizes, prior to the current control under Section 5 of the DCP. The unit sizes required were as follows:

1 bedroom unit	75m ²
2 bedroom unit	110m ²
3 bedroom unit	135m ²

When the Hills DCP was amended to include a range of unit sizes as identified below, the density control was not subsequently amended to reflect this significant change:

Apartment Size Category	Apartment Size
Type 1	
1 bedroom	70m ²
2 bedroom	70m ²
3 or more bedrooms	95m ²
Type 2	
1 bedroom	85m 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

As noted above, the ADG overrides the DCP controls and accordingly negates the effectiveness of the density control. It is contrary to the state planning regime that seeks to reduce unit sizes and create more affordable housing options.

By a direct comparison, prior to the changes to the unit sizes in the DCP, the density and unit size controls envisaged approximately 2740m² of additional floor space being utilised on this site. This is calculated as the difference between the unit area requirements when the density control was incorporated in the DCP and the average proposed unit area under this DA. This again re-confirms the disparity between the controls.

The comparison between the density control and floor space is a valid comparison as the floor space reflects the anticipated built form on a development site. The density control although considered no longer relevant given the disparity in unit sizes and unit occupancy, is also about producing compatible housing and not over-taxing existing services. In this regard, consideration is given to the objectives of the control.

The objectives of the density control are outlined below:

- (i) To ensure residential flat building development does not over-tax existing services and facilities; and*
- (ii) (ii) To provide opportunities for a suitable density housing form that is compatible with the existing surrounding development.*

The proposed development will increase density and will satisfy the zone objectives and future character of the area. The development will be required to pay Section 94 Contributions to contribute to future facilities and services.

The site is located in close proximity to the future north-west railway line and within close proximity to open space. The development will not over-tax existing services and facilities, the DA demonstrates that appropriate stormwater water management and traffic generation will result from this development.

In addition, this report demonstrates that the proposed development will not unreasonably affect the lower density development to the south by way of overshadowing, bulk and scale (due to generous landscaped setbacks) and privacy.

The site is ideally positioned adjacent to the B2 zone, with the adjacent site likely to be developed in the future for a small village to service the neighbourhood. The proposed residential flat buildings will provide an appropriate transition towards the lower density zone and provide a buffer to the B2 zone.

It is therefore considered that the density control in this DCP is no longer a valid planning control. A DCP is a discretionary document and can be varied without a formal variation request. On the basis of the assessment provided above, it is considered that the proposed density is appropriate and consistent with the spirit of the DCP.

Comment:

When considering the appropriateness of the density which is being proposed, consideration should be afforded to the type of development envisaged at the time that the existing controls were established, and the broader change in the expectation of higher density development around town centres and transport nodes. Through this strategic planning policy, Council has generally maintained a planned approach to managing urban growth within the Shire, which makes use of existing infrastructure and extends the lifestyle opportunities of its residents. This approach focuses high density development in precincts that show capacity to accommodate further growth, with the result being increased population around town centres and major transport nodes.

The zoning of the area known as the Balmoral Road Release Area was originally zoned as Rural 1(a) under LEP 1991. In 2003 and 2004 Council considered the rezoning of the Balmoral Road Release Area and in September 2004 Council resolved to prepare a draft Local Environmental Plan (LEP) and Development Control Plan (DCP). The draft LEP proposed that the subject site be zoned Residential 2(a1) which allowed apartment buildings. Amendment No. 5 of LEP 2005 came into force in April 2006 and the site was rezoned to Residential 2(a1).

A key objective of this zone was to provide development for medium-density housing forms (including apartment buildings, town-houses, villas and the like) in locations close to the main activity centres of the local government area. This zone was a highly flexible zone which permitted most forms of residential development including apartment buildings, townhouses and dual occupancies.

The density range contained within the DCP is considered to be reflective of the zoning of the site as it anticipates and guides the desired future character of the area.

The proposal could easily be amended to reflect the density rate contained within the DCP. This would require a further review to be undertaken by the applicant of other key controls within the DCP which have been sought to be varied, most notably the unit mix and size requirements and height limits under both the LEP and DCP. An amended design which reduces the scale of the development and responds appropriately to the surrounding single residential development would also be more in keeping with the expectations of residents.

It is noted that the applicant considers that the DCP rates are not a valid planning consideration given the smaller unit areas contained within the ADG. In this regard, the ADG unit areas are a minimum area and larger unit sizes are permitted. In this respect, The Hills have always advocated larger unit sizes which are considered to better reflect the desires of existing and future residents.

According the proposed is considered and over development of the site and warrants refusal.

b. Assessment of Other Variations

As detailed in the table above, the applicant has also proposed variations to DCP requirements in relation to number of storeys, setbacks, building design and streetscape, urban design guidelines, unit layout and design (mix and size of units), private open space, setback to the driveway and storage.

- i. Number of storeys: the DCP limits the height of apartment buildings to four storeys above ground level, however the proposed development has a height of five storeys. The proposed height is unsatisfactory in regard to the interface to the existing two storey low density residential character of the area. The proposed height has not had adequate regard to the streetscape character, with the proposed height adding to the scale of the development.
- ii. Setbacks: the proposal includes encroachments into the setback of a fire stair, entry and courtyards. The setback variations are considered minor and in isolation could be supported, however when considered in conjunction with the other variations, particularly height, number of storeys and density, the cumulative impact of the variations result in an overdevelopment of the site.
- iii. Building design and streetscape and urban design guidelines: the proposal is considered to be unsatisfactory in regard to its design and character. The proposed five storey development does not respond to the existing low density character of the area and is not in keeping with the desired scale and mass of development. The proposal does not reflect the existing scale of development in the area and does not respond to the interface between the two forms of development.
- iv. Unit layout and design (mix and size of units): the DCP requires that a mix of unit sizes and types be provided in order to accommodate a range of housing types and to facilitate housing diversity. The design provides only Type 1 units which are the smallest unit type and does not provide a reasonable number of three bedroom units, with only 7 x 3 bedroom units provided (8.1%). The proposal does not provide a reasonable level of housing diversity for future residents.
- v. Private open space: the DCP requires that all above ground units be provided with a balcony with a minimum area of 10m², however a number of units are provided with a balcony of either 8m² or 9m². The balcony area variations are considered minor and in isolation could be supported, however when considered in conjunction with the other variations, particularly height, number of storeys and density, the cumulative impact of the variations result in an overdevelopment of the site.
- vi. Setback to the driveway: The DCP requires that the access driveway be centralised and have a 10m setback from any boundary. The proposed driveway has a setback of approximately 350mm. The driveway setback variation is considered minor and in isolation could be supported given the likely future development to the north.
- vii. Storage: the DCP requires 10m³ of storage within a lockable garage, however the majority of units do not provide 10m³ and the storage area is split between the internal and basement storage. The storage variation is considered minor and in isolation could be supported.

The variations identified cannot be supported given they primarily relate to the overdevelopment of the site and relate to the application of the density controls by the applicant. In this regard, compliance with the LEP and DCP height limit and density requirements would likely result in a proposal which was compliant with the DCP requirements. Whilst some variations could be considered on merit having regard to the built form outcome, the development in its current form is considered to be an over-

development of the site which does not have adequate regard to the low density nature of the area and the interface to the adjoining development.

c. Insufficient Information

In addition, the applicant has not submitted adequate information to allow a full assessment to be undertaken of stormwater management and vehicle access and waste management arrangements.

5. SEPP 65 and Apartment Design Guidelines

The proposal has been accompanied by a Design Verification Statement by a chartered architect which confirms that the proposal is satisfactory with regard to the provisions of SEPP 65.

The proposal has been assessed against the provisions of the Apartment Design Guidelines as outlined below:

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	The proposal provides 1462m ² of common open space which is 25.1% of the site. Adequate solar access is provided to the common open space.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	An area of 1938m ² or 33.2% of the site is deep spoil zone.
Separation	For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys.	The buildings are 5 storey in height. A 12m separation is provided between the buildings.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	The proposed design of the units provides appropriate privacy to adjoining development and between units for future residents.
Carparking	Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit.	The site is not within 800m of a railway station or light rail stop. The closest station to the site will be Norwest Station which is approximately 2.4 kilometres from the site.

	0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).	
Designing the Building		
Solar and daylight access	Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	All of the units meet the solar access requirements with balconies and living areas oriented north.
Natural ventilation	At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.	70% of the units achieve natural ventilation.
Ceiling heights	For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1.8m at the edge of the room with a 30° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.	All of the units have a habitable room ceiling height of 2.7m.
Apartment size	Apartments are required to have the following internal size: Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.	All of the units comply with the required floor area. Note: all of the 2 and 3 bedroom units have two bathrooms and therefore the unit size requirements are increased to 75m² and 95m² respectively.
Apartment layout	Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height. In open plan layouts the maximum habitable room depth is 8m from a window.	The proposed layouts are satisfactory. All rooms contain a window within 8m or less.
Balcony area	The primary balcony is to be: Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m For units at ground or podium levels, a	The units all have compliant balcony areas.

	private open space area of 15m ² with a minimum depth of 3m is required.	
Storage	Storage is to be provided as follows: Studio – 4m ³ 1 bedroom – 6m ³ 2 bedroom – 8m ³ 3+ bedrooms – 10m ³ At least 50% of the required storage is to be located within the apartment.	The units all have adequate storage areas.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	The proposal provides and adequate unit mix.

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

Concern is raised that the proposal fails to appropriately consider the following Principles of SEPP 65

Principle No. 1 – Context and Neighbourhood Character;
Principle No. 2 – Built Form and Scale;
Principle No. 3 – Density; and
Principle No. 6 – Amenity

Principle 1: Context and neighbourhood character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Principle 2: Built form and scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

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

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

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

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

Comment:

The proposal does not provide a development that responds to the desired future context and character of the locality. The development seeks to provide a built form that is considered excessive in respect to height and density. The proposal will result in poor amenity for residents being located within the site and for existing residents adjacent to the site.

The development in its current form is considered to be an over-development of the site which does not have adequate regard to the low density nature of the area and the interface to the adjoining development. In this regard the surrounding development generally comprises two storey attached and detached dwellings. The proposed development has a height of five storeys which is considered to be out of character with the existing built form of the area.

6. Issues Raised in Submissions

The proposal was advertised and notified to adjoining property owners and 34 submissions and a petition signed by an additional 30 persons was received. Upon receipt of amended plans and information, the proposal was re-notified to adjoining property owners and those who made a submission to the original plans and in response nine submissions were received. The following table outlines the issues raised in all submissions and at the Conciliation Conference.

ISSUE / OBJECTION	COMMENT	OUTCOME
Increase in traffic in local streets.	Council's Principal Co-ordinator Road and Transport has revised the proposal and advised that the proposal will generate in the order of 25 peak hours trips. The proposed traffic generation is relatively minor and acceptable.	Issue addressed.
Safety concerns due to increased traffic.	The proposed low traffic generation of the development will not result in decreased safety.	Issue addressed.
Adequacy of resident and visitor parking. The parking may comply with Council requirements, but residents believe it will still not be adequate. Due to socio-economic factors, most dwellings will have 2-3 cars.	The proposal provides 186 parking spaces within the basement parking areas which comprise 151 resident spaces and 35 visitor spaces. The proposal complies with Council's DCP parking requirement and additional parking provision beyond the DCP rates is at the developers discretion.	Issue addressed.
Street parking will occur as the entrances to the buildings are from Affleck Circuit.	The proposal complies with Council's DCP parking requirement. However it is acknowledged that some on-street parking may occur.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
Affleck Circuit will become a main traffic thoroughfare.	Council's Principal Co-ordinator Road and Transport has revised the proposal and advised that the proposal will generate in the order of 25 peak hours trips. The proposed traffic generation is minor. Given the location of the driveway on the extension of Severn Vale Drive, there is unlikely to be an unreasonable increase in traffic of Affleck Circuit.	Issue addressed.
Safety to pedestrians and drivers due to increased traffic	The proposed low traffic generation of the development will not result in decreased safety.	Issue addressed.
Increase in traffic due to the closure of Hector Court which will result in vehicles traveling along Affleck Circuit to access Severn Vale Drive.	It is acknowledged that there will be some changes to traffic flow due to local road closures and openings which will occur in the future, however these changes are not due to the current application.	Issue addressed.
Increase in traffic on local roads due to the shopping centre adjoining the site and the new sporting complex proposed on Balmoral Road.	It is acknowledged that there will be some changes to traffic flow due to the development of the adjoining site to the north for commercial purposes and the sporting complex on Balmoral Road. However the local road hierarchy which proposes enhanced collector roads at these locations has been planned and considered as part of the DCP local road upgrades.	Issue addressed.
Increase in noise, including noise from future residents and from increased traffic.	The proposed apartment development is unlikely to result in any unreasonable noise impacts.	Issue addressed.
Proposal is out of character with the predominantly single dwelling and townhouse nature of the area.	The proposed height and density are considered unsatisfactory and the development is out of character with the adjoining development – see Sections 2 and 4 above.	Recommended for refusal.
Impact on amenity and wellbeing. Impact on a quiet, family neighbourhood area. The proposal is out of character with the existing development in the area.	The proposed height and density are considered unsatisfactory and the development is out of character with the adjoining development – see Sections 2 and 4 above.	Recommended for refusal.
Height, including that the height is above the 16m limit.	The proposed height is considered unsatisfactory – see Sections 2 and 4 above.	Recommended for refusal.
The height will be above the adjoining shopping centre and the existing residential dwellings.	The proposed height is considered unsatisfactory – see Sections 2 and 4 above.	Recommended for refusal.
Loss of sunlight/overshadowing to residential dwellings on Affleck Circuit.	The proposal will impact on solar access to the front yards of properties opposite (on Affleck Circuit) at 9am, 10am and 3pm on June 21, however the impact is considered acceptable. See shadow diagrams at Attachment	Issue addressed.

ISSUE / OBJECTION	COMMENT	OUTCOME
	8.	
Size, bulk, scale and proportion of the buildings. The buildings are obtrusive.	The proposed height and density are considered unsatisfactory – see Sections 2 and 4 above.	Recommended for refusal.
Impact on views.	It is acknowledged that the views are currently to a residential property which is likely to be redeveloped given the zoning, therefore there is not an unreasonable impact on views.	Issue addressed.
Tall buildings are visually unattractive.	High buildings need not be visually unattractive but the five level presentation to low density housing provides an unsatisfactory interface relationship.	Issue addressed.
The area does not have access to public transport or facilities. There is a lack of public transport in the area.	As part of the upgrade works in the area new T-Way bus stops will be incorporated along Memorial Road. Route services on Fairway Drive, Severn Vale Drive and Free Settlers Drive will be provided and will be utilised by local bus services as demand is warranted.	Issue addressed
Road infrastructure in the area must be completed before further development is permitted.	The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalised intersections. The development of the site is not reliant on the local road upgrade works which are primarily funded through Section 94 contributions.	Issue addressed.
The existing road access to Memorial Avenue is dangerous.	The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalised intersections.	Issue addressed.
Residents believed that townhouses would be built on the site, not apartments, and that the site was zoned for medium density use.	The proposed development is a permissible use in the R4 High Density Residential zone.	Issue addressed.
Increase in density of the area.	The proposed density is considered unsatisfactory – see Section 4 above.	Recommended for refusal.
Covenants on the land limit development to low density housing only.	The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012.	Issue addressed.
The zoning of land has changed since 2009 when residents purchased property on Affleck Circuit. Residents were not advised of the change in zoning. Request	The site was rezoned in 2006 to Residential 2(a1) which allowed apartment buildings. The zoning was subsequently altered by LEP 2012 to R4 High Density Residential reflect the standard LEP template. Apartment	Issue addressed.

ISSUE / OBJECTION	COMMENT	OUTCOME
that the zoning be amended to R3 Medium Density Residential.	buildings continued to be a permissible use in the R4 High Density Residential.	
The proposal should be sited closer to the North West rail corridor which is better suited to high density development.	The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. The site is located adjoining a future commercial development and has a reasonable level of access to public transport.	Issue addressed.
The development is not within 500m of a railway station.	The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. The site has a reasonable level of access to public transport.	Issue addressed.
Increase in pollution.	The proposed apartment development is unlikely to result in any unreasonable pollution impacts.	Issue addressed.
Neighbour notification should have been extended to all residents in Hector Court, Grace Crescent, Willox Avenue and Severn Vale Drive.	The proposal was advertised and notified to residents in accordance with Council's notification requirements within the DCP.	Issue addressed.
Impact on property values and saleability.	There has been no evidence submitted that there will be a decrease in property values or sales. The loss of property values is not a planning consideration.	Issue addressed.
Small apartments will change the demographic of the area. The area is currently characterised by families.	The introduction of apartment development may change the demographic of the area however this is not considered to be an unreasonable impact.	Issue addressed.
Concerns with the number of higher density developments being built or planned around Balmoral Road, Memorial Drive, Windsor Road and Old Windsor Road.	The Balmoral Road area is one which is undergoing change from the previous rural land uses to a residential and commercial nature. The increased apartment development is consistent with the directives from the Department of Planning and Environment to increase this form of development in key locations.	Issue addressed.
The development is solely based on money making from the units proposed which will be sold at an inflated price.	It is acknowledged that the developer will seek to ensure a return on investment. This is not a planning matter for consideration.	Issue addressed.
A three storey apartment development would be fair. A townhouse development would be more appropriate.	The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. The site. The proposed height exceeds the LEP height standard and DCP number of storeys and is unsatisfactory.	Recommended for refusal.
Concern that the original Residential 2(a1) zoning was applied to the site with no	The rezoning of the Balmoral Road area was the subject of a number of reports to Council and exhibition of	Issue addressed.

ISSUE / OBJECTION	COMMENT	OUTCOME
consideration of impacts to future residents. No-one can explain the reasoning behind the zoning.	the plans to the public. It is assumed that the Residential 2(a1) zoning was applied to the site due to the relationship with the B2 Local Centre zone to the north.	
Concern that the interactive mapping shown on Council's website is misleading as zoning notations are shown on other properties that are not zoned for that purpose.	It was noted that the information contained on the interactive mapping comes from the Department of Planning and Environment and is designed for people to check the zoning of a particular property. Lines drawn from labels to particular properties are actually correct but difficult to see.	Issue addressed.
Residents were aware of the R3 Medium Density zoning in the Grace Crescent area and the approval in place on Lot 102 for integrated housing and were generally satisfied with that form of development. Residents believe integrated housing would be a better outcome for the development of the site.	The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. Other forms of residential development are also permissible within the zone.	Issue addressed.
At a briefing held by the Department of Planning regarding rail corridor development, a Department staff member advised that it was 'more likely that the site was zoned for medium density' use.	The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. Other forms of residential development are also permissible within the zone.	Issue addressed.
This site is the only site zoned for high density planned so far from the future station. The site is over 2 kilometres from the station. The proposal is contrary to a newspaper article which said that the Council wanted higher density housing closer to the future stations. The future rail station was previously located closer to the site and some residents believe this was why the site was zoned for higher density housing.	The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. Other forms of residential development are also permissible within the zone. It is assumed that the zoning comes about due to the relationship with the B2 Local Centre zone to the north.	Issue addressed.
Residents wish to challenge the R4 High Density Residential zoning.	The current zoning is in place. The Department of Planning and Environment are highly unlikely to 'down-zone' a property.	Issue addressed.
Conveyancers did not advise residents when they were purchasing land in the area	This is a private matter between the purchaser and conveyancer. It is noted however that conveyancing	Issue addressed.

ISSUE / OBJECTION	COMMENT	OUTCOME
that the site was R4 High Density Residential.	advice is usually limited to the site being purchased and does not address adjoining sites.	
The need for the closure of Hector Court and the opening/construction of a new access point through the extension of Severn Vale Drive.	The closure of Hector Court and the new access to Memorial Avenue is part of the local road improvements in place as part of Council's DCP requirements. The subdivision of land and existing and future development has been predicated on the DCP.	Issue addressed.
Need for signalisation of roads and traffic improvements within the area.	The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalised intersections.	Issue addressed.
Parking will occur on local streets as it is more convenient for residents and visitors.	It is likely that some people will park on the street if it is more convenient regardless of parking provision on the site. Notwithstanding this, the proposal complies with Council's DCP parking requirements.	Issue addressed.
Residents often use garages for storage purposes.	The proposal complies with Council's DCP parking requirements and storage areas have been provided for each unit. If approval was granted a condition could be imposed requiring parking to be available and not used for storage.	Issue addressed.
Children will not be able to play freely in front yards due to increased traffic.	The proposed apartment development will not limit children playing within a private front yard.	Issue addressed.
Has increased traffic from the new railway stations been included in the traffic report?	The traffic generated by the railway station precincts has been considered in the traffic report commissioned by Transport for NSW as part of the overall structure plans. The opening of the rail link will change traffic flow in the area and will reduce commuter road trips. Kellyville and Bella Vista Stations will attract commuters as they will have parking stations which will likely generate additional traffic on Memorial Avenue hence the need for the four lane upgrade works.	Issue addressed.
The closure of Fairway Drive at Windsor Road will result in increased traffic using Severn Vale Drive to access Memorial Avenue.	It is acknowledged that there will be some changes to traffic flow due to local road closures and openings which will occur in the future, however these changes are not due to the current application.	Issue addressed.
Parking provided outside of basements is more accessible and attractive for people to park in.	The provision of basement parking allows a more efficient use of the site. Basement parking is convenient and limits external hard paved areas.	Issue addressed.
Accident history on Memorial	A number of accidents have occurred	Issue addressed.

ISSUE / OBJECTION	COMMENT	OUTCOME
Avenue.	on Memorial Road in the past, generally at intersections. The road upgrade works and signalised intersections will assist in reducing accidents and will improve road safety.	
The proposal is contrary to the objectives of the DCP.	The proposal includes a number of variations to the DCP requirements – see Section 4 above.	Recommended for refusal.
The proposal is contrary to the R4 High Density Residential zone objectives.	It is considered that the proposed development is not necessarily inconsistent with the zone objectives however concern is raised that the proposal does not meet the intent of the R4 High Density Residential zone given the density proposed.	Recommended for refusal.
Interface with other low density development in the area.	The proposed five storey design is out of character with the existing surrounding development and does not adequately address the interface.	Recommended for refusal.
Impacts on privacy, especially due to the proposed height.	Given the proposed separation to existing residential dwellings, there is unlikely to be any unreasonable privacy impacts.	Issue addressed.
Future development of the B2 Local Centre land to the north by Woolworths.	To date, a Development Application has not been lodged for development of the B2 Local Centre land to the north.	Issue addressed.
Additional/Further Issues raised during the Second Notification Period		
Density of population. The reduction of one unit does not address the concerns raised. The proposal should be amended to comply.	The proposed density is considered unsatisfactory and the development is out of character with the adjoining development – see Section 4 above.	Recommended for refusal.
The revised proposal does not address the community concerns.	The proposed development is considered unsatisfactory and is not supported.	Recommended for refusal.
The lift shafts continue to breach the LEP height limit. The proposal should comply fully.	The proposed height is considered unsatisfactory and the development is out of character with the adjoining development – see Section 2 above.	Recommended for refusal.
The proposal is 5 storey, where the limit is four storey.	The proposed height is considered unsatisfactory and the development is out of character with the adjoining development – see Section 2 above.	Recommended for refusal.
A redesign to a layout with no one bedroom units and larger and more 'upmarket' units would be more fitting to the area.	The current unit mix and types do not comply with the DCP requirements. A redesign of the proposal to meet the DCP requirements would allow a more appropriate development.	Recommended for refusal.
The shopping centre has recently been re-zoned to B2. The initial zoning only anticipated a small strip centre, not a major centre. The arguments from the	The DCP refers to the site as a 'village centre' which has the objective to meet the weekly convenience shopping needs of residents, with a scale that is in keeping with surrounding residential character. To	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
developer regarding the zoning of this site in relation to the centre are now invalid.	date, a Development Application has not been lodged for development of the B2 Local Centre land to the north.	

TRAFFIC MANAGEMENT COMMENTS

i. Existing Traffic Environment

This application proposes to construct an 86 unit residential apartment development comprising 21 x 1, 58 x 2 and 7 x 3 bedroom apartments with 186 off street parking spaces at 2B Hector Court, Kellyville forming part of the Balmoral Road release area.

A traffic impact statement has been prepared by Thompson Stanbury Associates and submitted in support of the application. As referred in the consultant's report Hector Court, in its current configuration, intersects with Memorial Avenue via a three way 'Give Way' sign controlled intersection and performs a precinct access function by virtue of its previous status as Balmoral Road. It is primarily constructed to a two lane rural road standard with a 7.0m sealed carriageway and 2.0m wide unsealed shoulders servicing the remaining rural allotments and more recent higher density residential developments in the area.

Under the future release area configuration Hector Court is to be closed at Memorial Avenue with Severn Vale Drive assuming the enhanced collector road function via a new four way signalised intersection at Memorial Avenue. As an enhanced collector with a 12.0m wide carriageway Severn Vale Drive is expected to cater for peak hour traffic demand of around 400-450 vehicles per hour.

ii. Proposed Development - Traffic Generation

The Roads and Traffic Authority Guide to Traffic Generating Developments nominates a specific traffic generation rate for higher density apartments at around 0.29 am peak hour trips per unit. On this basis an apartment complex with 87 units will generate in the order of 25 peak hour trips.

a. Need for Traffic Improvements in the Locality

The relatively low total traffic volume expected to be generated by this proposal will have minimal impact on service levels of the future enhanced collector of Severn Vale Drive or the operational performance of the future signalized intersection with Memorial Avenue. The applicant will be required to pay the appropriate Section 94 contributions towards the cost of future traffic and open space facilities in the locality.

b. Traffic egress/ingress to arterial/sub-arterial roads

As indicated above, Severn Vale Drive is a currently a no-through local access road with Hector Court performing the precinct collector road function until surrounding development activity occurs allowing the future signalized intersection with Memorial Avenue.

The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalized intersections.

c. Sight distance and other safety issues

The site is located on the northern side of Affleck Circuit bounded by Hector Court and Severn Vale Drive. All vehicular access is proposed via a combined entry/exit driveway located on the Severn Vale Drive frontage of the property. Sight distance for vehicles

entering and exiting the property will be consistent with the recommended minimum Safe Intersection Sight Distance of 80m for a 50km/h urban road as required under the Austroad's Guidelines.

iii. Recommendations

There are no objections raised from a traffic engineering perspective to the proposed development.

SUBDIVISION ENGINEERING COMMENTS

The applicant has not provided information in regard to:

- The design of the extension of Severn Vale Drive;
- Partial width road construction of Hector Court;
- Swept turning path analysis and clearances on the ramps;
- The provision of separate facilities for turning before the security doors to allow vehicles to exit if a residents is unavailable or denies access to a visitor.

TREE MANAGEMENT COMMENTS

No objection raised to the proposal.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection raised to the proposal.

WASTE MANAGEMENT COMMENTS

The applicant has not adequately demonstrated that the waste vehicles can enter and exit the site in an appropriate manner in regard to compliance with the Australian Standards, swept turning paths and access to the basement.

NSW POLICE COMMENTS

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected.

CONCLUSION

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

The proposed development is considered to be inconsistent with the objectives of the zone and is considered an overdevelopment of the site.

Accordingly, the application is recommended for refusal

IMPACTS:

Financial

This matter may have a direct financial impact upon Council's adopted budget as refusal of this matter may result in Council having to defend a Class 1 Appeal in the NSW Land and Environment Court.

The Hills Future - Community Strategic Plan

The social and environmental impacts have been identified and addressed in the report. The proposal conflicts with the development objectives of the LEP and DCP. It is considered unsatisfactory with regard to The Hills Future Community Strategic Plan.

RECOMMENDATION

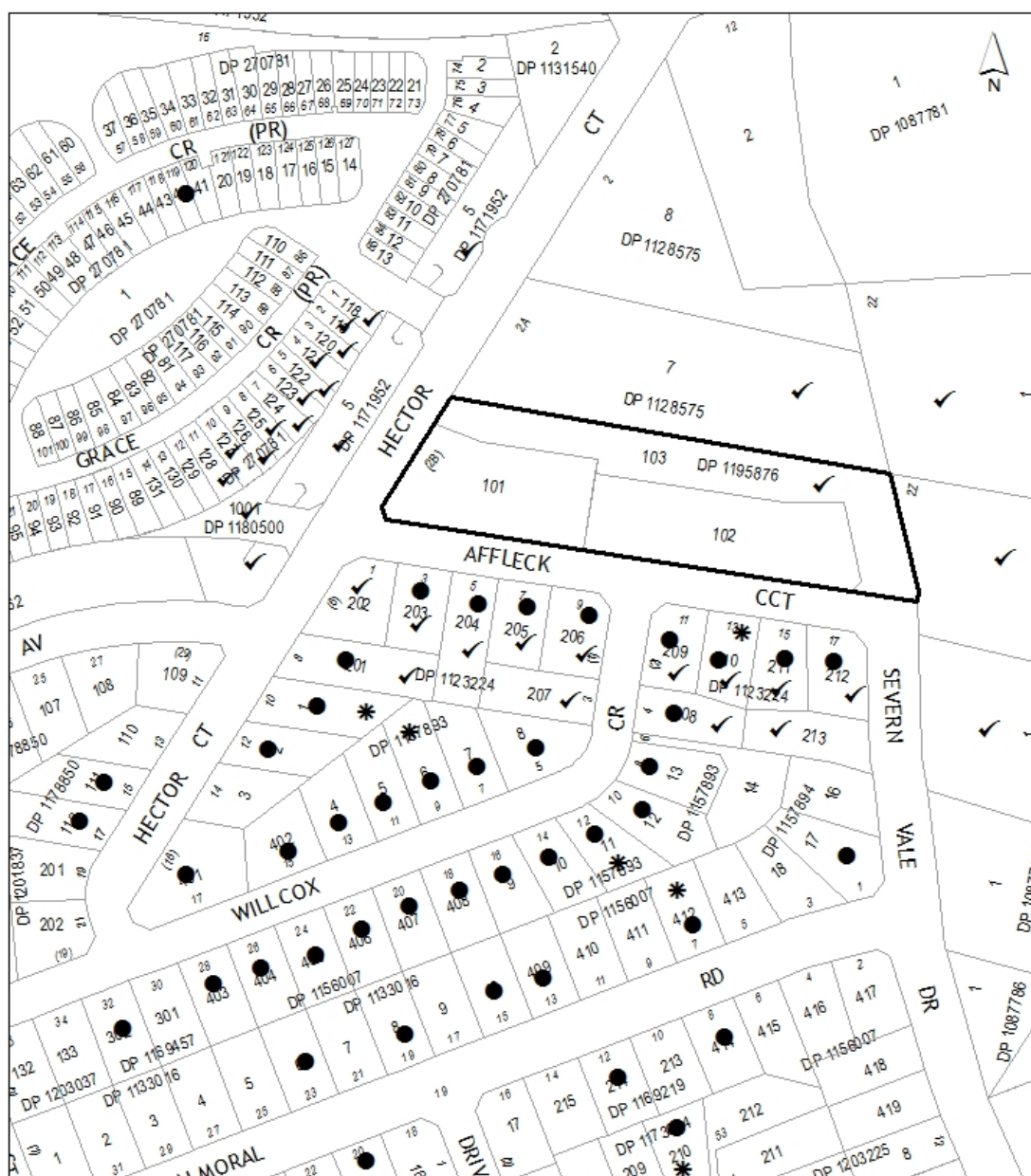
The Development Application be refused for the following reasons:

1. The proposal exceeds to LEP height standard and has not been accompanied by a Clause 4.6 variation request (Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979).
2. The proposal is unsatisfactory in regard to the requirements of Part B Section 5 Residential Flat Buildings in regard to density, number of storeys, setbacks, unit layout and design, open space and storage (Section 79C 1(a)(i) of the NSW Environmental Planning and Assessment Act 1979).
3. The proposed development results in an overdevelopment of the site which is incompatible with adjoining residences and neighbourhood character (Section 79C 1(a)(i) of the NSW Environmental Planning and Assessment Act 1979).
4. The proposal does not comply with the Design Principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development in terms of:
Principle No. 1 – Context and Neighbourhood Character;
Principle No. 2 – Built Form and Scale;
Principle No. 3 – Density; and
Principle No. 6 – Amenity
(Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979).
5. The proposed development is contrary to the provisions of Clause 50 of the NSW Environmental Planning and Assessment Regulations 2000, which requires the applicant to provide all the necessary and requested information to Council to allow for a proper assessment of the application, including the submission of information including engineering matters and waste matters, specifically in regard to waste management vehicle access, the design of the extension of Severn Vale Drive, partial width road construction of Hector Court, swept turning path analysis and clearances on the ramps and the provision of separate facilities for turning before the security doors (Section 79C 1(a)(iv) of the NSW Environmental Planning and Assessment Act, 1979).
6. The impacts on and built environment in the locality are unacceptable in terms of bulk and scale of the proposed building which is not compatible with the surrounding development and the overall streetscape (Section 79C 1(b) of the NSW Environmental Planning and Assessment Act 1979).
7. The development is not considered to be suitable for the site as it is an overdevelopment in terms of scale and intensity and results in unacceptable amenity impacts on neighbours (Section 79C 1(c) of the NSW Environmental Planning and Assessment Act 1979).
8. The development is considered not to be in the public interest (Section 79C 1(e) of the NSW Environmental Planning and Assessment Act 1979).

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Height Standard
4. LEP Zoning Plan
5. Site Plan
6. Elevation showing LEP Height Limit
7. Elevation Plans
8. Shadow Diagrams
9. Section
10. Isometric Model
11. External Colour Scheme
12. Original Perspectives

ATTACHMENT 1 – LOCALITY PLAN



□ SUBJECT SITE

✓ PROPERTIES NOTIFIED -
1ST NOTIFICATION

● SUBMISSIONS RECEIVED -
1ST NOTIFICATION
NOTE: 14 SUBMISSIONS RECEIVED
OFF THE SCOPE OF THIS MAP

* SUBMISSIONS RECEIVED -
2ND NOTIFICATION
NOTE: 1 SUBMISSION RECEIVED
OFF THE SCOPE OF THIS MAP

THE HILLS
Sydney's Garden Shire

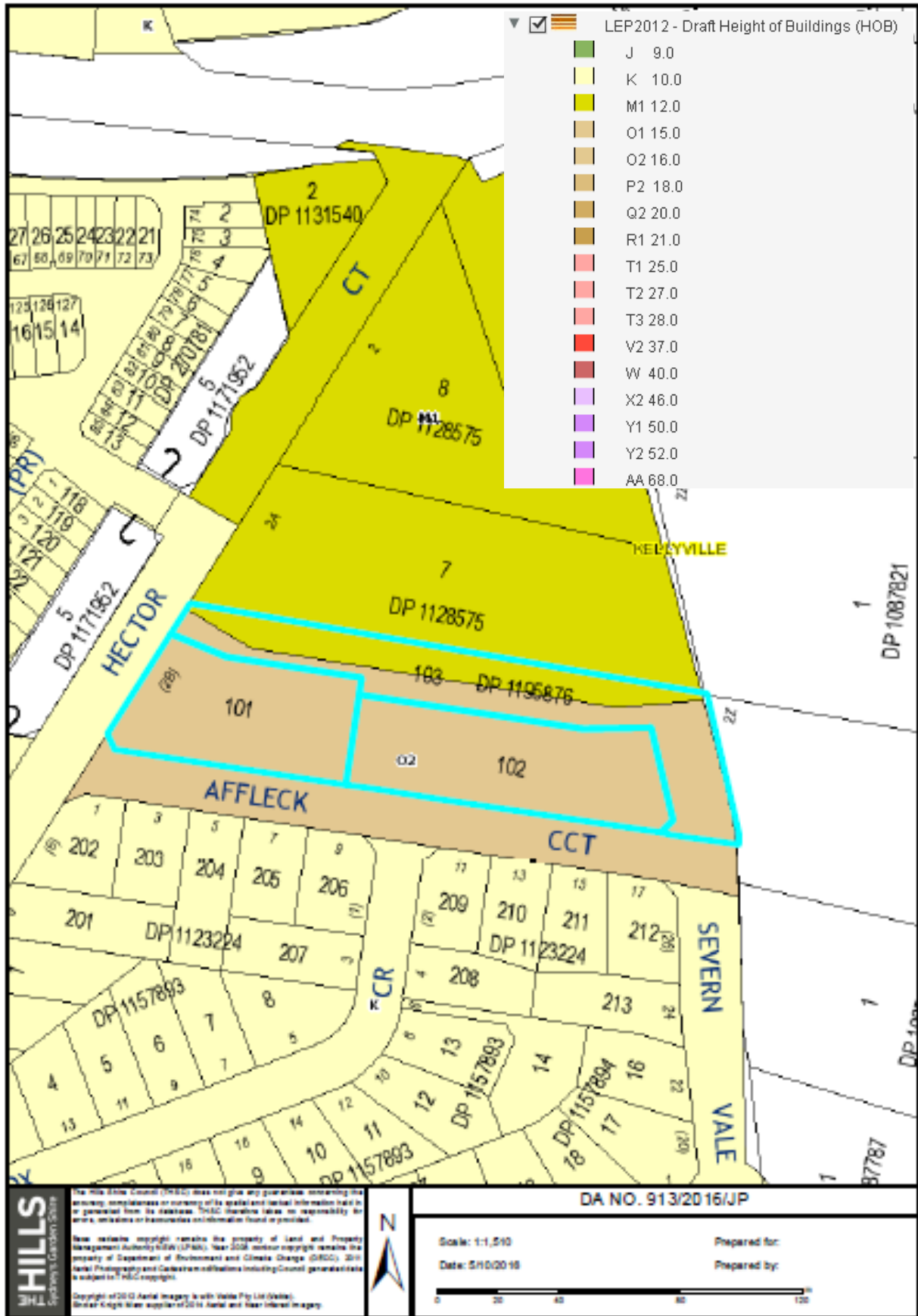
THE HILLS SHIRE COUNCIL

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BASE CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LPI). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

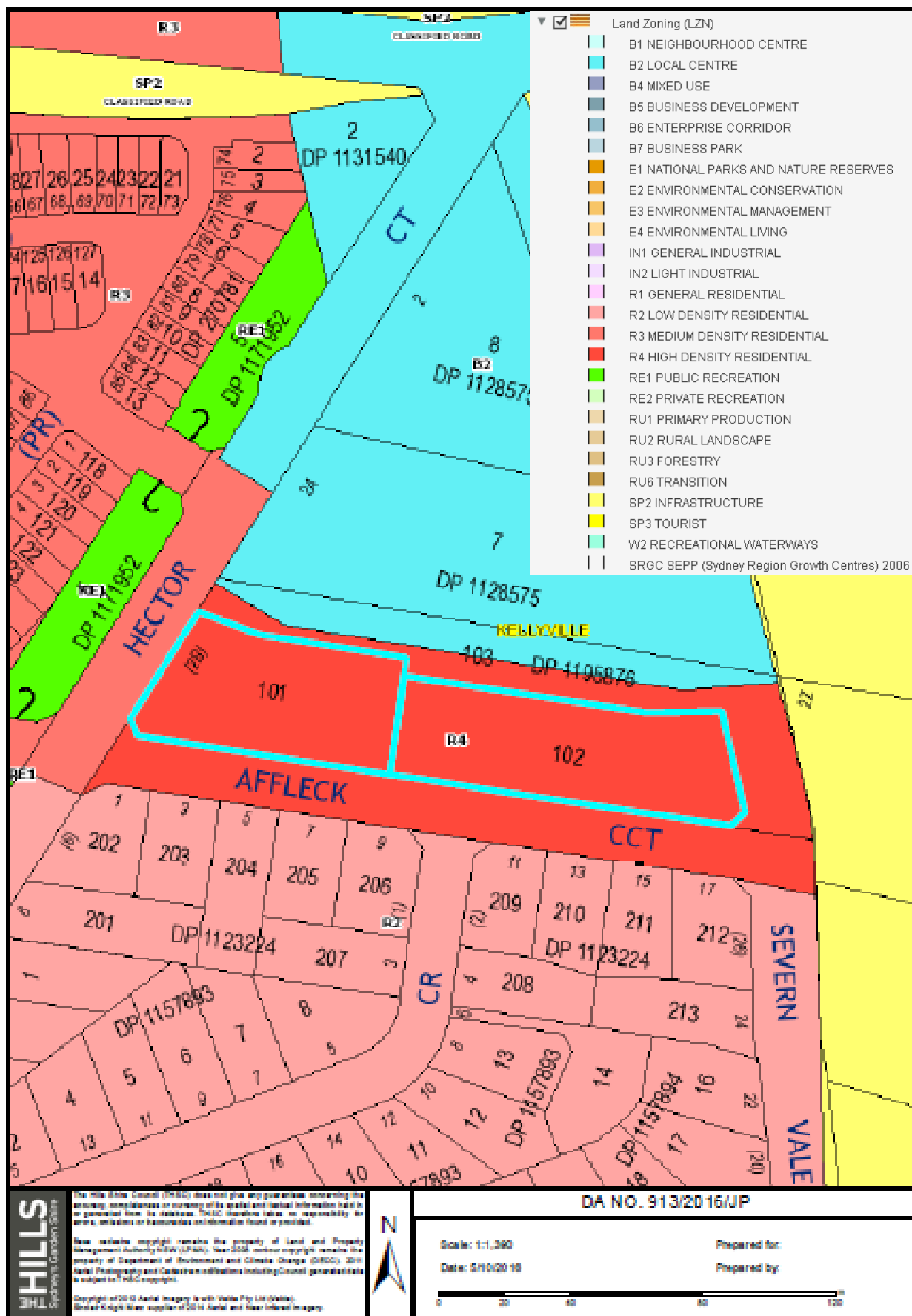
ATTACHMENT 2 – AERIAL PHOTOGRAPH



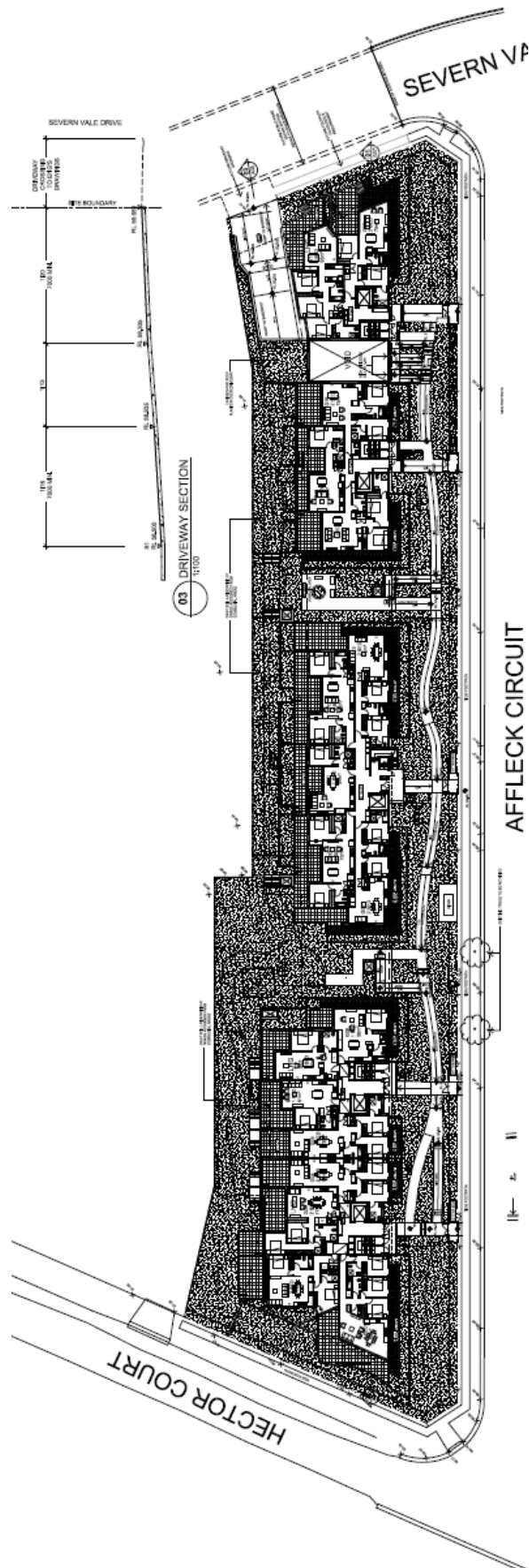
ATTACHMENT 3 – LEP HEIGHT STANDARD



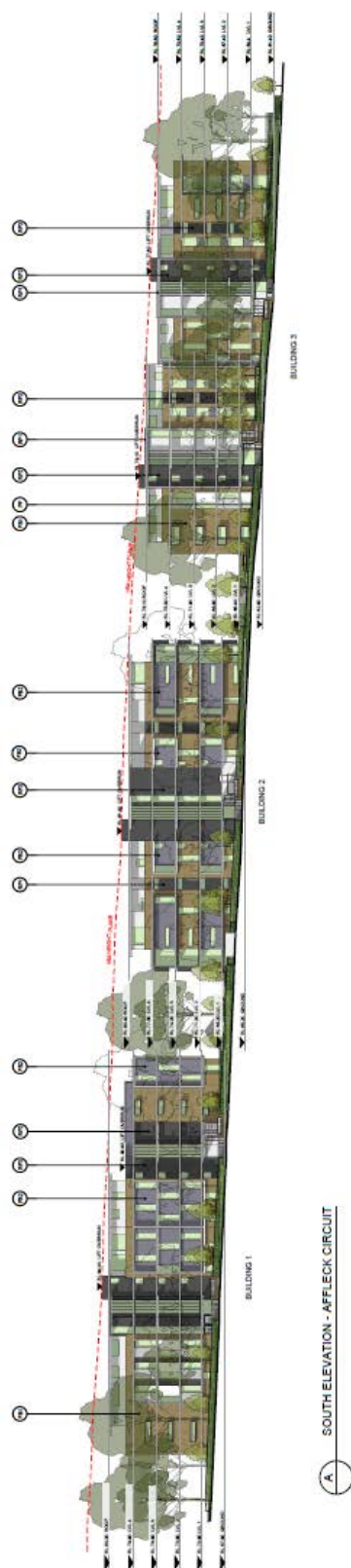
ATTACHMENT 4 – LEP ZONING PLAN



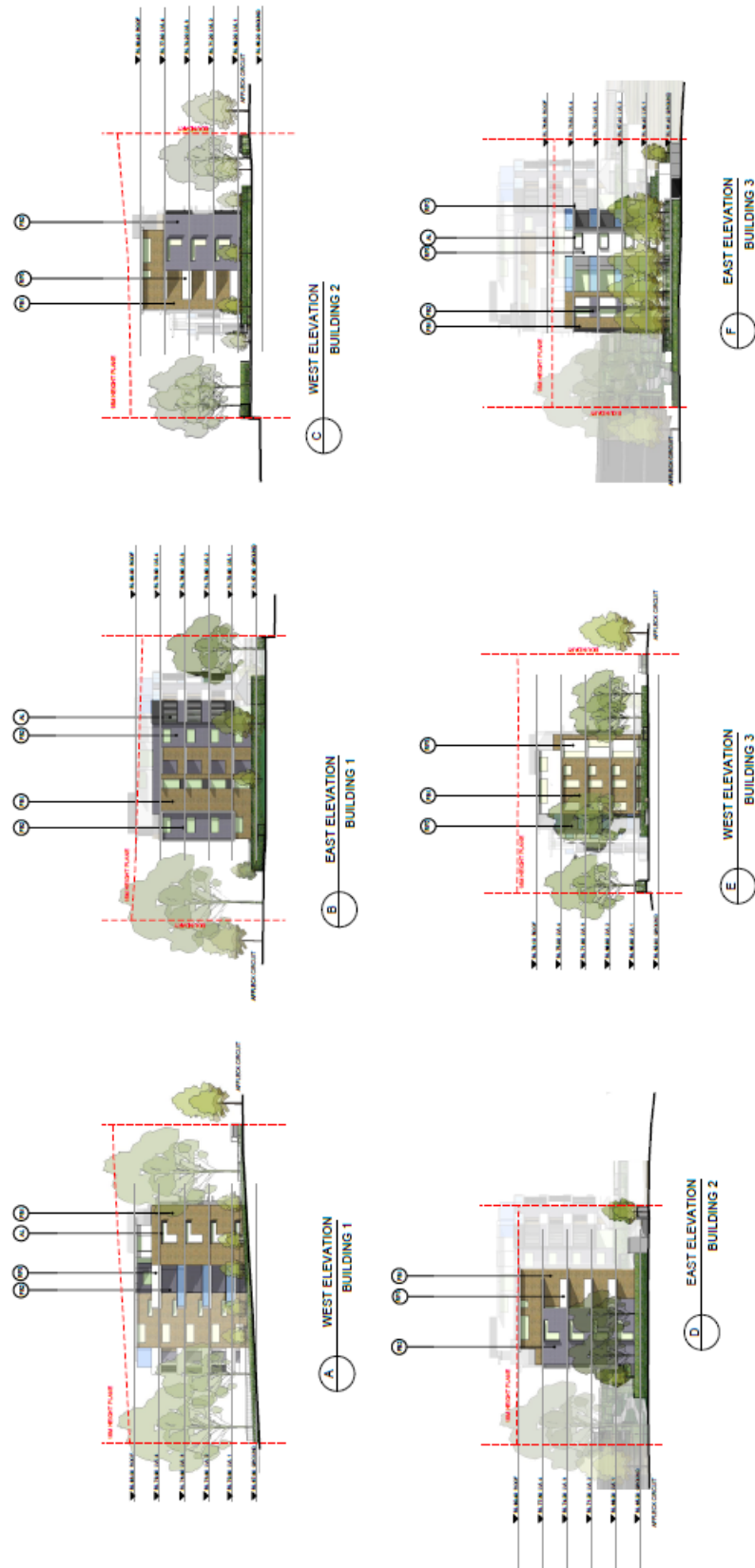
ATTACHMENT 5 – SITE PLAN



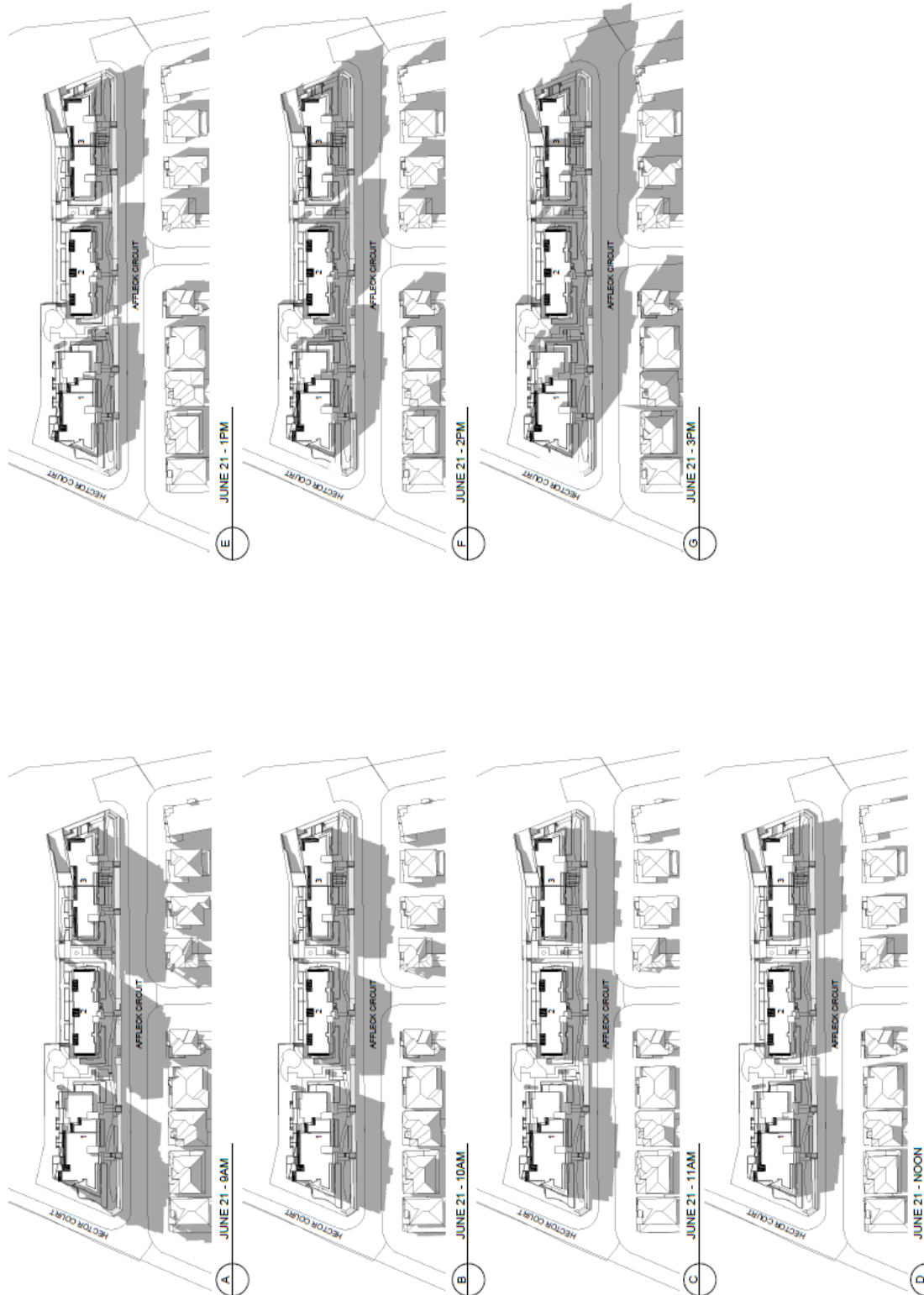
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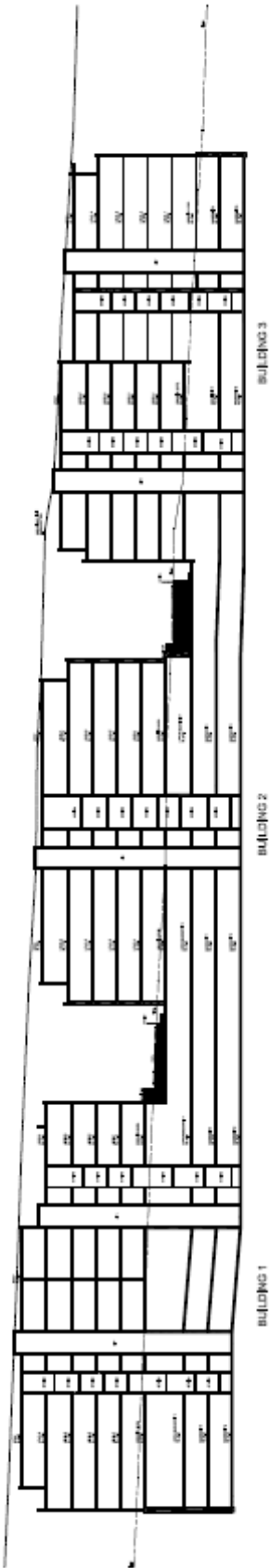


ATTACHMENT 7 –ELEVATION PLANS

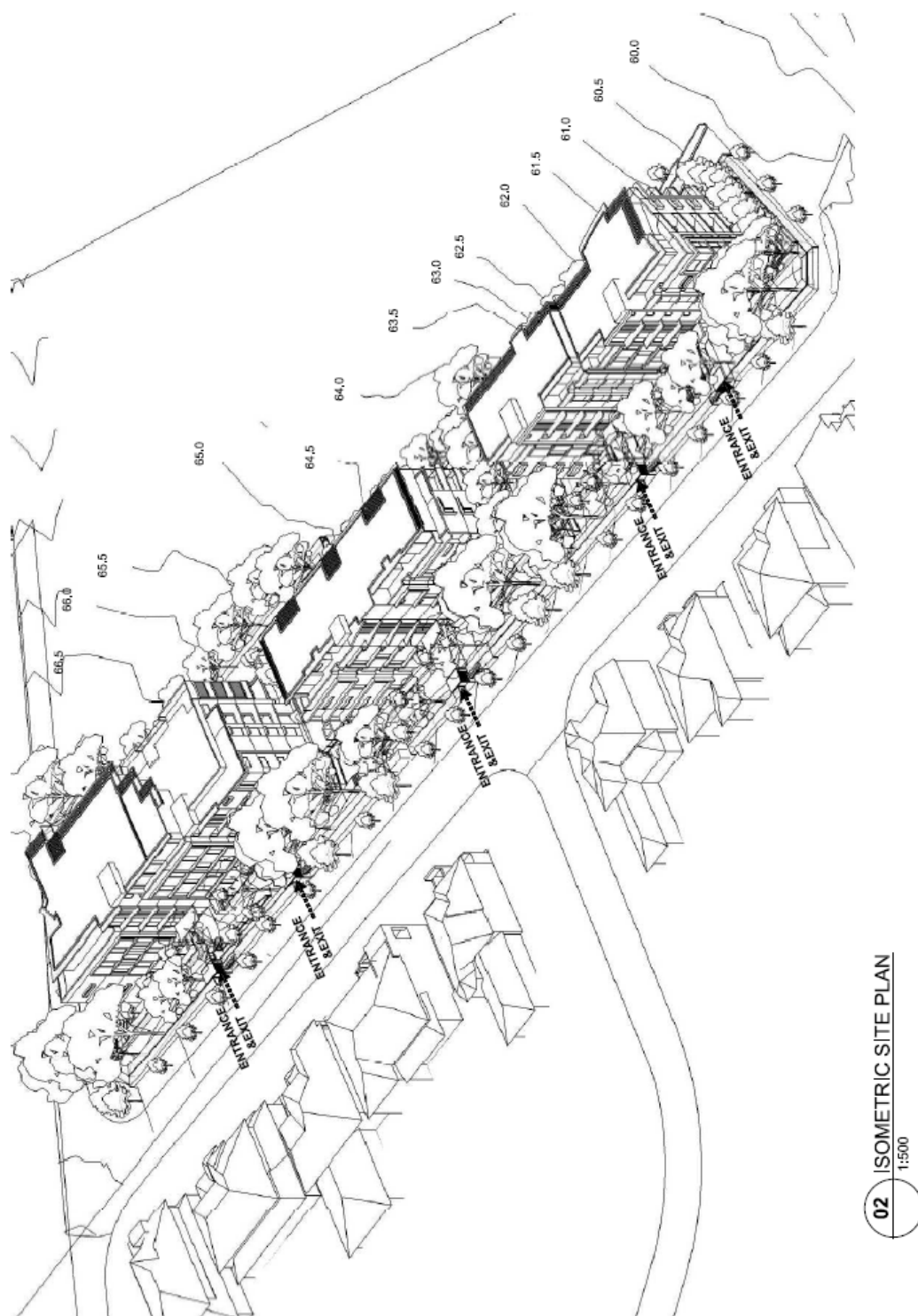


ATTACHMENT 8 –SHADOW DIAGRAMS





ATTACHMENT 10- ISOMETRIC MODEL



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ATTACHMENT 12 – ORIGINAL PERSPECTIVES



