

SYDNEY WEST CENTRAL PLANNING PANEL

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| Panel Reference | 2016SWC004 |
| DA Number | 779/2017/JP |
| LGA | THE HILLS SHIRE COUNCIL |
| Proposed Development | Development Application for Stage 1 (Phase 1) to construct two seven-storey residential flat buildings comprising a total of 121 apartments (30 x One Bedroom, 79 x Two Bedroom, 10 x Three Bedroom and 2 x Four Bedroom), landscaping, subdivision and car parking for 197 vehicles over three levels of basement car park. |
| Street Address | Lot 101 DP 1176747, Lots 32 and 33 DP 247442 – Private Road and RMB 47 Spurway Drive, Baulkham Hills |
| Applicant/Owner | Sekisui House Australia Pty Ltd/Devus Pty Ltd. |
| Date of DA lodgement | 14 November 2016 |
| Number of Submissions | Two with one submission including a petition |
| Recommendation | Approval subject to conditions |
| Regional Development Criteria (Schedule 4A of the EP&A Act) | CIV exceeding \$20 million |
| List of all relevant s79C(1)(a) matters | <ul style="list-style-type: none"> • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy Infrastructure 2008 • State Environmental Planning Policy No 55 – Remediation of Land • The Hills Local Environmental Plan 2012 • The Hills Development Control Plan 2012 |
| List all documents submitted with this report for the Panel's consideration | Clause 4.6 Variation Submissions |
| Report prepared by | Co-ordinator Development Assessment Robert Buckham |
| Report date | 20 July 2017 |

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| 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 summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i> | 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? | Yes |
| Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i> | Yes |
| Conditions Have draft conditions been provided to the applicant for comment? | Yes |

EXECUTIVE SUMMARY

The Development Application is to construct two seven-storey residential flat buildings comprising a total of 121 apartments (30 x 1 bedroom, 79 x 2 bedroom, 10 x 3 bedroom and 2 x 4 bedroom), landscaping, car parking for 199 vehicles over three levels of basement car park, and subdivision.

The application is accompanied by a request to vary development standards pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). Clause 4.3 of the LEP prescribes a maximum building height limit of 21 and 27 metres for the site. The proposed buildings will have a maximum height of 26.1 metres and 27.5 metres. The building height proposed is consistent in terms of the numbers of storeys identified within the planning proposal (7 storeys) however increased floor to ceiling heights, site topography and lift overruns have led to a building height encroachment.

Clause 7.11 of the LEP specifies a mix of apartment typologies and parking requirements for the subject site should it be developed to its maximum yield of 1300 dwellings. The proposed development seeks a variation to the mix of apartment typologies and car parking. The variations have been assessed and it is considered the proposal provides appropriate amenity for future residents and sufficient parking given the site's proximity to the future Norwest station. The parking still exceeds the Road and Maritime Service rates for sites within 800m of a railway station. The site is located approximately 650m walking distance from the future Norwest Station.

A variation is proposed to the front setback control within the DCP. The DCP requires a front setback for residential flat buildings of 10 metres. The subject development is set back 6 metres to the building and a cantilevered landscape feature on three levels of each building set back 2.5 metres. A 6 metre setback is not uncommon to the locality with two approved flat buildings, one completed and one under construction at No. 38 and 40 Solent Circuit on the southern side of Spurway Drive both having setback to 6 metres.

The application was advertised and notified and 2 submissions were received. The issues raised primarily relate to traffic, compliance with planning controls and amenity impacts. It is considered that the issues raised are primarily associated with the masterplan application. The masterplan application will be considered by the Sydney West Central Planning Panel at a later date.

The application is recommended for approval subject to conditions.

BACKGROUND

MANDATORY REQUIREMENTS

| | | | |
|-----------------------|--|----|---|
| Owner: | Devus Pty Ltd | 1. | <u>LEP 2012</u> – Variation required, see report. |
| Zoning: | R4 High Density Residential | 2. | <u>The Hills DCP 2012</u> – Satisfactory |
| Area: | 7.9 Ha (Proposed Lot 2 – 4,454m ²) | 3. | <u>Section 79C (EP&A Act)</u> – Satisfactory. |
| Existing Development: | Vacant | 4. | <u>SEPP Building Sustainability Index BASIX 2004</u> – Satisfactory. |
| | | | <u>SEPP 55 – Remediation of Land</u> – Satisfactory. |
| | | | <u>SEPP 65 Design Quality of Residential Flat Buildings</u> – Satisfactory. |
| | | | <u>Section 94 Contribution</u> - \$3,226,152.09 |
| | | | <u>Capital Investment Value:</u> \$47,000,000. |
| | | | |

SUBMISSIONS

REASONS FOR REFERRAL TO SWCPP

| | | | |
|--------------------------|------------------------|----|---|
| 1. Exhibition: | Yes 31 days | 1. | Capital Investment Value in Excess of \$20 million. |
| 2. Notice Adj Owners: | Yes 31 days | | |
| 3. Number Advised: | 623 | | |
| 4. Submissions Received: | 2 including a petition | | |

HISTORY

| | |
|-------------------|--|
| 14/11/2016 | Subject Development Application lodged. |
| 15/12/2016 | Briefing of Sydney West Central Planning Panel. |
| 16/12/2016 | General Terms of Approval received from the Department of Primary Industries - Water. |
| 21/02/2017 | Correspondence sent to the Applicant requesting additional information in relation to floor space ratio, solar access, natural ventilation, apartment design, parking, engineering matters, acoustics, contamination, waste and ecology. |
| 27/03/2017 | Additional information submitted. |
| 12/05/2017 | Subject Application amended to provide for the assessment of biodiversity impacts separate to the Masterplan Application. The application proposes the retirement of 4 ecosystem credits |

(HN528). The Applicant has undertaken this approach for this application due to timing restrictions.

BACKGROUND

The site was subject to a Planning Proposal (10/2013/PLP) to amend the Hills Local Environmental Plan 2012. Amendment No. 32 for Lot 33 DP 247442, RMB 47 Spurway Drive, Baulkham Hills and 30 Fairway Drive, Kellyville was notified on the NSW legislation website (Notification No. 210) on 29 April 2016.

The Hills Local Environmental Plan 2012 was amended as follows:

- Increased the maximum building height from 16 metres to a height ranging between 18 metres and 36 metres;
- Applied a maximum floor space ratio ranging from 1.5:1 to 3.2:1;
- Identified the site as "Area B" within the Key Sites Map; and
- Included a new local provision which ensures that future development on the site does not exceed a yield of 1,300 dwellings and that, in order to achieve this yield, development must comply with Council's standards for apartment mix, apartment size and car parking.

Associated amendments to The Hills Development Control Plan 2012 (Part D Section 7 – Balmoral Road Release Area) also came into force on 29 April 2016. The amendments facilitate the upgrade and inclusion of the existing portion of Spurway Drive (currently private) as a public road to connect to the existing planned local road network within the Balmoral Road Release Area (from Windsor Road to Fairway Drive).

The applicant has lodged a Development Application for a new masterplan for the entire development site (736/2017/JP). The total development will comprise 10 residential flat buildings with a total of 1,300 dwellings, a fitness centre building, internal roads and extensive landscaping. The proposed Masterplan layout is provided in Attachment 10.

The masterplan provides indicative details of each of the buildings which will be further detailed within future Development Applications for individual stages. The masterplan also seeks to deal with impact and off-setting of vegetation across the site with the exception of the subject development site. The subject application is identified by the applicant as Phase 1 of the masterplan.

A subdivision and early works Development Application has been also lodged with Council (DA 634/2017/ZB), which aims to expedite the delivery of utility servicing and local road construction. This development application is under assessment. It is anticipated that the development application will be determined by Council's Development Assessment Unit in August 2017. A condition is recommended that no Occupation Certificate for this development be issued until Spurway Drive extending from Fairway Drive to the eastern boundary of proposed development lot 2 has been dedicated as public road.

A temporary display suite for the marketing and sales of apartments will be constructed fronting Fairway Drive. Consent for the display suite has been granted (DA 60/2017/HA). The display suite will be demolished prior to the construction of the final stage of development.

Consent for the demolition of all structures across the site have been approved across four separate DAs (610/2015/LA, 611/2015/LA, 612/2015/LA and 58/2017/HA).

PROPOSAL

The subject site is identified as Phase 1 of the masterplan application (736/2017/JP) on proposed Lot 2 and is outlined in Attachment 1 on the Locality Plan. The site is irregular in shape and will have vehicular access from the extension to Spurway Drive proposed under the subdivision and early works DA (634/2017/ZB). The site has a total area of 8,140m² and extends across two lots, Lot 101 in DP1176747 and Lot 33 in DP 247442.

Summary

This Development Application seeks approval for the following development:

- Subdivision of the Community Title lot proposed under DA 634/2017/ZB to create four lots (refer Attachment 13).
- Construction of two seven-storey residential flat buildings (known as Building D1 and Building D2) containing a total of 121 residential apartments.
- Three levels of basement car parking for 197 vehicles (173 for residents and 24 for visitors). Both buildings will have a combined basement car park, which will connect to Building D3 as part of a future application for Stage 4 to provide a total of 288 spaces.
- Shared driveway/pedestrian access with truck turning zone and provision of two car share spaces.
- Provision of 3,662m² of communal open space.

Built Form

The proposal includes two residential flat buildings, each being seven storeys in height, known as Building D1 and D2. The buildings will contain a total of 121 residential apartments comprising 30 x 1 bedroom, 79 x 2 bedroom, 10 x 3 bedroom and 2 x 4 bedroom units.

Vehicle access will be provided to a combined basement by a shared driveway/pedestrian area to the south-west of Building D1. The three basement levels provide 197 car parking spaces incorporating 173 resident spaces and 24 visitor spaces, including 9 accessible spaces. Two car share spaces will be provided adjacent to the shared driveway.

The buildings will have a 6 metre front setback to the proposed Spurway Drive extension and a 10 metre rear setback to the north-western boundary.

Communal open space will be provided primarily on the podium level with 361m² on the rooftop of Building D2.

Subdivision

The proposal includes the subdivision of proposed lot 1 proposed as part of a separate application (634/2017/ZB) to create four lots:

- Lot 1 – Community association property for access and services and landscaping
- Lot 2 – Development lot for Stage 1 (the subject development)
- Lot 3 – Development lot for Stage 4
- Lot 4 – Development lot for Stages 2, 3 and 5

The boundary between Lots 2 and 3 will vary at different heights to facilitate the proposed basement car parking associated with Stage 1, and the future expansion of the basement car park in Stage 4.

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 Regional Planning Panel:-

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

The proposed development has a capital investment value of \$47,000,000 thereby requiring referral to, and determination by a Planning Panel. In accordance with this requirement the application was referred to, and listed with, the Sydney West Central Planning Panel (SWCPP) for determination.

2. Compliance with The Hills Local Environmental Plan 2012

a. Permissibility

The land is zoned R4 High Density Residential under Local Environmental Plan 2012. The proposal is a residential flat building which is permissible in the zone.

b. Zone Objectives

The site is zoned R4 High Density Residential under The Hills LEP 2012. The objectives of the zone are:

R4 High Density Residential Objectives

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

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal will provide for a land use to meet the needs of the surrounding residents and is also considered to provide an alternative housing option for future residents.

As such the proposal is considered satisfactory in respect to the LEP 2012 objectives.

c. Clause 7.11 - Residential development yield on certain land

Clause 7.11 of the THLEP 2012 includes requirements specific to the subject site. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings. The clause requires that where more than 600 dwellings are proposed, the development must provide a specific mix, unit sizes and parking. The proposal is the first stage of development on the site and does not exceed 600 dwellings; however it forms part of a master planned outcome that will comprise 1,300 dwellings once fully developed. The clause in its entirety states:

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

- (a) to ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets,
 - (b) to ensure that development for residential flat buildings does not place an unreasonable burden on the provision of services, facilities and infrastructure in the area to which this clause applies,
 - (c) to provide opportunities for suitable housing density that is compatible with existing development and the future character of the surrounding area,
 - (d) to promote development that accommodates the needs of larger households, being a likely future residential use.
- (2) This clause applies to land identified as "Area B" on the Key Sites Map.
- (3) The consent authority may consent to the erection of residential flat buildings on the land containing a maximum of 1,300 dwellings.
- (4) If development under this clause will result in no more than 600 dwellings in residential flat buildings, development consent may be granted for the development only if the height of each residential flat building does not exceed 16 metres.
- (5) If development under this clause will result in more than 600 dwellings in residential flat buildings, development consent may be granted for the development only if:
- (a) no more than 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are studio or 1 bedroom dwellings, or both, and
 - (b) at least 10% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are 3 or more bedroom dwellings, and
 - (c) the development comprises the following:
 - (i) Type 1 apartments—up to 30% of the total number of dwellings (to the nearest whole number of dwellings), and
 - (ii) Type 2 apartments—up to 30% of the total number of dwellings (to the nearest whole number of dwellings), and
 - (iii) Type 3 apartments, and
 - (d) the following minimum number of car parking spaces are provided in the development:
 - (i) for each 1 bedroom dwelling—1 car parking space, and
 - (ii) for each 2 or more bedroom dwelling—2 car parking spaces, and
 - (iii) for every 5 dwellings—2 car parking spaces, in addition to the car parking spaces required for the individual dwelling.
- (6) In this clause:

Type 1 apartment means:

- (a) a studio or 1 bedroom apartment with an internal floor area of at least 50m² but less than 65m², or
- (b) a 2 bedroom apartment with an internal floor area of at least 70m² but less than 90m², or
- (c) a 3 or more bedroom apartment with an internal floor area of at least 95m² but less than 120m².

Type 2 apartment means:

- (a) a studio or 1 bedroom apartment with an internal floor area of at least 65m² but less than 75m², or
- (b) a 2 bedroom apartment with an internal floor area of at least 90m² but less than 110m², or

- (c) a 3 or more bedroom apartment with an internal floor area of at least 120m² but less than 135m².

Type 3 apartment means:

- (a) a studio or 1 bedroom apartment with a minimum internal floor area of 75m², or
 (b) a 2 bedroom apartment with a minimum internal floor area of 110m², or
 (c) a 3 or more bedroom apartment with a minimum internal floor area of 135m².

internal floor area does not include the floor area of any balcony."

The applicant proposes to vary the unit sizes and parking requirements of the Clause by way of a Clause 4.6 Variation. This is addressed below.

d. Development Standards

The following addresses the principal development standards of the LEP:

| CLAUSE | REQUIRED | PROVIDED | COMPLIES |
|--|--|--|------------------------------|
| 4.3 Height | 21m and 27 metres | 27.5 metres | No |
| 4.4 Floor Space Ratio | 1.5:1 and 2.6:1 (13,860m ²) | 10,709m ² | Yes |
| 4.6 Exceptions to development standards | Exceptions will be considered subject to appropriate assessment. | Variations proposed to height are addressed below. | Yes |
| 7.11 Residential development yield on certain land | Where development exceeds 600 dwellings certain the development must provide a specific mix, unit sizes and parking. | 121 dwellings proposed however Clause addressed given the development site will exceed 600 dwellings under future applications | NA, however addressed below. |

e. Variation to Height

LEP 2012 limits the height of the development site to 21 and 27 metres. The location of the site where the proposed building is located is 21 metres. The proposal has a maximum height of 27.5 metres a variation of 6.5 metres or 30.9% is sought:

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 11.

Clause 4.6 Exceptions to Development Standards states:

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

- (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.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request*

from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Secretary must consider:*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (ca) clause 6.1 or 6.2,*
 - (cb) clause 7.12.*

In determining the appropriateness of the variation request a number of factors identified by the Applicant have been taken into consideration to determine whether the variation is supportable in this instance. They include:

- *The development is consistent with the objectives of the development standard as provided in Clause 4.3(1) of THLEP 2012 as discussed above.*
- *The proposed development seeks to vary the maximum building height controls for the site on the premise that the development would achieve the maximum number of storeys as intended as part of the Planning Proposal.*
- *The scale and mass of the buildings is compatible with the established built form within the immediate context of the site that is defined by buildings up to nine storeys in surrounding areas.*
- *The 10 metre setback to the northern boundary will allow for the retention of trees to assist in providing a visual buffer between the development and adjoining properties.*
- *The proposed built form responds to the topographical constraints of the site.*
- *The proposal has been designed to comply with the floor to ceiling height requirements specified in the Apartment Design Guide.*

Comment: The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints. The development facilitates higher densities close to the Norwest station and centre. The height variation does not result in any further detrimental impacts on adjoining developments in terms of solar access or bulk and scale. The site was identified with the planning proposal to cater for 7 storeys. This was based on a floor to floor height of 3 metres hence a building height limit of 21 metres. The proposal provides for seven storeys in height and the exceedance is attributed site topography, lift over runs and minimum floor to ceiling heights in the ADG of 3.1 metres.

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

f. Variation to Clause 7.11 - Residential development yield on certain land

As identified above, Clause 7.11 of the THLEP 2012 includes requirements specific to the subject site. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings across the site, however if development will results in more than 600 dwellings, the development must provide a specific mix, unit sizes and parking. The proposal is the first stage of development on the site and does not exceed 600 dwellings; however it forms part of a master planned outcome that will comprise 1,300 dwellings once fully developed.

In summary the following tables detail the applicable planning controls:

| Apartment Mix | LEP Development Standard | Proposal | Compliance |
|--------------------|--------------------------|----------|------------|
| One Bedroom | 25% (Maximum) | 25% | Yes |
| Three/Four Bedroom | 10% (Minimum) | 11% | Yes |

| Apartment Typology | LEP Development Standard | Proposal | Compliance |
|--------------------|--------------------------|------------|------------|
| Type 1 Apartments | <30% | 56% | No |
| Type 2 Apartments | <30% | 21% | Yes |

| | | | |
|-------------------|-----|-----|-----|
| Type 3 Apartments | N/A | 23% | N/A |
|-------------------|-----|-----|-----|

| Parking Type | LEP Development Standard | Proposed Rate | RMS Requirements |
|--------------------------|--------------------------|----------------------------|---------------------|
| 1 Bedroom | 1 car space | 1 car space | 0.6 |
| 2 Bedroom | 2 car spaces | 1.5 car spaces | 0.9 |
| 3 & 4 Bedroom | 2 car space | 2 car spaces | 1.40 |
| Visitor | 2 spaces per 5 units | 1 space per 5 units | 1 space per 5 units |

Clause 4.6 Exceptions to Development Standards is quoted in the Section 2(g) in this report.

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 11.

Apartment Size

The proposed development will result in greater than 30% of apartments being classified as Type 1 under the sizes specified in Clause 7.11(5). While the proposed varies from the required typology mix by 26%, the apartment sizes for Type 2 and 3 apartments are less than the requirements by between 2m² to 8m² (2-7%).

The applicant considers that the proposed apartment sizes, which are generally much larger than ADG requirements are appropriate and outline that residents will also have access to a range of high quality facilities which will be delivered in future stages of the masterplan, including a fitness centre, outdoor swimming pool, indoor cinema, multi-purpose room and extensive open space areas. They feel the extent of facilities provided will set a new standard for the amenity of developments in the surrounding area and will promote social interactions and lifestyle choices for future residents.

The objectives of the Clause to provide a mix of dwelling types, providing housing choice for different demographics, living needs and household budgets, as well as to promote development that accommodates the needs of larger households, are maintained. The extent of variation to the apartment sizes (between 2 - 8m²) is minimal and considered reasonable given the facilities and open space which will be provided.

Car Parking

The development provides a total of 197 car parking spaces within the basement carpark. Based on strict compliance with the car parking rates specified under Clause 7.11, the proposal would require 260 spaces.

While the development will provide 63 fewer basement spaces, the car parking provided is well in excess of the 130 spaces specified by the RMS' *Guide to Traffic Generating Development* for developments within 800 metres of a railway station. The subject site is within 650m walking distance to Norwest Station.

The proposal specifically identifies a reduction in parking for 2 bedroom apartments to a rate of 1 to 1.5 spaces. The Applicant has identified that under this strategy, smaller 2 bedroom units would receive 1 parking space while larger units would receive 2 spaces.

To support the reduction in parking for 2 bedroom apartments the applicant has proposed the use of car share vehicles from the outset of the development. Four vehicles will be provided. Two spaces/vehicles will be provided for this development under this application.

The application also includes the reduction in visitor parking to 1 per 5 apartments. resulting in 24 visitor spaces being proposed.

It is noted that the above 2 bedroom rate (1.5 spaces per 2 bedroom unit) approved for the Norwest Town Centre Residential Precinct – East immediately to the south of the site.

The variation to the carparking development standard is considered reasonable given the proposed provision is far in excess of the RMS requirements and given the car-share scheme proposed.

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

g. Other Provisions

The proposal has been considered against the relevant provision of the SEPP. Specific regard has been given to Clauses:

- 5.9 Preservation of trees or vegetation;
- 5.10 Heritage Conservation
- 6.2 Public utility infrastructure; and
- 7.2 Earthworks

The proposal has been considered against these provisions and satisfies each of the standards and objectives relating to each of the clauses

3. State Environmental Planning Policy No. 55 Remediation of Land

This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspects of the environment.

Clause 7 of the SEPP 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.*

Comment:

A Stage 1 Preliminary Site Investigation been undertaken by SLR Consulting Australia Pty Ltd. The investigation found that the potential for low-level and isolated contamination to be present on the site, as a result of past and present land use activities, is considered to be low to moderate.

However, given the extent of the excavations and the nature of landscaping works anticipated with the proposed development, any contamination that may be present on site is likely to be removed offsite or covered by the landscaped material. This will eliminate potential exposure pathway between the contamination source and the receptor.

The investigation also found that potential asbestos impacted soil (if any) is likely to be excavated as part of the basement excavation, cleared as part of the site clearance work or covered with landscaping material as part of the proposed development. As such, asbestos contamination, if present, is unlikely to pose an unacceptable risk to future site users. A condition is recommended that requires all asbestos material to be removed from the site.

In this regard, it is considered that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP 55.

4. Compliance with State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Development

The required Design Verification Statement was prepared by Turner Architects.

The Development Application has been assessed against the relevant design quality principles contained within SEPP 65 as follows:

Principle 1: Context and neighbourhood character

The proposal is compatible with the existing and desired context and neighbourhood character of the precinct. The proposal seeks to respond to and contribute to the context of Norwest both in its present state as well as the desired future character.

The locality is comprised of a mixture of existing residential buildings, low to medium and high density, multi-residential and single dwellings, with the future vision of the area zoned to encourage an increased scale of high density residential development adjacent to the site.

Principle 2: Built form and scale

The proposal is consistent with the requirements of the The Hills Council LEP, and is appropriately articulated to minimise the perceived scale. Generous rear setback, separation and variety along the elevations and layering of façade elements, assist in creating expressive street frontages and enhancing the developments relationship with the public domain.

Principle 3: Density

The subject proposal provides for 121 dwellings which will form part of 1300 dwellings across the development site. The density complies and is appropriate for the site and precinct.

Principle 4: Sustainability

The design achieves natural ventilation and solar access as required by the Apartment Design Guidelines. The incorporation of insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

Principle 5: Landscape

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

Principle 6: Amenity

The building design has been developed to provide for the amenity of the occupants as well as the public domain. The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and

acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas and laundries have been provided for each unit. The proposal would provide convenient and safe access to lifts connecting the basement and all other levels.

Principle 7: Safety

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

The NSW Police have reviewed the Development Application and outlined a number of CPTED recommendations. Compliance with NSW Police recommendations will be recommended as a condition of consent.

Principle 8: Housing diversity and social interaction

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development complies with the mix requirements of the LEP and DCP. The application includes 30 x 1 bedroom, 79 x 2 bedroom, 10 x 3 bedroom and 2 x 4 bedroom units.

Principle 9: Aesthetics

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

Apartment Design Guidelines

In accordance with Clause 30(2) of SEPP 65, a consent authority in determining a Development Application for a residential flat building is to take into consideration the Apartment Design Guidelines. The following table is an assessment of the proposal against the Design Criteria provided in the Apartment Design Guidelines.

| 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. | Yes 55% of the development site area (3,662m ²). The communal open space area will receive at least 50% direct sunlight for 2 hours at during midwinter. |
| 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 . | Yes 24/% of the development site area is true deep soil zones as defined within the ADG. |

| | | |
|-------------------------------|---|---|
| Separation | For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys. | Yes |
| Visual privacy | Visual privacy is to be provided through use of setbacks, window placements, screening and similar. | Yes 18 metres provided between buildings and greater than 9 metres to adjoining allotments. The visual privacy of the development has been duly considered with the placement of windows and balconies. Separation distances between habitable / non habitable spaces are considered to be adequate. Screening devices set at oblique angles have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties. |
| 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. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking). | Yes The site is located within 800m of the future Norwest Station. 132 Spaces would be required utilising the RMS rate, 197 spaces and 2 care share spaces are provided |
| Designing the Building | | |
| Solar and daylight access | 1. 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. | Yes 77% of apartments receive 2 hours direct sunlight between 9am and 3pm midwinter. |

| | | |
|---------------------|---|---|
| | 2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. | Yes 10% of apartments receive no direct sunlight between 9am and 3pm at mid-winter. |
| Natural ventilation | <p>1. 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.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> | <p>Yes A total of 62% of units will meet the cross ventilation requirements (i.e. with openings on orthogonal or opposite aspects).</p> <p>Yes The maximum overall depth is 17 metres for a cross through apartment.</p> |
| Ceiling heights | <p>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.</p> <p>If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p> | <p>Yes Floor to ceiling height approx. 2.7 metres for all apartments.</p> <p>NA</p> |
| Apartment size | <p>1. Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10%</p> | <p>Yes</p> <p>1 bedroom – 56-68m² 2 bedroom – 84-101m² 3 bedroom – 110-133m²</p> <p>Where additional bathrooms are proposed, an additional 5m² has been provided.</p> <p>Yes – 178m²</p> <p>All habitable rooms have windows greater than 10% of</p> |

| | | |
|-------------------------------|--|--|
| | of the floor area of the room. Daylight and air may not be borrowed from other rooms. | the floor area of the dwelling. |
| Apartment layout | <p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts</p> | <p>Yes</p> <p>All rooms comply.</p> |
| Balcony area | <p>The primary balcony is to be:</p> <p>Studio – 4m² with no minimum depth</p> <p>1 bedroom – 8m² with a minimum depth of 2m</p> <p>2 bedroom – 10m² with a minimum depth of 2m</p> <p>3 bedroom – 12m² with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.</p> | <p>Yes</p> <p>All balcony sizes and depths comply.</p> |
| Common Circulation and Spaces | <p>The maximum number of apartments off a circulation core on a single level is eight</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p> | <p>Yes</p> <p>NA</p> |
| Storage | <p>Storage is to be provided as follows:</p> <p>Studio – 4m³</p> <p>1 bedroom – 6m³</p> <p>2 bedroom – 8m³</p> <p>3+ bedrooms – 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p> | <p>Yes</p> <p>Each unit contains the minimum storage area.</p> |
| 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. | <p>Yes</p> <p>The apartment mix is satisfactory.</p> |

5. Compliance with The Hills Development Control Plan 2012

The proposal has been against the relevant provisions of The Hills Development Control Plan 2012 noting that some standards such as density, number of storeys, unit typology and parking are superseded by the site specific provisions in the LEP.

The proposed development achieves compliance with the relevant requirements of the development controls with the exception of the following:

| DEVELOPMENT CONTROL | THDCP REQUIREMENTS | PROPOSED DEVELOPMENT | COMPLIANCE |
|---|--------------------|--------------------------------|------------|
| Part B Section 5 Residential Flat Buildings - Clause 3.3(2)(a) | Front Setback 10m | Setback to Spurway Drive 6m | No |

a) Front Setback

The DCP requires a front setback for residential flat buildings of 10 metres. The subject development is set back 6 metres to the building and a cantilevered landscape feature on three levels of each building set back 2.5 metres.

The relevant objectives of this clause of the DCP are:

- (i) *To provide setbacks that complement the setting and contributes to the streetscape and character of the street while allowing flexibility in siting of buildings;*
- (ii) *To ensure that the space in front of the building is sufficient to permit landscaping that will complement the building form and enhance the landscape character of the street.*
- (iii) *Side and rear setbacks are to be proportioned to the slope of the site having regard to the height and relationship of the buildings on adjoining properties.*
- (iv) *The setbacks of proposed buildings are to minimise any adverse impacts such as overshadowing and privacy on adjacent and adjoining properties.*
- (v) *To ensure placement of buildings takes into account the retention and protection of existing trees.*

The applicant has provided the following justification for the variation.

"The proposal will have a 6 metre front setback and 10 metre rear setback. While the 6 metre setback does not comply with the 10 metre development control, the proposal is consistent with the masterplan and will provide adequate solar access and building separation to the adjoining site to the south. In addition, the building will be screened by street trees within the road reserve and the proposed water sensitive urban design measures will provide further aesthetic appeal from the streetscape."

Comment:

The development site is located on the future Spurway Drive extension. The locality will comprise a number of residential flat buildings on both the northern and southern sides of Spurway Drive. The masterplan application associated with this development application seeks to establish a 6m setback along Spurway Drive. There is a recently completed development that fronts Solent Circuit (No. 38 Solent Circuit), and will adjoin the future Spurway Drive at the rear of this building. This building has a northern setback of 6 metres to the podium which is up to 3 metres above natural ground level and 8.5 metres to the building. Also under construction at No 40 Solent Circuit is a 12 storey residential flat building which has a 6 metre setback to the future Spurway Drive.

It is considered that sufficient space remains for adequate landscaping and the reduced setback will not lead to any detrimental overshadowing or privacy impacts.

In this regard, it is considered that the site is appropriate in this instance and the variation to the front setback control is supported.

6. Issues Raised in Submissions

The application was advertised and notified and submissions from 2 properties were received. A petition was attached to one of the submissions. A summary of the submissions are summarised below:

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|--|------------------|
| What is the point of an LEP? People are losing faith in the "system" as developers can ride roughshod over ratepayers' and elected representatives' desires. | The LEP includes a provision to allow variations where better outcomes for and from development by allowing flexibility in particular circumstances. The variations proposed to this application are assessed in Section 2 of this report. | Issue addressed. |
| Submission received in relation to masterplan application 736/2017/JP and subject application. The issues relate to the masterplan and in particular impacts associated with development at the western end of the site. | The issues raised not relating to the subject application will be addressed under Masterplan application 736/2017/JP and are not specifically relevant to the subject proposal which is located at the eastern end of the site. | Issue Addressed. |

DEPARTMENT OF PRIMARY INDUSTRIES - WATER

The proposal was lodged as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the Department of Primary Industries - Water under the provisions of the Water Management Act, 2000. The Department of Primary Industries - Water have advised that they raise no objection to the proposal and that a controlled activity approval is not required.

ROADS & MARITIME SERVICE COMMENTS

The State Environmental Planning Policy – Infrastructure 2009 requires development to be referred to the NSW Roads and Maritime Service where the development results in 200 or more vehicles with access to any road. Although the proposed development comprises of 199 car spaces the application was referred to the RMS as the application proposed a variation to parking rates and cumulative parking across the development site.

The NSW Roads and Maritime Service identified that Council should undertake an assessment on the traffic impacts on the locality given the creation of the link between Windsor Road and Fairway Drive. It is noted that this link is a pre-planned link contained within the Balmoral Road DCP. Although the densities have increased above what was initially planned concerns were not raised by the RMS during the planning proposal stage.

It is considered that this link will provide permeability through to Norwest Business Park and the higher density residential areas on the edge of the business park. Additionally, Council's Principal Traffic & Transport Coordinator has reviewed the proposal and raised no objection with respect to traffic generation.

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 (See Condition No. 6).

SUBDIVISION ENGINEERING COMMENTS

No objections are raised to the proposal subject to conditions.

TREE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection is raised to the proposal subject to conditions.

WASTE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

RESOURCE RECOVERY COMMENTS

No objection is raised to the proposal subject to conditions.

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, SEPP 65, SEPP 55, LEP 2012 and The Hills Development Control Plan and is considered satisfactory.

The variations to the LEP Height control, unit size and parking and the DCP setback variation are addressed in the report and are considered satisfactory.

In relation to the Clause 4.6 Variation request, it is considered that the Applicant's request is well founded, and the proposed variation results in a development that is consistent with the relevant objectives, and compliance with the standard are unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report.

The issues raised in the submissions have been addressed in the report. Further amendment or refusal of the application is not warranted.

Accordingly approval subject to conditions is recommended.

IMPACTS

Financial

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

The Hills Future Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed

development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved subject to the following conditions of consent.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

| DRAWING NO. | DESCRIPTION | REVISION | DATE |
|-------------|---|----------|------------|
| DA-000-001 | Cover | B | 26/10/2016 |
| DA-110-002 | Site Plan | B | 26/10/2016 |
| DA-110-003 | Site Analysis | B | 26/10/2016 |
| DA-110-004 | Basement 2 | E | 22/03/2017 |
| DA-110-005 | Basement 1 | E | 22/03/2017 |
| DA-110-006 | Lower Ground | F | 05/07/2017 |
| DA-110-007 | Ground Level | C | 23/03/2017 |
| DA-110-010 | Level 01 | C | 23/03/2017 |
| DA-110-020 | Level 02 | C | 23/03/2017 |
| DA-110-030 | Level 03 | C | 23/03/2017 |
| DA-110-040 | Level 04 | C | 23/03/2017 |
| DA-110-050 | Level 05 | C | 23/03/2017 |
| DA-110-060 | Level 06 | C | 23/03/2017 |
| DA-110-070 | Plant Level | B | 26/10/2016 |
| DA-110-080 | Roof Level | B | 26/10/2016 |
| DA-250-001 | Spurway Drive Elevation - South Elevation | B | 26/10/2016 |
| DA-250-002 | Green Spine Elevation - North Elevation | B | 26/10/2016 |
| DA-250-003 | Courtyard Elevation - Building D1 East elevation | B | 26/10/2016 |
| DA-250-004 | Private Driveway Elevation - Building D1 West Elevation | B | 26/10/2016 |
| DA-250-005 | Courtyard Elevation - Building D2 West Elevation | B | 26/10/2016 |

| | | | |
|------------|--|---|------------|
| DA-250-006 | Building D2 East Elevation | B | 26/10/2016 |
| DA-350-001 | Section AA | B | 26/10/2016 |
| DA-350-002 | Section BB | B | 26/10/2016 |
| DA-350-003 | Section CC | B | 26/10/2016 |
| DA-350-004 | Ramp Sections | B | 26/10/2016 |
| DA-810-010 | Adaptable apartments Sheet 01 | - | 26/10/2016 |
| DA-810-020 | Adaptable apartments Sheet 02 | - | 26/10/2016 |
| DA-830-001 | Materials and external finishes | B | 26/10/2016 |
| DA-900-001 | View towards Spurway Drive from shared zone | B | 26/10/2016 |
| DA-900-002 | View towards Linear Park from Future Building D3 | B | 26/10/2016 |
| DA-900-003 | View towards Phase 1 from Golf course carpark | B | 26/10/2016 |
| 41917 | Plan of Proposed Subdivision Sheet 1 of 5 | - | 10/10/2016 |
| 41917 | Plan of Proposed Subdivision Sheet 2 of 5 | - | 10/10/2016 |
| 41917 | Plan of Proposed Subdivision Sheet 3 of 5 | - | 10/10/2016 |
| 41917 | Plan of Proposed Subdivision Sheet 4 of 5 | - | 10/10/2016 |
| 41917 | Plan of Proposed Subdivision Sheet 5 of 5 | - | 10/10/2016 |

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

2. Construction Certificate

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

3. Provision of Parking Spaces and Car Share Vehicles

The development is required to be provided with 197 car parking spaces incorporating 173 resident spaces and 24 visitor spaces, including 8 accessible spaces. These car parking spaces shall be available for off street parking at all times.

Two car share spaces with two vehicles for a car share provider shall be provided adjacent to the shared driveway off-street car parking spaces.

4. Tree Removal

Approval is granted for the removal of trees numbered 62-89, 104, 107 and 108 as detailed in the Arboricultural impact Assessment prepared by Tree Wise Man dated September 2016.

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

5. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with protection measure and remedial work to be carried out in accordance with the Arboricultural Impact Assessment prepared by Tree Wise Men dated September 2016.

6. Compliance with NSW Police Force Requirements

Compliance with the requirements of NSW Police – Local Area Command as outlined in their letter dated 20 December 2016:

Surveillance:

- CCTV coverage is required to be installed to monitor all common areas and entry/exits points. Use of height indicator stickers on entrance/exit doors is required on entry/exit doors.
- Paint the basement white to reflect light.
- Vegetation to be kept trimmed at all times.
- Installation of a security intercom system is required to access the residential parts of the basement car park and main lobbies. Each unit is to contain an intercom system to enable access for visitors to the basement car park and lobby. Security access is to be utilised at the entrance of the basement.

Lighting:

- Lighting is to meet minimum Australian Standards. Special attention is to be made to lighting at entry/exit points from the building, the car park and driveways.

Environmental Maintenance:

- Use of anti-graffiti building materials.
- High fencing during construction is to be used.
- Use of security sensor lights and a security company to monitor the site during construction phase are required.

Access Control:

- Ground level units are required to have upgraded security measures in place such as doors/ windows being alarmed, thickened glass and sensor lights.
- High quality letter boxes that meet AS ISO9001:2008 are required and are only to be accessed via within the unit complex by residents.
- Lift from car park into the residential part of the building to be used with a fob or pin code is required.
- Entry into car park to be secured by a fob, remote/code access and camera are required.
- Ensure improved strength to security roller shutters/garage doors is used.
- Caged storage units are to be built up to the ceiling with a door with better quality locking mechanism are to be used.
- Fire doors are to be alarmed and a magnetic strip is required so that the door will shut closed.
- External doors that can be used to enter the car park or into the complex are required to have a plate installed to the door.
- Devices are to be fitted to enable windows to be locked at 12.5cm when the devices are engaged

7. Building Work to be in Accordance with BCA

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

8. Property Numbering

The responsibility for property numbering is vested solely in Council.

Approved street numbering for this development is 11-13 Spurway Drive Baulkham Hills

Approved Unit Numbering is as per plans submitted - Drawings A-110-008, 010, 020, 030, 040, 050, 060 – Rev P5:

11 Spurway Drive

13 Spurway Drive

| | |
|---------------|---------------|
| Units 109-116 | Units 101-108 |
| Units 210-218 | Units 201-209 |
| Units 310-318 | Units 301-309 |
| Units 410-418 | Units 401-409 |
| Units 510-518 | Units 501-509 |
| Units 610-618 | Units 601-609 |
| Units 708-715 | Units 701-707 |

Unit numbering cannot be repeated throughout the development.

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

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

Written correspondence from Australia Post certifying that they have agreed to the proposed location of the letterboxes must be supplied to Land Information Section of Council.

9. Adherence to Waste Management Plan

All requirements of the Waste Management Plan submitted as part of the Development Application (version 1.1) must be implemented, except where contrary to other conditions of consent, which must take precedence. The information submitted can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

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

10. Management of Construction and/or Demolition Waste

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place.

Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. The separation and recycling of the following waste materials is required: metals, timber, masonry products and clean waste plasterboard. This can be achieved by source separation onsite, that is, a bin for metal waste, a bin for timber, a bin for bricks and so on. Alternatively, mixed waste may be stored in one or more bins and sent to a waste contractor or transfer/sorting station that will sort the waste on their premises for recycling. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

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

11. Disposal of Surplus Excavated Material

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

12. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council for the entire site including the small grocery shop. The service must be arranged no earlier than one week prior to occupancy and no later than occupancy. All requirements of Council's domestic waste collection service must be complied with at all times. Contact Council's Resource Recovery Department for the commencement of domestic waste services.

13. Construction of Garbage Holding Room

All work involving construction of the main garbage holding room must comply with the requirements below. Minimum storage facility must be provided for 55 (660 litre) bulk bins. Additionally, a caged area must be provided within the room for the interim storage and management of unwanted bulky goods, with a minimum floor area of 16m².

1. The layout of the main garbage holding room must ensure that each bin is easily accessible and manoeuvrable in and out of the main garbage holding room with minimal or no manual handling of other bins.
2. The walls of the main garbage holding room must be constructed of brickwork.
3. The floor of the main garbage holding room must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
4. The doors of the main garbage holding room must have a minimum clear floor width of 1.5m. Acceptable waste servicing doors are single or double swinging doors and roller doors.
5. Any aisles used to move bins for collection purposes must have a minimum width of 1.5m and a maximum ramp gradient of 1:20 (5%).
6. All doors of the main garbage holding room, when fully opened, must be flush with the outside wall and must not block or obstruct the vehicle carriageways or footways. All doors must be able to be fixed in position when fully opened.
7. The main garbage holding room must be adequately ventilated (mechanically). It should not be connected to the same ventilation system supplying air to the units.
8. The bin washing area in the loading dock must be provided with a hose tap (hot and cold mixer), connected to a water supply, to facilitate bin washing.
9. The main garbage holding room must be provided with a light (automatic sensor light recommended).
10. The main garbage holding room must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Body Corporate.
11. Finishes and colours of the main garbage holding room are to complement the design of the development.

Bulk bin measurements (mm)

660L: 850 (d) 1370 (w) 1250 (h)

14. Construction of Chute Discharge Rooms

All work involving construction of the two chute discharge rooms must comply with the requirements below. Each room must contain two 2-bin linear conveyors (for 660 litre bulk bins) to separate recycling from garbage. Garbage must be mechanically compacted at a ratio of 2:1. No compaction is permitted for recycling. Additional space must be provided in the rooms to store empty bins to readily exchange underneath the chutes when bins are full.

1. The chute discharge rooms must be of adequate size to comfortably store the equipment mentioned above.
2. The layout of the chute discharge rooms must ensure that each bin is easily accessible and manoeuvrable in and out of the chute discharge rooms with minimal or no manual handling of other bins.
3. The walls of the chute discharge rooms must be constructed of brickwork.
4. The floor of the chute discharge rooms must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
5. The chute discharge rooms must have a waste servicing door, with a minimum clear floor width of 1.5m. Acceptable waste servicing doors are single or double swinging doors and roller doors.
6. Any aisles used to move bins for collection purposes must have a minimum width of 1.5m and a maximum ramp gradient of 1:20 (5%).
7. All doors of the chute discharge rooms, when fully opened, must be flush with the outside wall and must not block or obstruct the vehicle carriageways or footways. All doors must be able to be fixed in position when fully opened.
8. The chute discharge rooms must be adequately ventilated (mechanically). It should not be connected to the same ventilation system supplying air to the units.
9. The chute discharge rooms must be provided with a hose tap (hot and cold mixer), connected to a water supply.
10. The chute discharge rooms must be provided with a light (automatic sensor light recommended).
11. The chute discharge rooms must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Body Corporate.
12. Finishes and colours of the chute discharge rooms are to complement the design of the development.

Bulk bin measurements (mm)

660L: 850 (d) 1370 (w) 1250 (h)

15. Dual Chutes for Garbage and Recycling

Each residential floor must have a dual chute to enable chute disposal of both garbage and recyclables. The chute openings must be accessible from all units on the same level with no need to go up or down a level. The chutes must terminate in one of the two chute discharge rooms on the lower ground level, and discharge separated waste into 660 litre bulk bins housed on 2-bin linear conveyors.

16. Communal Composting Areas

An area shall be incorporated in the landscape design of the development for communal composting. Whilst the operation of such a facility will depend upon the attitudes of occupants and their Owners Corporation, the potential to compost should exist.

17. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be provided and designed in accordance with Australian Standard 2890.2-2002 for the standard 12.5m long Heavy Rigid Vehicle. The following additional requirements are applicable:

1. All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
2. Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
3. The requirement for reversing is limited to a single reverse entry manoeuvre into the designated service bay. The service bay must allow additional space for access and loading and have appropriate signage such as no parking at any time.
4. All manoeuvring areas where the clear headroom is less than 4.5m must have flexible striker bars and warning signs as per Australian standard 2890.1 to warn waste collection contractors of the low headroom area. Note all manoeuvring areas for waste collection vehicles must have minimum clear headroom of 4.5m.
5. The loading area must have a sufficient level of lighting, and allow additional space for access and loading (e.g. wheeling a bulk bin to the back of the collection vehicle for rear load collection).
6. Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of medium and heavy vehicles, remote access or other measure to ensure there is no requirement for collection contractors to exit the cab. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

18. Contamination Requirements

During demolition / excavation / construction the recommendations of the *Detailed Site Investigation* for 47 Spurway Drive, Baulkham Hills prepared by EI Australia, referenced as E23307 AA_Rev0, dated 6 April 2017 and submitted as part of the Development Application are to be complied with as part of this approval. Including but not limited to:

1. A hazardous materials survey is to be completed prior to the demolition of any existing structures; and
2. Waste classification of fill / soil is to be performed prior to any fill / soil removal on site in accordance with the EPA 2014 Waste Classification Guidelines, including offsite disposal to appropriately licenced waste management facilities

19. Street Trees

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

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

20. Recycled Water

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

21. Community Association Lot

All lots or dwellings within the community scheme must be entitled to utilise the community lot and share in the costs associated with its upkeep.

22. Water Sensitive Urban Design Handover Process

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

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

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

23. Road Opening Permit

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

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

24. Approved Subdivision Plan

The subdivision component of the development must be carried out in accordance with the approved plan of subdivision prepared by LTS Lockley Drawing 43587CT-2 dated 10/10/2016 except where amended by other conditions of consent.

With respect to this plan, the area of Lucinda Avenue needs to be included as a part of proposed development lot four. The dedication of this road cannot occur until it has been constructed which will need to occur with the planned further development of this development lot.

The community management statement needs to include a provision that allows the developer rights to create additional association/ lot one property in later stages from the development lots in line with the planned further development of each (subject to their own development applications).

25. Separate Application for Strata Subdivision

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

26. Protection of Public Infrastructure

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

27. Structures Adjacent to Piped Drainage Easements

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

28. Vehicular Access and Parking

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

- AS/ NZS 2890.1
- AS/ NZS 2890.6
- AS 2890.2
- DCP Part C Section 1 – Parking
- Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.
- Contrary to the submitted plans, the pedestrian priority shared zone, two car share spaces and the truck turning loading zone are not included as part of the separate Infrastructure Development Application (634/2017/ZB). They are required/ included as part of this development application. The detailed design/ Construction Certificate plan needs to include dimensions for these areas demonstrating compliance with the above documents.

- A dedicated turning area in front of the security gate/ entrance to the basement carpark is not required in this case because the driveway is accessed from the pedestrian priority shared zone. In later stages, where the driveway fronts a public road directly, the need for cars to turn around onsite and return the public road network (especially a collector road like Spurway Drive) in a forward direction needs to be considered as per the Development Control Plan.

29. Gutter and Footpath Crossing Application

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

30. Excavation/ Anchoring Near Boundaries

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

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

31. Resubmit Landscape Plan

An amended Landscape Plan (to scale) for the landscaping of the site is to be prepared by a suitably qualified landscape architect or horticulturalist and submitted to the satisfaction of Council's Manager - Environment and Health.

The plan must address the following landscaping detail in addition to the previous supplied landscape plan prepared by McGregor Coxall Pty Ltd dated 21/3/17:

- a) The provided planting schedule and plans are to be updated to provide details of species mix/diversity and planting locations.
- b) Fencing location and details to be shown on landscape plans.
- c) Street trees are to be shown on landscape plans.
- d) Further detail of the landscape treatment around the hydrant and associated retaining wall within the Spurway drive setback is required. Additional planting to screen and soften these structures is required.

- e) The landscape treatment for the areas between the proposed bio retention swales and building footprint is to be confirmed, construction details including proposed levels for any retaining walls in these areas are to be provided. Where possible this area is to be a planted landscape buffer.
- f) Details of fencing to internal courtyards is to be provided.
- g) Eucalyptus tereticornis and Eucalyptus moluccana trees are shown to be planted in the rooftop/sky garden. These species are inappropriate for this location due to their size and structure. A more appropriate species is to be shown on updated plans.
- h) Landscape details of terraces/vertical orchards are to be provided.

32. Design Verification

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

33. Special Infrastructure Contribution – Growth Centres

A special infrastructure contribution is to be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011, as in force when this consent becomes operative.

Information about the special infrastructure contribution can be found on the Department of Planning and Environment website:

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

Please contact the Department of Planning and Environment regarding arrangements for the making of a payment.

34. Notice of Requirements

The submission of documentary evidence to the Certifying Authority, including a Notice of Requirements, from Sydney Water Corporation confirming that satisfactory arrangements have been made for the provision of water and sewerage facilities.

Following an application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water / sewer extensions can be time consuming and may impact on other services and building, driveway and landscape design.

35. Section 94 Contribution – Balmoral Road Release Area

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

Payments comprise of the following:-

| | Purpose: 1 bedroom unit | Purpose: 2 bedroom unit | Purpose: 3 bedroom unit | Purpose: 4 bedroom unit | No. of 1 Bedroom units: 30 | No. of 2 Bedroom units: 79 | No. of 3 Bedroom units: 10 | No. of 4 Bedroom units: 2 | Total S94 |
|--------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|-------------------------------|-------------------------------|-------------------------------|------------------------------|------------------------|
| Open Space - Land | \$ 12,930.96 | \$ 17,904.40 | \$ 18,865.47 | \$ 18,865.47 | \$ 387,928.80 | \$ 1,414,447.60 | \$ 188,654.70 | \$ 37,730.94 | \$ 2,028,762.04 |
| Open Space - Capital | \$ 3,431.83 | \$ 4,751.77 | \$ 5,006.83 | \$ 5,006.83 | \$ 102,954.90 | \$ 375,389.83 | \$ 50,068.30 | \$ 10,013.66 | \$ 538,426.69 |
| Transport Facilities - Capital | \$ 2,443.64 | \$ 3,383.50 | \$ 3,595.11 | \$ 3,595.11 | \$ 73,309.20 | \$ 267,296.30 | \$ 35,651.10 | \$ 7,130.22 | \$ 383,387.02 |
| Community Facilities - Land | \$ 255.72 | \$ 354.08 | \$ 373.09 | \$ 373.09 | \$ 7,671.60 | \$ 27,972.32 | \$ 3,738.96 | \$ 746.18 | \$ 40,121.00 |
| Community Facilities - Capital | \$ 1,047.63 | \$ 1,450.57 | \$ 1,528.43 | \$ 1,528.43 | \$ 31,428.90 | \$ 114,595.03 | \$ 15,284.30 | \$ 3,056.86 | \$ 164,365.09 |
| Administration | \$ 179.48 | \$ 248.51 | \$ 261.85 | \$ 261.85 | \$ 5,384.40 | \$ 19,632.29 | \$ 2,618.50 | \$ 523.70 | \$ 28,158.89 |
| Drainage Facilities - Capital | \$ 273.64 | \$ 378.88 | \$ 399.22 | \$ 399.22 | \$ 8,209.20 | \$ 29,931.52 | \$ 3,992.20 | \$ 798.44 | \$ 42,931.36 |
| Total | \$ 20,562.90 | \$ 28,471.71 | \$ 30,000.00 | \$ 30,000.00 | \$ 616,587.00 | \$ 2,249,265.09 | \$ 300,000.00 | \$ 60,000.00 | \$ 3,226,152.09 |

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

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

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

36. Internal Pavement Structural Design Certification

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

37. Erosion & Sediment Control Plan

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

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

(NOTE: For guidance on the preparation of the Plan refer to 'Managing Urban Stormwater Soils & Construction' produced by the NSW Department of Housing).

38. Protection of Internal Noise Levels

An acoustic statement is required to be submitted to Council's Manager - Environment and Health prior to the issue of a Construction Certificate certifying that the design of the development on the construction plans does ensure the following noise levels will be achieved:

- 35 dB (A) in any bedroom between 10pm and 7am.
- 40dB (A) anywhere else (other than garage, kitchen, bathroom and hallway) at any time.

In particular the acoustic statement shall detail that all recommendations contained within the *Phase 1 Stage 2 DA Acoustic Assessment* for 47 Spurway Drive, Baulkham Hills prepared by Acoustic Logic, with project number 201660992.2 and dated 21 March 2017, have been included in the final construction plans for the development.

39. Acoustic – Construction Noise Management Plan

Prior to the issue of any Construction Certificate for stage 1 a Construction Noise Management Plan (CNMP) is to be prepared by a suitably qualified acoustic consultant and submitted to Council's Manager – Environment and Health for review, and if satisfactory, written approval. The CNMP is to demonstrate how compliance with the *Interim Construction Noise Guideline* published by the Department of Environment and Climate Change, 2009 can be achieved.

40. Acoustic – Mechanical Ventilation

Prior to any Construction Certificate being issued a final noise assessment is to be undertaken for all mechanical plant proposed in stage 1 including, but not limited to basement ventilation / extraction, garbage exhaust fans and apartment condenser units. The final noise assessment is provide recommendations for any noise attenuation measures and is to clearly demonstrate that the project specific criteria can be achieved.

The final noise assessment is to be submitted to Council's Manager – Environment and Health for review and if satisfactory written approval will be provided in support of a Construction Certificate being issued.

41. Biodiversity Offsetting Requirements

To offset the loss of biodiversity from the site, including the complete removal of Cumberland Plain Woodland, the development must purchase and retire four (4) HN528 Grey Box – Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion ecosystem credits. A retirement certificate from the NSW BioBanking Office to demonstrate compliance with this condition is to be provided to The Hills Shire Council's Manager – Environment and Health prior to issue of a Construction Certificate.

42. Security Bond Requirements

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

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

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

43. Sediment and Erosion Control Plan

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

- Lot boundaries;
- Roads;
- Contours;
- Existing vegetation;
- Existing site drainage;
- Critical natural areas;
- Location of stockpiles;
- Erosion control practices;
- Sediment control practices; and
- A maintenance program.

44. Construction Management Plan (Staged Applications)

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

45. Stormwater Pump/ Basement Car Park Requirements

The stormwater pump-out system must be designed and constructed in accordance with AS/ NZS 3500.3:2015 - Plumbing and Drainage - Stormwater drainage. The system must be connected to the Onsite Stormwater Detention system before runoff is

discharged to the street (or other point of legal discharge) along with the remaining site runoff, under gravity. All plans, calculations, hydraulic details and manufacturer specifications for the pump must be submitted with certification from the designer confirming compliance with the above requirements.

46. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$80,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated based on the road frontage of the subject site (development lot two) plus an additional 50m on either side multiplied by the width of the road (9.5m). The bond amount has been reduced though to take into account that the section of Spurway Drive in question is yet to be built/ will be constructed by the developer as part of their earlier Infrastructure Development Application.

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

The bond is refundable upon written application to Council and is subject to all work being restored to Council's satisfaction. Should the cost of restoring any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these costs.

47. Engineering Works and Design

The design and construction of the engineering works listed below must be provided for in accordance with Council's Design Guidelines Subdivisions/ Developments and Works Specifications Subdivisions/ Developments.

Engineering works can be classified as either "subdivision works" or "building works".

The following engineering works are required:

a) Driveway Requirements

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's Driveway Specifications.

The proposed driveway associated with the pedestrian priority shared zone must be built to Council's heavy duty standard.

The driveway must be a minimum of 6m wide at the boundary splayed 1m on either side to 8m (minimum) at the kerb. The driveway must be a minimum of 6m wide for the first 6m into the site, measured from the boundary.

The cul-de-sac turning head at the end of the pedestrian priority shared zone must have a minimum diameter of 19m.

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

b) Disused Layback/ Driveway Removal

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

c) Site Stormwater Drainage/ Inter-allotment Stormwater Drainage

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge. This relates to the development area, namely community association lot one and development lot two.

Runoff from this development area will need to tie into the future/ planned drainage over development lot four downstream. Temporarily, a tail out drain over development lot four is required to be provided, of sufficient length and width to dissipate stormwater flows to an acceptable level from the end of the piped stormwater outlet shown on the concept engineering plan prepared by Northrop (Revision 2).

This pipeline along the northern site boundary forms part of the planned internal/ piped inter-allotment stormwater drainage catering for the upstream development site too (development lot three). The design and construction of this system must comply with the above documents, generally in accordance with the concept engineering plan prepared by Northrop (Revision 2).

d) Stormwater Drainage – Temporary Works

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

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

e) Earthworks/ Site Regrading

Earthworks are limited to that shown on the approved plans. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed.

Retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by Northrop (Revision 2).

Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent.

f) Service Conduits

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

g) Water Sensitive Urban Design Elements

Water sensitive urban design elements, consisting of 181 square metres of bio-retention swale fronting Spurway Drive (development lot two only) and grassed swales along the northern and western site boundaries (development lots one and two only) are to be located generally in accordance with the plans and information submitted with the application. Specifically, the concept engineering plan prepared by Northrop (Revision 2) and the accompanying stormwater management report dated 24/03/2017. With respect to both:

The report states that the lake upstream of the site provides communal storage and this is why Onsite Stormwater Detention is not required. Rather, Onsite Stormwater Detention is not required here because of the various basins provided along Strangers Creek further north of the site on either side of Memorial Avenue.

The provision of additional detention across the site more broadly still needs to be considered as part of the separate masterplan development application and in later built form stages, noting that there are no rainwater or stormwater reuse tanks included as part of this stage/ development contrary to the Development Control Plan.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

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

All model parameters and data outputs are to be provided.

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

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

48. Public Road Access/ Spurway Drive Levels

To ensure that the finished levels of the Spurway Drive fronting the development site are compliant with respect to the design of driveway, pedestrian access and retaining walls associated with the landscaped bio-retention basins, the design for the construction of Spurway Drive (including the creek crossing over Strangers Creek) extending from Fairway Drive all the way to the eastern boundary of proposed development lot three/ the subject site proposed under the separate Infrastructure Development Application (634/2017/ZB) shall be sufficiently progressed so that the levels along the development frontage can be finalised as part of the Construction Certificate for these building works. The finished road levels are to be submitted to and approved by Council's Manager Development Assessment if an Engineering Construction Certificate for Spurway Drive has not been approved prior to the issue of any Construction Certificate.

PRIOR TO WORK COMMENCING ON THE SITE

49. Protection of Existing Trees

The trees that are to be retained are to be protected during all works strictly in accordance with the arboricultural impact assessment prepared by Tree Wise Men (dated September 2016) and AS4970- 2009 Protection of Trees on Development Sites.

At a minimum a 1.8m high chain-wire fence is to be erected at least three (3) metres from the base of each tree and is to be in place prior to works commencing to restrict the following occurring:

- Stockpiling of materials within the root protection zone,
- Placement of fill within the root protection zone,
- Parking of vehicles within the root protection zone,
- Compaction of soil within the root protection zone.

All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of not less than 100mm.

A sign is to be erected indicating the trees are protected.

The installation of services within the root protection zone is not to be undertaken without prior consent from Council.

50. Engagement of a Project Arborist

Prior to works commencing, a Project Arborist (minimum AQF Level 5) is to be appointed and the following details provided to The Hills Shire Council's Manager – Environment & Health:

- a) Name:
- b) Qualification/s:
- c) Telephone number/s:
- d) Email:

If the Project Arborist is replaced, Council is to be notified in writing of the reason for the change and the details of the new Project Arborist provided within 7 days.

51. Trenching within Tree Protection Zone

Any trenching for installation of drainage, sewerage, irrigation or any other services shall not occur within the Tree Protection Zone of trees identified for retention without prior notification to Council (72 hours notice) or under supervision of a project arborist.

If supervision by a project arborist is selected, certification of supervision must be provided to the Certifying Authority within 14 days of completion of trenching works.

52. Builder and PCA Details Required

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

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

53. Management of Building Sites – Builder's Details

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

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

54. Consultation with Service Authorities

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

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

55. Demolition Works and Asbestos Management

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

56. Site Water Management Plan

A Site Water Management Plan is to be prepared. The plan shall be in accordance with *"Managing Urban Stormwater - Soils and Construction"* (Blue Book) produced by the NSW Department of Housing. The plan is to be kept on site at all times and made available upon request.

57. Notification of Asbestos Removal

Prior to commencement of any demolition works involving asbestos containing materials, all adjoining neighbours and Council must be given a minimum five days written notification of the works.

58. Project Ecologist

Prior to any works commencing, a Project Ecologist is to be appointed and the following details provided to The Hills Shire Council's Manager – Environment & Health:

- a) Name:
- b) Qualification/s:
- c) Telephone number/s:
- d) Email:

If the Project Ecologist is replaced, The Hills Shire Council's Manager – Environment & Health is to be notified in writing of the reason for the change and the details of the new Project Ecologist within 7 days.

59. Traffic Control Plan

A Traffic Control Plan is required to be prepared and approved. The person preparing and approving the plan must have the relevant accreditation to do so. A copy of the approved plan must be submitted to Council before being implemented. Where amendments to the plan are made, they must be submitted to Council before being implemented.

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

60. Sediment and Erosion Control

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

61. Service Authority Consultation – Subdivision Works

Before subdivision works commence documentary evidence must be submitted confirming that satisfactory arrangements have been made for:

- The provision of electrical services for the non-residue lots created by the subdivision. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.
- The provision of water and sewerage facilities.
- The provision of telecommunication services for the non-residue lots created by the subdivision, typically requiring the installation of pits and pipes complying with the standard specifications of NBN Co current at the time of installation. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. The Telecommunications Act 19978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

62. Public Infrastructure Inventory Report

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

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

DURING CONSTRUCTION

63. Project Arborist

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

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

64. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

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

65. Construction Access

Construction Access to the development site shall be via the eastern end of Spurway Drive unless formal access of the Spurway Drive extension subject to Development Application 634/2017/ZB from Fairway Drive exists

66. Dust Control

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

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

67. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No. 767568M are to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

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

Section 109E(3)(d) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as "Critical Stage Inspections" to be carried out for building work. Prior to permitting commencement of the work, your Principal Certifying Authority is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

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

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

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

69. Rock Breaking Noise

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

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

70. Construction Noise

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

71. Removal of Septic Tank and Effluent Disposal Area

The existing subsurface effluent disposal area and any associated wastewater infrastructure is to be removed and back filled with Excavated Natural Material (ENM).

Any redundant septic tank, collection well or aerated wastewater treatment system is to be removed or reused in accordance with NSW Health "Advisory Note 3- Revised January 2017 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems (AWTS) and other Sewage Management Facilities (SMF)" available from the NSW Health website (<http://www.health.nsw.gov.au/>).

Note: Methods 1.1 & 2.1 (Demolition) are not permissible.

72. Contamination

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

The report is to be submitted to Council's Manager – Environment and Health for review prior to works recommencing on site.

73. Asbestos Removal

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

Once the materials have been removed and delivered to the landfill site, receipts verifying the quantity received by the site are to be provided to the Principle Certifying Authority.

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

74. Dust Control

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

- Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the construction work;

- All dusty surfaces must be wet down and suppressed by means of a fine water spray. Water used for dust suppression must not cause water pollution; and
- All stockpiles of materials that are likely to generate dust must be kept damp or covered.

75. Stockpiles

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

76. Tree Removal & Fauna Protection

During any tree removal, an experienced wildlife handler is to be present to re-locate any displaced fauna that may be disturbed during this activity. Any injured fauna is to be appropriately cared for and released on site when re-habilitated.

Trees shall be lopped in such a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the "grab" attachment of a machine.

The fauna mitigation measures listed on pages 41 – 42 of the Flora & Fauna Assessment (Travers Bushfire & Ecology dated 18/04/2017) must be implemented. This work is to be done by a qualified and experienced arborist, under the direction of the Project Ecologist.

77. Protection of Existing Vegetation

Vegetation not authorised for removal by this consent shall be protected during construction to ensure that natural vegetation and topography on the subject site is not unnecessarily disturbed.

Any excavated material not used in the construction of the subject works is to be removed from the site to a licensed facility and under no circumstances is to be deposited in bushland areas.

78. Standard of Works

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

79. Critical Stage Inspections – Subdivision Works

The subdivision works must be inspected by Council in accordance with the schedule included in Council's Works Specification Subdivisions/ Developments. A minimum of 24 hour's notice is required for inspections. No works are to commence until the first inspection has been carried out.

80. Subdivision Earthworks – Lot Topsoil

Where earthworks are not shown on the engineering drawings, the topsoil within lots must not be disturbed. Where earthworks are shown, a 150mm deep layer of topsoil must be provided, suitably compacted and stabilised in accordance with Council's Works Specification Subdivisions/ Developments.

81. Aboriginal Archaeological Sites or Relics

If, during activities involving earthworks and soil disturbance, any evidence of an Aboriginal archaeological site or relic is found, all works on the site are to cease and the NSW Office of Environment and Heritage must be notified immediately.

82. National Parks and Wildlife Act 1974

Should any artefacts be uncovered in the course of any works, all works should cease and comply with Part 6 of the National Parks and Wildlife Act 1974, in particular Section 90 regarding permits to destroy.

83. European Sites or Relics

If, during the earthworks, any evidence of a European archaeological site or relic is found, all works on the site are to cease and the NSW Office of Environment and Heritage must be contacted immediately. All relics are to be retained in situ unless otherwise directed by the NSW Office of Environment and Heritage.

84. Confirmation of Compliance with Nil Setbacks

Prior to the installation of the external roof tiles or sheeting, written advice from a registered surveyor must be provided to the Principal Certifying Authority confirming that the constructed walls (and any guttering and fascia) to the wall for each building with a nil setback, is located wholly within the property boundary.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

85. Design Verification Certificate

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

86. Landscaping Prior to Issue of Occupation Certificate

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

87. Internal Pavement Construction

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

88. Final Inspection of Waste Storage Areas

Prior to an Occupation Certificate being issued, a final inspection of the waste storage areas and associated management facilities must be undertaken by Council. This is to ensure compliance with Council's design specifications (as specified in other conditions of consent) and that necessary arrangements are in place for waste collection by Council. The time for the inspection should be arranged with Council at least 48 hours prior to the suggested appointment time. Note that the dual chute system including linear bin conveyors must be installed and fully operational at the time of this inspection.

89. Acoustic – Compliance Report

The acoustic consultant shall ensure that the correct installation of all noise suppressant components recommended in the following report and any acoustic report approved by Council's Manager – Environment and Health:

- *Phase 1 Stage 2 DA Acoustic Assessment* for 47 Spurway Drive, Baulkham Hills prepared by Acoustic Logic, with project number 201660992.2 and dated 21 March 2016.0.

Prior to any Occupation Certificate being issued certification from a qualified acoustic consultant is to be provided to Council's Manager – Environment and Health.

90. Biodiversity compliance

Evidence that the following measures have been undertaken shall be submitted to The Hills Shire Council's Manager – Environment & Health:

1. **Tree Removal & Fauna Protection** – Details prepared by the project ecologist demonstrating compliance with the Tree Removal and Fauna Protection condition/s of this consent.

91. Completion of Subdivision Works

A Subdivision Certificate cannot be issued prior to the completion of all subdivision works covered by this consent.

92. Completion of Engineering Works

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

93. Public Infrastructure Inventory Report - Post Construction

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

94. Confirmation of Pipe Locations

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

95. Section 73 Compliance Certificate

A Section 73 Compliance Certificate issued under the Sydney Water Act 1994 must be obtained from Sydney Water confirming satisfactory arrangements have been made for the provision of water and sewer services. Application must be made through an authorised Water Servicing Coordinator. The certificate must refer to this development consent and all of the lots created.

Sydney Water's guidelines provide for assumed concurrence for the strata subdivision of a development approved by an earlier consent covered by a compliance certificate.

96. Provision of Electrical Services

Submission of a notification of arrangement certificate confirming satisfactory arrangements have been made for the provision of electrical services. This must include the under-grounding of the existing electrical services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.

97. Provision of Telecommunication Services

For a fibre-ready facility, written certification from a qualified installer must be submitted confirming that the telecommunications infrastructure has been installed in accordance with the following requirements:

- The Telecommunications Act 1978 (Cth).
- The standard specifications of NBN Co current at the time of installation.
- All telecommunications infrastructure must be undergrounded.

The Telecommunications Act 1978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

In all other cases (non-fibre ready facilities), either an agreement advice or network infrastructure letter must be issued by Telstra confirming satisfactory arrangements have been made for the provision of telecommunication services. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.

A copy of the works as executed (WAE) plans for the telecommunications infrastructure must also be submitted.

98. Building Adjacent to Proposed Boundary

Where any part of an existing/ partially constructed building is located within 2m of a proposed boundary the location of such must be determined by a registered surveyor and shown on the final plan.

99. Building Services

A letter from a registered surveyor must be submitted certifying that all facilities servicing the existing/ partially constructed buildings are located wholly within their respective lot or are otherwise contained within a suitable easement.

100. Final Plan and Section 88B Instrument

The final plan and Section 88B Instrument must provide for the following. Council's standard recitals must be used.

a) Easement – Private Stormwater Drainage

Inter-allotment drainage easements must be created to ensure each and every lot is provided with a legal point of discharge. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

This includes temporary outlets upstream junction pits/ caps linked to future stages.

b) Easement – Right of Access/ Easement for Services

A right of access/ easement for services must be created over the proposed pedestrian priority shared zone in favour of the development site/ proposed lot two unless this area is instead created as an "access way" within the community management statement.

c) Easement – Overhanging/ Encroaching Structure

Where an encroaching or overhanging structure has been approved across a proposed boundary, an easement must be created over the affected part of the burdened lot.

d) Restriction – Residue Lots

Lots 3 and 4 must be burdened with a restriction using the "residue lots" terms included in the standard recitals.

e) Restriction – Bedroom Numbers

Lot 2 must be burdened with a restriction using the "bedroom numbers" terms included in the standard recitals.

f) Covenant – Onsite Waste Collection

Lot 1 must be burdened with a positive covenant relating to onsite waste collection using the "onsite waste collection" terms included in the standard recitals.

g) Restriction/ Covenant – Water Sensitive Urban Design

Lots 1 and 2 must be burdened with a restriction and a positive covenant that refers to the WSUD elements referred to earlier in this consent using the "water sensitive urban design elements" terms included in the standard recitals.

101. Public Road Dedication/ Spurway Drive

No Occupation Certificate can be issued until Spurway Drive extending from Fairway Drive to the eastern boundary of proposed development lot two has been dedicated as public road. Under no circumstances will residential access be permitted from eastern end of Spurway Drive.

102. Pump System Certification

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

103. Water Sensitive Urban Design Certification

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

- WAE drawings and any required engineering certifications;
- Records of inspections;

- An approved operations and maintenance plan; and
- A certificate of structural adequacy from a suitably qualified structural engineer verifying that any structural element of the WSUD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

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

THE USE OF THE SITE

104. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage areas, which include provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. A caretaker must be engaged by the Owners Corporation to manage the operational waste requirements of the site.

105. Lighting

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

106. Offensive Noise - Acoustic Report

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

Should an offensive noise complaint be received and verified by Council staff, an acoustic assessment is to be undertaken (by an appropriately qualified consultant) and an acoustic report is to be submitted to Council's Manager – Environment and Health for review. Any noise attenuation measures directed by Council's Manager - Environment and Health must be implemented.

107. Acoustic – Project Specific

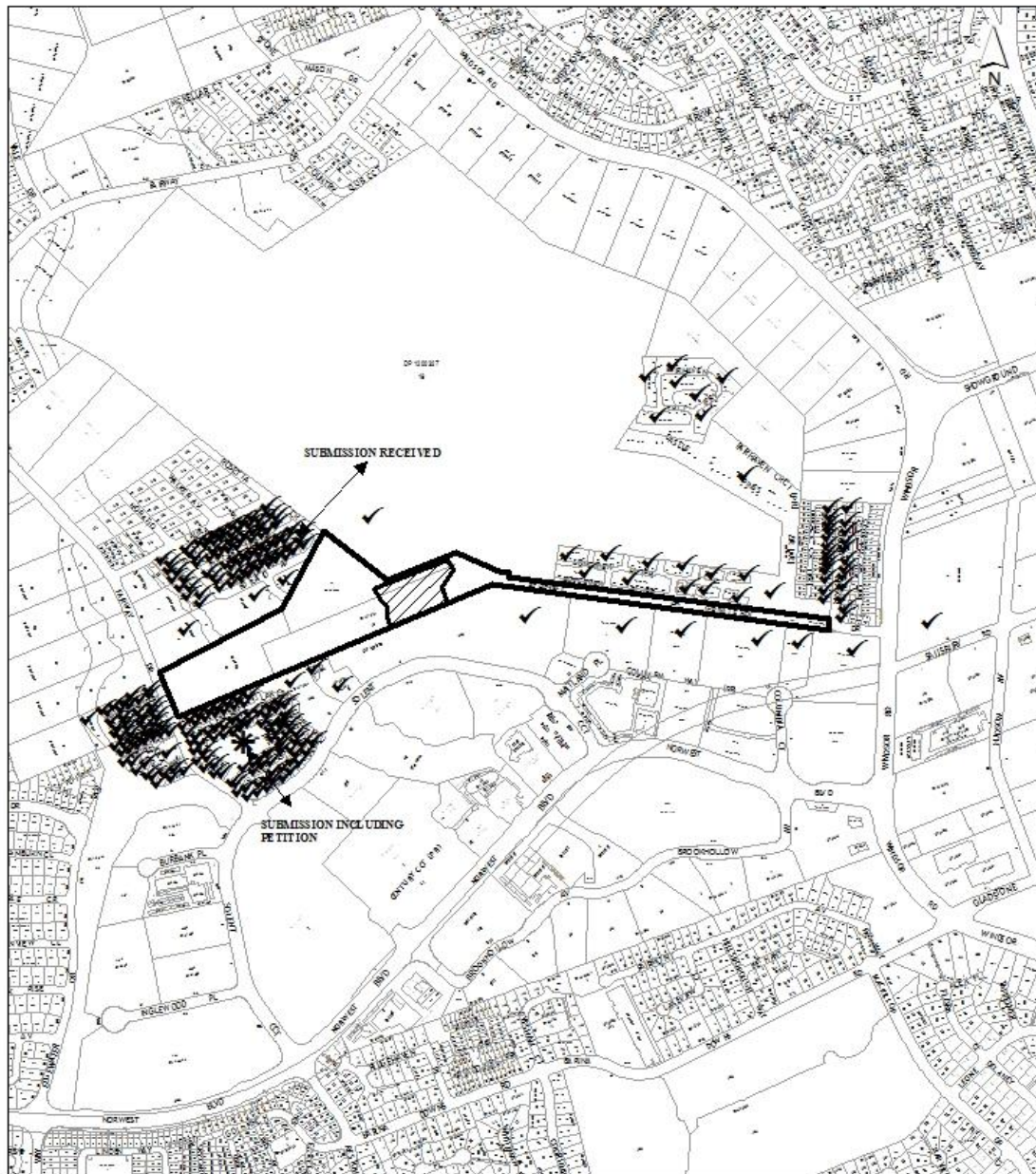
The recommendations of the *Masterplan DA Acoustic Assessment* for 47 Spurway Drive, Baulkham Hills, prepared by Acoustic Logic, project number 20160992.1, dated 22/02/2017 and submitted as part of the concept masterplan are to be complied with. The following overall project specific criterion is to be achieved at every stage of the development to prevent background creep.

- Day 0700-1800: 50dB(A)_{leq15min}
- Evening 1800-2200: 45dB(A)_{leq15min}
- Night 2200-0700: 40dB(A)_{leq15min}

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map
4. LEP Height Map
5. Site Plan
6. Ground Floor Plan
7. Elevations and Sections
8. Landscape Plan
9. Photomontages
10. Masterplan 736/2017/JP
11. Applicant's Clause 4.6 Variation Request
12. Department of Primary Industries – Water – Comments
13. Proposed Plan of Subdivision
14. Plan of Setback Variation

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

NOTE: HILLS DISTRICT HISTORICAL SOCIETY ALSO NOTIFIED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE
BASE CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LP1). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

ATTACHMENT 2 – AERIAL PHOTOGRAPH



THE HILLS
Sydney's Garden State

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Copyright of 2012 Aerial Imagery is with Veika Pty Ltd (Veika). Sinclair Knight Merz supplier of 2014 Aerial and Near Infrared Imagery

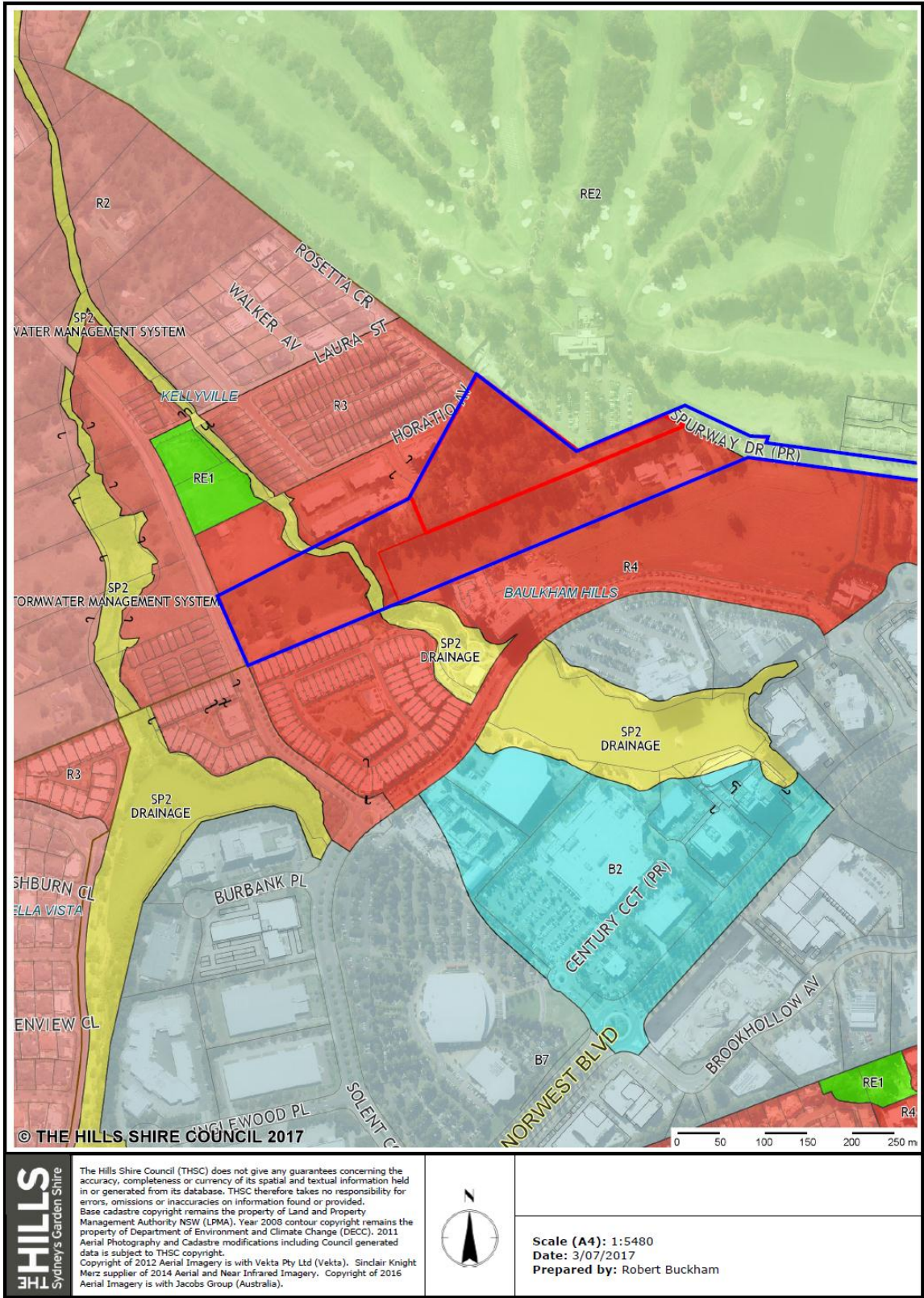


Scale (A4): 1:7200

Date: 18/04/2017

Prepared by: Rommie Naidoo

ATTACHMENT 3 – ZONING MAP

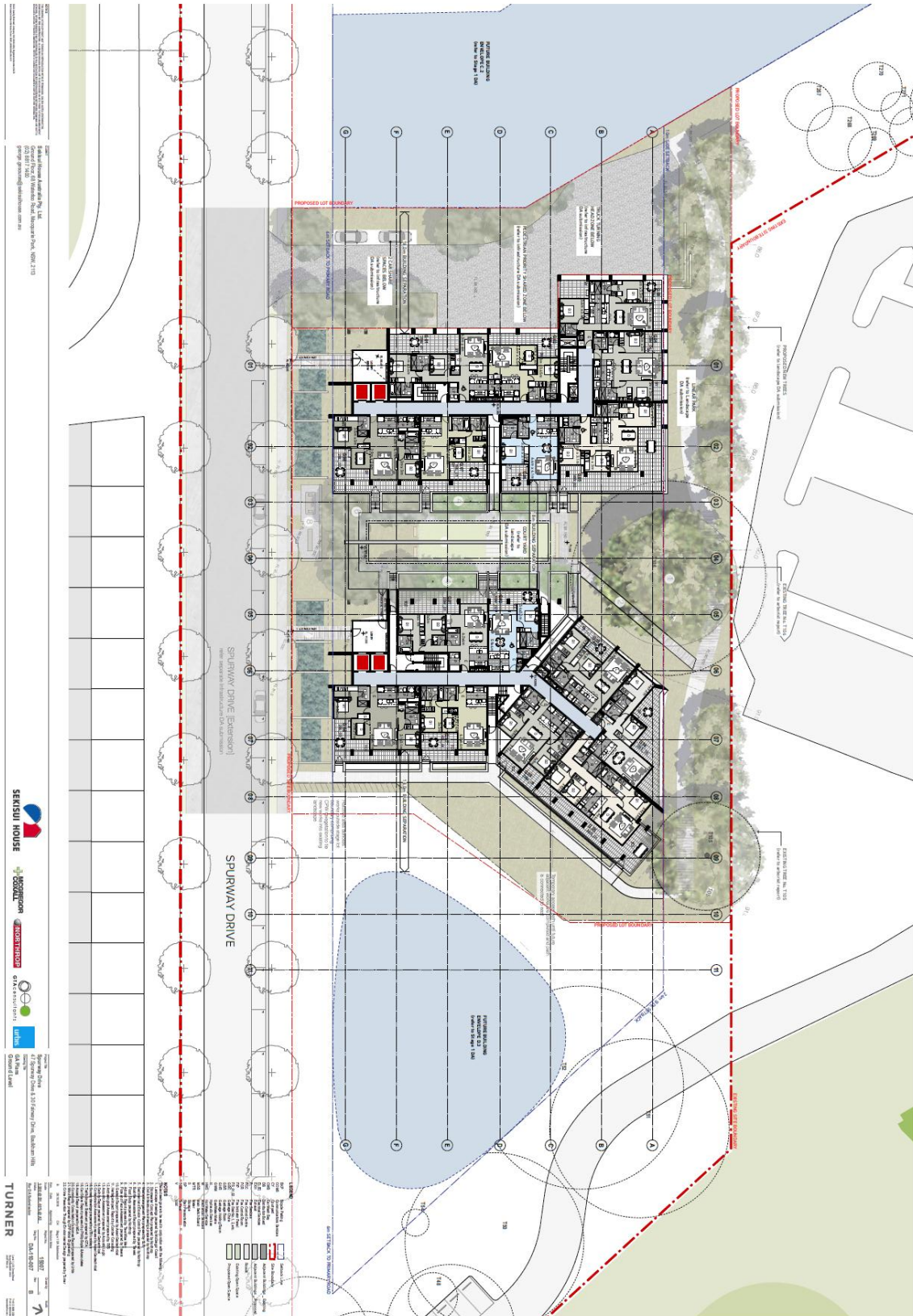


ATTACHMENT 4 – HEIGHT MAP

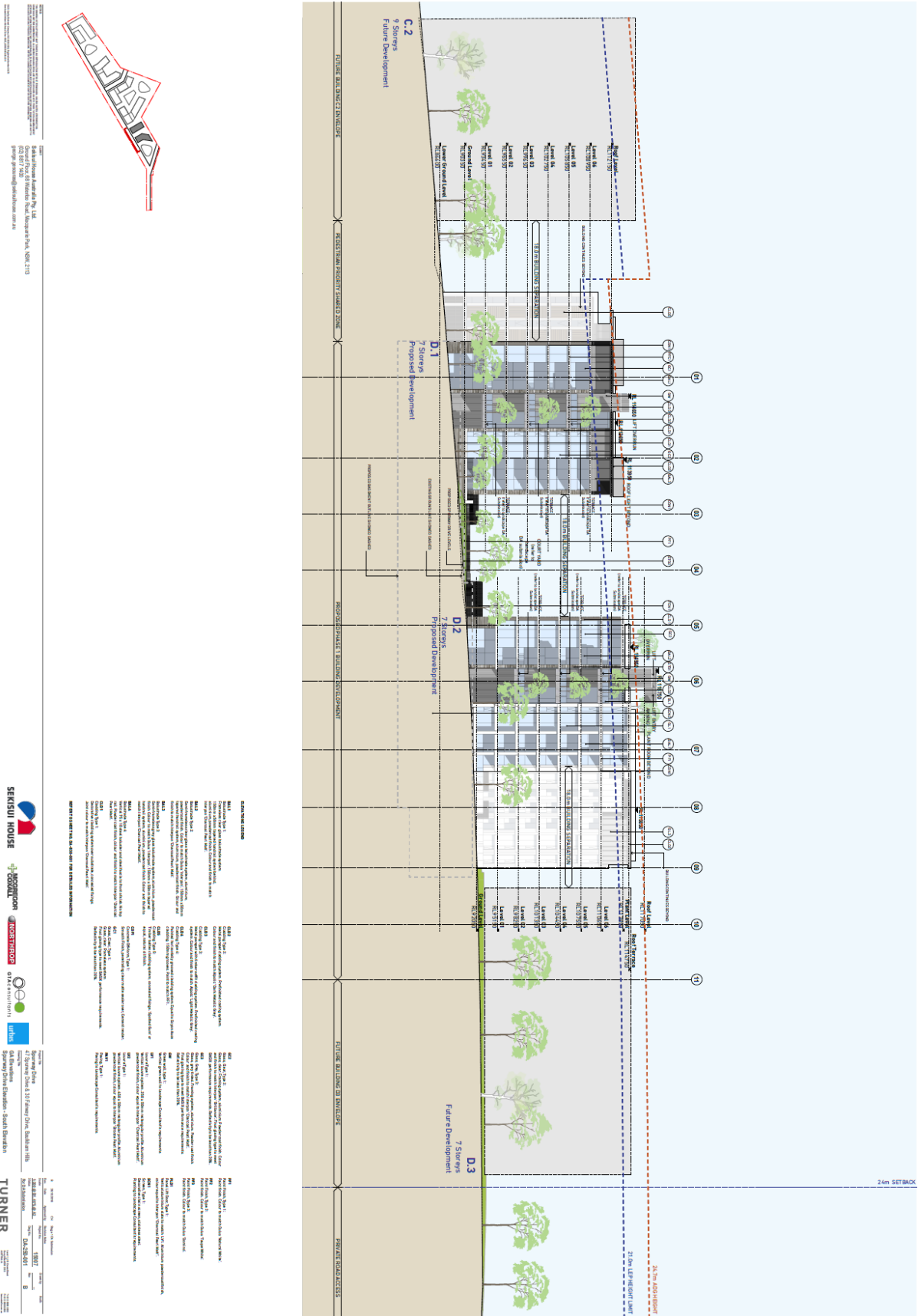


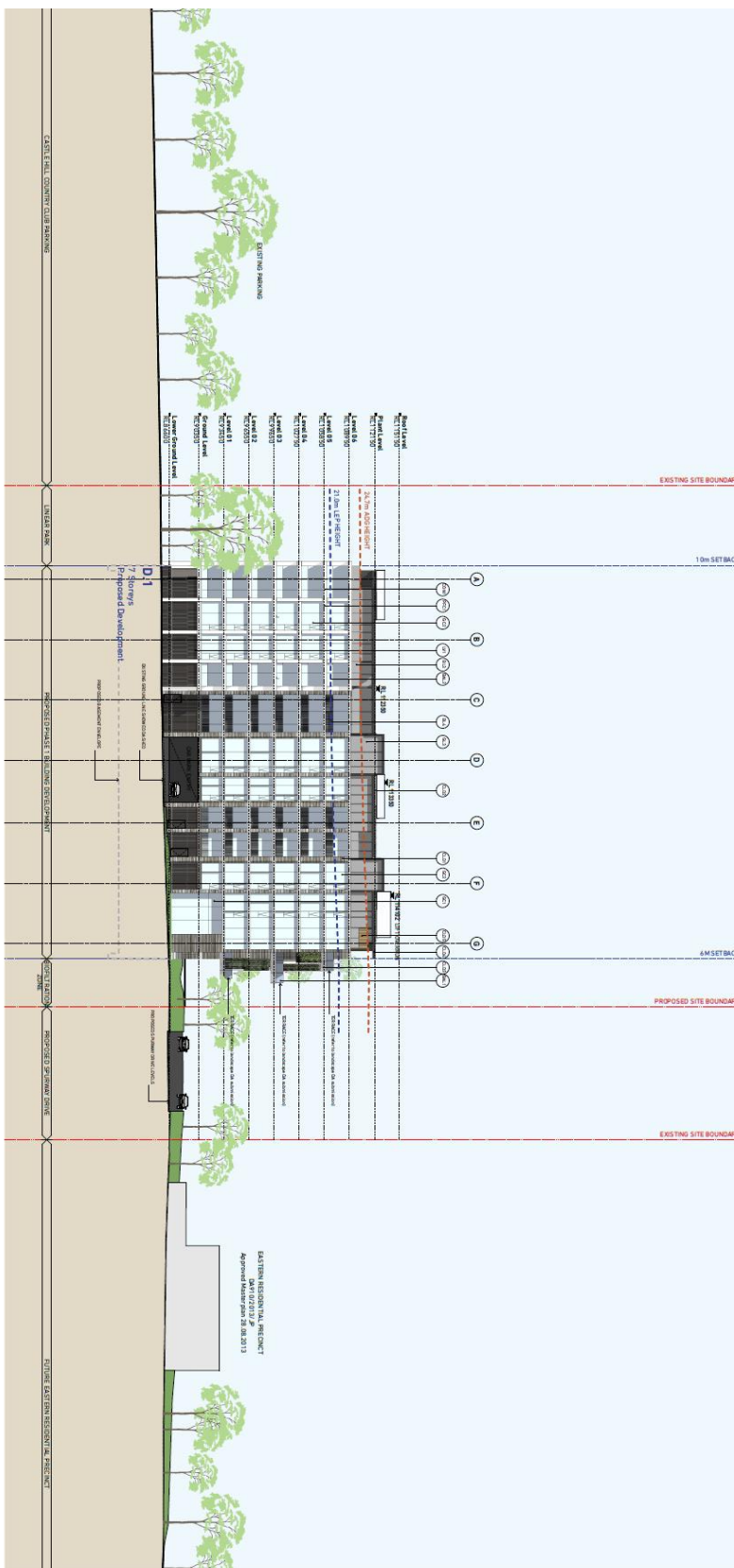
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ATTACHMENT 6 – GROUND FLOOR PLAN



ATTACHMENT 7 – ELEVATIONS AND SECTIONS





ATTACHMENT 8 – LANDSCAPE PLAN

[illegible]

| Programs | |
|----------|--|
| 1 | Ecology: Geographic structures assessed |
| 2 | Phoresis: Tree trunks over 70% wetter across |
| 3 | Lamin |
| 4 | Care: 100% with seeds + dispersal |
| 5 | Water: Fill |
| 6 | Chlorophyll: Pigeon Wooded (P.W.) trees and vegetation |
| 7 | Tree: Forwards can use WSL: Betweenness between feeding distances from 0 |
| 8 | Character: 4 higher variance |

McGREGOR
+
COXALL

Client
Seksui House Australia Pty Ltd

Project No. 5275L
47 Spurway Drive
 Address
 47 Spurway Drive, Baukham Hills, NSW 2153
 Phase
Development Application

Key Point

Scale & Orientation

1:200 @ A1



0 2 4 6 8 10 M

All dimensions are in meters unless otherwise noted. Do not scale from the drawing.

Revision Log

By/Checked _____ Date 24/03/16

Sheet Title
PHASE 1 Podium
Landscape Plan
Sheet No.
02

Rev
C

ATTACHMENT 9 – PHOTOMONTAGES



View of Southern Elevation



View of Northern Elevation

[illegible]

ATTACHMENT 11 – APPLICANT’S CLAUSE 4.6 VARIATION REQUEST

5.7.6. Clause 4.6 Request (Height of Buildings, Apartment Sizes and Car Parking)

The following Clause 4.6 assessment has been prepared to demonstrate the merits of varying the development standards under Clauses 4.3 and 7.11 of THLEP 2012 using the relevant criteria within the Department of Planning & Environment’s document, ‘*Varying Development Standards: A Guide, August 2011*’, as well as recent case law from the NSW Land and Environment Court. It is also consistent with the Clause 4.6 submitted with the masterplan DA (736/2017/JP).

The assessment addresses the local provisions of Clause 4.6 of THLEP 2012, together with principles of *Winten v North Sydney Council* as expanded by the five part test established by *Wehbe v Pittwater [2007]* NSW LEC 827 and refined by the judgement of *Four2Five Pty Ltd v Ashfield Council [2015]* NSW LEC.

Is the planning control in question a development standard?

The proposal seeks to vary Clauses 4.3 and 7.11 of THLEP 2012. Supported by legal advice from Mills Oakley, all planning controls are identified as development standards capable of being varied under the provisions of Clause 4.6 of THLEP 2012.

What is the underlying objective of the development standard?

The development is consistent with the objectives of Clause 4.3 and Clause 7.11 as summarised in the following tables.

Table 11 – Clause 4.3 Objectives

| Objective | Assessment |
|--|---|
| (a) <i>to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,</i> | The proposed masterplan aligns with Council’s vision of seven storey buildings located on the site and will provide a suitable transition from taller buildings in the centre of the master plan, Castle Hill Country Club to the north and east, and the permissible building height of the site to the south. |
| (b) <i>to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.</i> | The proposed built form will provide adequate solar access and building separation to buildings within the site and adjoining (see Section Error! Reference source not found. for further discussion). |

Table 12 – Clause 7.11 Objectives

| Objective | Assessment |
|--|--|
| (a) <i>to ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets,</i> | The proposal will provide a mix of dwellings that responds to a range of different demographics, living needs and household budgets. The proposal includes 25% of apartments being one bedroom dwellings, with 11% of apartments having three or four bedrooms. |
| (b) <i>to ensure that development for residential flat buildings does not place an unreasonable burden on the provision of services, facilities and infrastructure in the area to which this clause applies,</i> | <p>The proposal will not cause an unreasonable burden on local service utilities, with details of connections provided in the Service Utility Infrastructure Report prepared by Northrop and submitted with the masterplan DA (736/2017/JP).</p> <p>The masterplan will deliver significant, publicly-accessible open space to encourage relaxation and recreation. Section 94 contributions generated by the development will contribute to the delivery of additional facilities and infrastructure in the surrounding area.</p> |
| (c) <i>to provide opportunities for suitable housing density that is compatible with existing development and the future character of the surrounding area,</i> | The subject site is located within the Balmoral Road Release Area, which is identified to provide <i>high quality, integrated and ecologically sustainable urban environmental integrated with good public transport accessibility, open space, community facilities and employment opportunities</i> . The proposal will deliver housing in accordance with this vision, while ensuring that surrounding properties receive suitable amenity through solar access, privacy and views. |
| (d) <i>to promote development that accommodates the needs of larger households, being a likely future residential use.</i> | <p>The proposed development will deliver apartments which are generally in excess of ADG required minimum sizes and have efficient and versatile layouts. The development will provide 12x 3-and-4-bedroom apartments with sizes up to 185m² (excluding balconies).</p> <p>The parking provisions of the development, along with the site's close proximity to the Norwest Metro Station and access to car sharing, will suitably accommodate the needs of future residents.</p> |

Is compliance with the development standard consistent with the aims of the policy and in particular does the compliance with the development standard tend to hinder the attainment of the objects specified in the section in Section 5 (a)(i) and (ii) of the EP&A Act?

The proposal satisfies the applicable R4 High Density Residential zone objectives for the reasons outlined in Table 13 below.

Table 13 – R4 High Density Residential Objectives

| Objective | Assessment |
|---|---|
| <i>To provide for the housing needs of the community within a high density residential environment.</i> | The proposal will provide additional housing stock in a high density residential area and will integrate within the surrounding locality. The proposal aligns with the vision of the area to create a high quality, integrated and ecologically sustainable urban environment |

| Objective | Assessment |
|---|--|
| <i>To provide a variety of housing types within a high density residential environment.</i> | integrated with good public transport accessibility, open space, community facilities and employment opportunities. The proposal includes a variety of housing types with 1, 2, 3 and 4 bedroom options provided with a mix of layouts and sizes. |
| <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> | The proposed variation to height will not inhibit other land uses in the surrounding area. The future phases of the masterplan will provide a variety of amenities including a resident fitness centre and outdoor swimming pool, multi-purpose room, neighbourhood shops and open space areas. The non-compliance will not impact on the ability for facilities and services to be provided in the area to meet the needs of residents. |
| <i>To encourage high density residential development in locations that are close to population centres and public transport routes.</i> | The subject site is located within 500 metres from the Norwest Business Park and approximately 600 metres from the future Norwest Metro Station. The station design also includes bus zones for four bus bays and 30 bicycle storage areas. The design of the Spurway Drive extension has also been considered to allow flexibility for a future bus stop in accordance with the Balmoral Road Release Area DCP objectives. |

The objects set down in section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* are as follows:

- “(a) to encourage
- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land...*”

The development is consistent with the objectives of the Act with regards to the following:

- The proposal will incorporate water and energy efficiency measures as part of the water sensitive urban design strategy and BASIX commitments.
- The proposal will retain and protect existing trees along the northern boundary, including a 30 metre tall Forest Red Gum. The development also includes planting of native and citrus trees as part of the proposed landscaping.
- The Phase 1 buildings will have access to future communal resident facilities provided in future phases of the master plan which will encourage social interactions and promote healthy lifestyle choices in addition to the two communal spaces currently proposed as part of this phase.
- The development will provide an efficient use of land by providing additional housing stock of a high density scale within close proximity to employment opportunities and public transport networks.

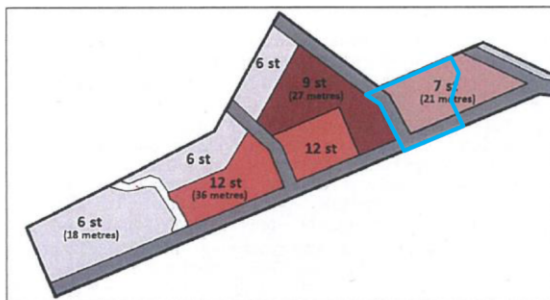
Is the compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Height of Buildings

The building height development standards are defined in metres. However, the development standards have been driven by an indicative height in storeys map as recommended at the 28 July 2015 Council Meeting which discussed Amendment No 32 of THLEP 2012 (Figure 14).

The assigned building heights in metres indicate an average floor-to-floor height of three metres, with no consideration for changes in topography, lift overruns or the minimum floor-to-floor height of 3.1 metres under the *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* and the Apartment Design Guide.

Figure 14 - Recommended Height of Buildings in Storeys



Source: The Hills Shire Council Ordinary Meeting Minutes (28 July 2015)

The proposed master plan (736/2017/JP) is generally consistent with the recommended built form outcome in the Planning Proposal. The drawing shown in **Figure 15** provides buildings ranging in height from six, seven, nine and 12 storeys, with taller buildings located in the centre of the site. The proposed Phase 1 buildings are consistent with the master plan and the indicative seven storey height shown within the Planning Proposal (and Figure 14).

The development standard is refined to allow for changes in topography, lift overruns and the floor-to-ceiling heights required under the ADG. Accordingly, the adjusted seven storey height becomes 24.7 metres. The proposed buildings will be consistent with the adjusted height of building, with the exception of a small area associated with the lift overrun and roof articulation zones in Building D.1, as demonstrated in **Figure 15** below.

Figure 15 – Buildings Section



Source: Turner

Compliance with the height of buildings development standard is considered unreasonable and unnecessary in the circumstances based on the following:

- The development is consistent with the objectives of the development standard as provided in Clause 4.3(1) of THLEP 2012 as discussed above.

- The proposed development seeks to vary the maximum building height controls for the site on the premise that the development would achieve the maximum number of storeys as intended as part of the Planning Proposal.
- The scale and mass of the buildings is compatible with the established built form within the immediate context of the site that is defined by buildings up to nine storeys in surrounding areas.
- The 10 metre setback to the northern boundary will allow for the retention of trees to assist in providing a visual buffer between the development and adjoining properties.
- The proposed built form responds to the topographical constraints of the site.
- The proposal has been designed to comply with the floor to ceiling height requirements specified in the Apartment Design Guide.

Apartment Sizes

The proposed development will result in greater than 30% of apartments being classified as Type 2 under the sizes specified in Clause 7.11(5). However, while the proposed mix varies from the required typology mix, the non-compliance is minor when the numerical size of each typology is refined as per below:

Table 14 – Proposed Apartment Typologies

| Typology | LEP Size | Proposed Size |
|---------------|-----------------------|-------------------|
| Type 1 | | |
| 1 Bedroom | 50-65m ² | 55m ² |
| 2 Bedroom | 70-90m ² | 79m ² |
| 3 Bedroom | 95-120m ² | 110m ² |
| Type 2 | | |
| 1 Bedroom | 65-75m ² | 65m ² |
| 2 Bedroom | 90-110m ² | 88m ² |
| 3 Bedroom | 120-135m ² | 120m ² |
| Type 3 | | |
| 1 Bedroom | 75m ² | 75m ² |
| 2 Bedroom | 110m ² | 102m ² |
| 3 Bedroom | 135m ² | 130m ² |
| 4 Bedroom | 135m ² | 185m ² |

When viewed in this context, it is evident that the apartment sizes for Type 2 and 3 apartments only differ by between 2m² to 8m² (or 2-7%). When considered that the difference in areas could be as small as a redundant corridor or similar, the apartments are not considered to diminish any internal amenity. The proposed Type 2 apartments will all have sizes in excess of the minimum requirements.

In addition to the proposed apartment sizes, which are generally much larger than ADG requirements, residents will also have access to a range of high quality facilities which will be delivered in future stages of the masterplan, including a fitness centre, outdoor swimming pool, indoor cinema, multi-purpose room and

extensive open space areas. The extent of facilities provided will set a new standard for the amenity of developments in the surrounding area and will promote social interactions and lifestyle choices for future residents.

The objectives of the Clause to provide a mix of dwelling types, providing housing choice for different demographics, living needs and household budgets, as well as to promote development that accommodates the needs of larger households, are maintained. Accordingly, strict compliance with the specified apartment sizes under each typology is considered unreasonable and unnecessary.

Car Parking

The development provides a total of 197 car parking spaces within the basement carpark. Based on strict compliance with the car parking rates specified under Clause 7.11, the proposal would require 260 spaces.

While the development will provide 63 fewer basement spaces, the car parking provided is well in excess of the 130 spaces specified by the RMS' *Guide to Traffic Generating Development* for developments within 800 metres of a railway station.

The proposed car parking rates have been established in response to the contextual issues of the site, which include:

- Reinforcing the variety in housing diversity, including affordability of housing at different price points.
- Reducing traffic congestion in the local area, which is a significant concern of the surrounding community.
- Recognising the proximity of the site to the new Norwest Metro Station.
- Recognising the modal shift in transport opportunities in the future.
- Environmental considerations associated with the construction of deep basement parking structures.
- Consistency with parking provisions of surrounding developments.
- The provision of car share as an integrated part of the development to enhance sustainable transport modes and to support a reduction in residential car parking spaces.

During the community consultation process, car dependency and associated traffic generation were key concerns raised by the local community. As noted in a Car Share and Parking Analysis report prepared by Phillip Boyle & Associates, buildings that encourage high car ownership and use through over provision of parking (for residents and visitors) can have the unintended consequence of increasing dependency on car use resulting in increased traffic congestion in the local area.

The amount of parking proposed in the development, in conjunction with provision of car share vehicle and suggested restrictions to on-street parking adjacent to the project, serves to address these concerns and provide a response to the changing nature of the surrounding area.

Initiatives employed in the proposal to reduce congestion and encourage the use of public transport within the context of the Metro Northwest are summarised below:

- Reduce parking for 2-bedroom apartments to a rate of 1 to 1.5 spaces per apartment across the development. Under this strategy, smaller 2-bedroom units would receive 1 parking space while larger units would receive 2 spaces. Consistent with Council's objectives, this will offer residents greater choice, flexibility and affordability in the type of housing available.
- Support the reduction in parking for 2-bedroom apartments by providing car share vehicles from the outset of the development. Four vehicles will be provided by a reputable car share company which has made a commitment to the development. The number of vehicles provided will adequately service residents' needs in the community.
- Reduce visitor parking to 1 per 5 apartments to avoid significant levels of overprovision. Visitor parking spaces impose additional costs (upfront and ongoing) on local residents in the community with typically low utilisation rates across the day. With convenient access to high quality public transport including the Metro Northwest, not all visitors will travel to the development by car.

- Provide "supportive buildings" by:
 - Ensuring a high level of pedestrian connectivity on site so that walking trips are competitive with alternatives.
 - Providing bicycle parking in secure cages.
 - Ensuring that taxis and delivery services can easily find the buildings and have suitable places to park.
 - Providing a public transport 'departure board' in the foyer and/or lifts of the buildings linked to key bus and train departure times.
 - Recruiting owner-occupiers to car share and the Opal card before they move in and considering usage incentives.
- Install in-ground sensors and parking meters in the on-street parking bays to ensure that they are not used by apartment owners, train passengers and centre workers to store their vehicles during the day.

A commitment has been made by car share provider, GoGet, to meet the residents' needs from the development's opening. Four car share vehicles will be provided at various locations within the masterplan, with two spaces being provided with the this first stage of construction. This will accommodate all residents in the two-bedroom-one-car-space units (or approximately 1 car share space per 100 two-bedroom-one-car-space dwellings) to be regular users of the car share vehicles.

The provision of car sharing, coupled with the proposed provision of car parking and the delivery of the Norwest Metro Station, will ensure an adequate level of accessibility is provided to residents across a number of different travel options. Accordingly, strict compliance with the development standard under Clause 7.11 are considered unreasonable and unnecessary.

Is the development standard performance based control?

No. The development standard is not a performance based control.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The built form and apartments sizes have been resolved by a thorough evaluation of the site's surrounding context, with an emphasis on providing excellent amenity for future residents. The proposed variation of the development standard is considered to have sufficient environmental planning grounds based on the following:

- The proposal will provide solar access, building separation, natural ventilation and apartment and balcony sizes in accordance with the requirements of the Apartment Design Guide.
- The exceedance in height will not create unreasonable shadows cast on the adjoining property to the south (see Section 6.2.1).
- The proposal will not have a detrimental impact on the environment or adjacent heritage item.
- The proposal is consistent with the objectives of the R4 High Density Residential zone as well as Clauses 4.3 and 7.11 of THLEP 2012.
- The proposed seven storey height is consistent with the desired building height plan in storeys recommended under the Planning Proposal.
- The proposed apartment layouts have used an efficient use of space and allow for a flexible use of areas to suit the individual needs of residents.
- A variety of small, medium and large options are provided across 1, 2 and 3-bedroom apartment sizes to suit a range of lifestyles and household budgets, with 4-bedroom units introduced to offer greater choice for larger families.
- All buildings will have access to multiple communal open spaces and additional amenities included in the masterplan, including the fitness centre, outdoor swimming pool, multi-purpose communal room and neighbourhood shops.
- The proposal is consistent with the master plan.

- The proposal is well in excess of the car parking recommended under the RMS' *Guide to Traffic Generating Development*.
- Car parking will be supplemented by two car share spaces in this stage, with a further two space provided in future stages.
- The construction of the Norwest Metro Station will see a shift in transport choices from private vehicles to public transport.
- The proposal responds to concerns of surrounding property owners that unnecessary excess provision of car parking will have impacts on the local road network.

Is the objection well founded?

Despite the numerical non-compliance, the development is consistent with the objectives of the development standards as outlined above.

Strict compliance of the numerical controls in this circumstance would not improve the development outcome. The development provides a high level of amenity for future residents, while ensuring suitable solar access and privacy is provided to adjoining properties. The proposal will provide a variety of housing options in the area, in accordance with the objectives of Clause 7.11 of THLEP 2012 and will have access to public transport and car sharing options to supplement parking provisions.

Accordingly, the objection is considered to be well founded.

Would non-compliance raise any matters of significance for State or regional planning?

The non-compliance will not raise any matters of State or Regional Significance. The proposal is consistent with the *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* and previous DA approvals.

Is there public benefit of maintaining the planning control system?

The numerical non-compliance is not considered to be contrary to the public's benefit for the following reasons:

- The proposal is consistent with the objectives of the relevant planning controls.
- The proposal is consistent with Council's vision to transform area into a high quality, high density residential neighbourhood within close proximity to the future Norwest Metro Station.
- The proposal achieves a high level of compliance with the detailed design requirements. Where the proposal departs from numerical compliance, adequate justification and satisfaction with the control's objective has been provided.
- The amenity of surrounding properties has been carefully considered in the design.
- The proposal will generate a positive economic impact by creating employment opportunities throughout construction of the development and provide additional personnel within the catchment of local businesses.

In summary of the above, the Clause 4.6 request and proposed variations to the height of building and apartment sizes development standards are considered to be justified based on the following key points:

- The proposal is consistent with the maximum number of storeys as intended under the recent planning proposal.
- The development has been designed take the topographical constraints of the site into consideration.
- The proposal has been designed to comply with the floor to ceiling height requirements specified in the Apartment Design Guide, where the concept in the planning proposal did not.
- The proposal will provide a suitable level of amenity to development to the south.
- The proposal will not result in an undesirable urban design outcome.

ATTACHMENT 12 – DPI – WATER COMMENTS



Department of
Primary Industries
Water

Contact: Gina Potter
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Fax: 02 8838 7554
Email: Gina.Potter@dpi.nsw.gov.au

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

Our ref: 10 ERM2016/1069
File No: 90131338-9
Your Ref: DA2017/779/JF

Attention: James McBride

16 December 2016

Dear Sir/Madam

Re: Integrated Development – 47 Spurway Drive Baulkham Hills – Residential apartment development one hundred & twenty dwelling accross 2 building cark parking & landscaping

DPI Water (formerly the NSW Office of Water) has reviewed documents for the above development application and considers that, for the purposes of the *Water Management Act 2000* (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary for one of the following reasons.

- ☐ The proposed activity (Phase 1) is **not occurring on waterfront land** (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).

Temporary dewatering of an amount above 3 ML may require a water licence to be obtained from DPI Water before construction commences.

Please note that the proposal must not incorporate provision for the permanent or semi-permanent pumping of groundwater seepage from below-ground areas. A fully tanked structure must be used.

Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then DPI Water should be notified.

Further information on controlled activity approvals under the WM Act can be obtained from DPI Water's website: www.water.nsw.gov.au go to *Water licensing > Approvals > Controlled activities*.

Please direct any questions regarding this correspondence to Gina Potter,
Gina.Potter@dpi.nsw.gov.au.

Yours sincerely

Gina Potter
Water Regulation Officer
Water Regulatory Operations, WR Operations - Hunter, Sydney & South Coast
NSW Department of Primary Industries - Water

EXISTING EASEMENTS:

- (E4) EASEMENT FOR TRANSMISSION LINE 9 WIDE (DP 636316)
- (E5) RIGHT OF CARRIAGEWAY (BK 2715 No.73 & BK 2587 No.211)
- (E6) EASEMENT FOR SERVICES 4.57 WIDE (WIDE DP24/14.2)
- (TO BE RELEASED IN STAGE 1 OR EARLIER)
- (E9) EASEMENT FOR TRANSMISSION LINE 30.48 WIDE (WIDE GOV. GAZ. 25/05/1956 FOL 1454-1455)

PROPOSED EASEMENT:

(A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH LIMITED IN STRATUM

STAGE 1

SUBDIVISION INTO ONE COMMUNITY TITLE LOT & FIVE DEVELOPMENT LOTS, DEDICATION OF PUBLIC ROAD.

- LOT 1 - COMMUNITY ASSOCIATION PROPERTY
- FOR ACCESS AND SERVICES AND LANDSCAPE
- LOT 2 - DEVELOPMENT LOT FOR STAGE 1
- LOT 3 - DEVELOPMENT LOT FOR STAGE 4
- LOT 4 - DEVELOPMENT LOT FOR STAGES 2, 3 & 5

(E4) EASEMENT FOR TRANSMISSION LINE 9 WIDE (DP 636316)
(E5) RIGHT OF CARRIAGEWAY (BK 2145 No.73 & BK 2587 No.211)
(E8) EASEMENT FOR SERVICES 4.57 WIDE (VIDE DP274142)
(TO BE RELEASED IN STAGE 1 OR EARLIER)
(E9) EASEMENT FOR TRANSMISSION LINE 30.48 WIDE (VIDE GOV. GAZ.
25/05/1956 TOL 1454-1455)

(A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH LIMITED IN STRATUM

SUBDIVISION INTO ONE COMMUNITY TITLE LOT & FIVE DEVELOPMENT LOTS. DEDICATION OF PUBLIC ROAD.

- LOT 1 - COMMUNITY ASSOCIATION PROPERTY
FOR ACCESS AND SERVICES AND LANDSCAPE
- LOT 2 - DEVELOPMENT LOT FOR STAGE 1
- LOT 3 - DEVELOPMENT LOT FOR STAGE 4
- LOT 4 - DEVELOPMENT LOT FOR STAGES 2, 3 & 5

[illegible]