

SYDNEY WEST CENTRAL PLANNING PANEL

Panel Reference	2016SYW011
DA Number	945/2016/JP
LGA	THE HILLS SHIRE COUNCIL
Proposed Development	A MIXED USE DEVELOPMENT COMPRISING A RETAIL PODIUM WITH 668 APARTMENTS ABOVE AND TWO LEVELS OF BASEMENT PARKING
Street Address	LOTS 34, 34A. 34B AND 34C DP 11104 NOS. 29-31 TERRY ROAD, BOX HILL
Applicant/Owner	TOPLACE PTY LTD / BOX HILL PROJECTS PTY LTD
Date of DA lodgement	15 DECEMBER 2015
Number of Submissions	THREE
Recommendation	APPROVAL
Regional Development Criteria (Schedule 4A of the EP&A Act)	GENERAL DEVELOPMENT WITH A CAPITAL INVESTMENT VALUE IN EXCESS OF \$20 MILLION
List of all relevant s79C(1)(a) matters	<p>List all of the relevant environmental planning instruments: s79C(1)(a)(i) State Environmental Planning Policy (Sydney Region Growth Centres) 2006. State Environmental Planning Policy (State and Regional Development) 2011. State Environmental Planning Policy No 55 — Remediation of Land. State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development.</p> <p>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) Nil.</p> <p>List any relevant development control plan: s79C(1)(a)(iii) Box Hill DCP 2014. THDCP 2012 Part C Section 1 – Parking. THDCP 2012 Part C Section 3 – Landscaping.</p> <p>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv) Nil.</p> <p>List any coastal zone management plan: s79C(1)(a)(v) Nil.</p> <p>List any relevant regulations: s79C(1)(a)(iv) e.g. Regs 92, 93, 94,</p>

	94A, 288 Environmental Planning and Assessment Act Regulation 2000.
List all documents submitted with this report for the Panel's consideration	Submissions
Report prepared by	Development Assessment Coordinator Robert Buckham
Report date	15 December 2016

Summary of S.79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)?	Yes
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

The Development Application is for a mixed use development comprising part of the northern component of the Box Hill Town Centre. The proposal includes demolition of existing structures and construction of a building comprising retail, commercial and residential units. The retail and commercial component will have a gross floor area of 20,781m², with 668 apartments above in nine buildings ranging from 4 storeys to 6 storeys above the podium level (6 storeys to part 8 and 9 storeys overall), over two levels of basement parking with parking for 1301 vehicles.

The site is zoned part B2 Local Centre and SP2 Infrastructure and is within the Box Hill Town Centre as shown in the indicative layout plan in the Box Hill Precinct DCP.

The proposal seeks to vary the building height of 24 metres identified in SEPP Sydney Region Growth Centres 2006 under Clause 4.6 of the SEPP. The proposal has a maximum height of 31.86m being encroachment of 7.86m (32.7%) above existing ground level and 5.35m (24.2%) when considered against future finished ground levels. The development is compliant with the permitted floor space ratio and the variation to the height is attributed to changes to road levels associated with filling in and around the site and a redistribution of built form to provide for a varied building mass.

The applicant's Clause 4.6 Variation request is well founded and the proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the B2 Local Centre zone objectives.

A number of DCP variations are proposed including setbacks and access, and other general precinct controls pertaining to the Box Hill Town Centre. The proposal is consistent with the future character envisaged for the Release Area and is considered to be appropriately designed.

The Development Application will result in the isolation of No. 8 and 10 Mason Road. While ideally this site would be aggregated with the subject site, supporting documentation has been provided by the applicant which satisfies the planning principle established in Grech vs. Auburn Council [2004] which indicates that reasonable attempts have been made to purchase both properties and how the site could be developed in the future.

The proposal was notified to adjoining and surrounding properties and three submissions were received. The submissions raise concerns with orderly development, the amount of retail floor space and details associated with the request to vary the height standard. These matters are addressed in the report and do not warrant refusal of the application.

It is recommended that the Development Application be approved subject conditions.

In the absence of the SWCPP process, this matter would be determined at an Ordinary meeting of Council.

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Box Hill Projects Pty Ltd.	1.	<u>SEPP Sydney Region Growth Centres (Box Hill) 2006</u> – Variation required, see report.
Zoning:	B2 Local Centre and SP2 Infrastructure	2.	<u>SEPP 65 Design Quality of Residential Apartment Development</u> – Satisfactory.
Area:	3.029Ha (B2 zoned land)	3.	<u>SEPP Building Sustainability Index BASIX 2004</u> – Satisfactory.
Existing Development:	Dwelling and Outbuildings	4.	<u>SEPP 55—Remediation of Land</u> – Satisfactory
		6.	<u>DCP Box Hill</u> – Variations, see report.
		7.	<u>Section 79C (EP&A Act)</u> – Satisfactory.
		8.	<u>Section 94 Contribution</u> – Yes, currently \$19,323,805.42

SUBMISSIONS**REASON FOR REFERRAL TO SWCPP**

1. Exhibition:	Yes 31 days	1.	Capital Investment Value in Excess of \$20 million (\$226,461,090).
2. Notice Adj Owners:	Yes 31 days		
3. Number Advised:	23		
4. Submissions Received:	3		

HISTORY**15/12/2015**

Subject Development Application Lodged.

04/02/2016

Correspondence sent to the Applicant following a preliminary review of the proposal and a site inspection, identifying that Council staff consider that the Development Application could be classified as Integrated Development given the depression/water course along the northern boundary. The application would then require referral to the Office of Water and extended notification and advertising in accordance with the Legislation. The applicant agreed to amend the application in this regard.

16/02/2016

Briefing of Joint Regional Planning Panel.

17/03/2016

General Terms of Approval received from the Department of Primary Industries - Water.

15/04/2016

Correspondence sent to the Applicant requesting additional information in relation to orderly development; calculation of floor space and bonus retail floor space; height justification; unit sizes; solar access, cross ventilation, justification of DCP indicative layout plan compliance/variation, clarification of plan detail and request for additional land required for road works.

26/04/2016

Council's intersection designs forwarded to the Applicant for incorporation into the proposal.

03/05/2016

Amended plan received clarifying site area to enable bonus floor space provisions under Clause 4.4A of SEPP Growth Centres 2006.

02/06/2016

Correspondence received from the Applicant requesting Council acquire SP2 land on an adjoining site to enable orderly and efficient development of land in the precinct. The applicant was advised by Council staff that only approaches from the relevant land owners would be considered.

07/06/2016

Further evidence of offers to adjoining properties received.

02/08/2016

Amended plans and details submitted in response to issues raised by Council staff.

08/08/2016

Additional information submitted in relation to justification of DCP indicative layout plan (refer Attachment 19).

19/09/2016

Meeting with Council staff in relation to orderly development

issues, in particular additional information required to be submitted to enable further assessment by Council staff.

22/09/2016

Meeting with staff in relation to various engineering matters.

21/10/2016

Further additional information received in relation to orderly development including details of all three offers and an indicative concept of the development of Nos. 8 and 10 Mason Road.

07/11/2016

Amended architectural, civil and landscape plans and details provided to facilitate orderly development of Nos. 8 and 10 Mason Road. The amended design incorporated a zero lot line **to the subject site's** eastern boundary to accommodate the potential future development of the adjoining properties.

29/11/2016

Amended Clause 4.6 Height Variation request submitted.

PROPOSAL

The Development Application is for a mixed use development comprising part of the northern component of the Box Hill Town Centre. The proposal includes demolition of existing structures and construction of a building comprising retail, commercial and residential units. The retail and commercial component will have a gross floor area of 17,707m², with 668 apartments above in nine buildings ranging from 4 storeys to 6 storeys above the podium level (6 storeys to part 8 and 9 storeys overall), over two levels of basement parking with parking for 1301 vehicles.

Subdivision and Civil Works

The proposal involves the consolidation of four existing allotments and creation of one development site allotment and numerous allotments which are created for the purposes either acquisition or dedication for infrastructure works including road construction or drainage works.

The applicant proposes the construction or reconstruction either in part or full and dedication to Council of three new roads adjacent to the development site. Terry Road to the west of the site and new bypass road to the north of the site are captured by the Contributions Plan. However, in order to facilitate the development proposal, it is likely that these works will be constructed by the applicant as Works-in-Kind given Council is unlikely to be in a position to acquire land and construct these roads prior to the development commencing. Mason Road will be constructed and dedicated to Council at no cost by the Applicant.

Similarly, the proposal seeks to use part of the existing site north of the bypass road for temporary stormwater management purposes. The permanent regional basins identified within the contribution plan cannot be built at this stage as the development site only includes half of the creek corridor/ basin area.

Built Form

The proposal includes;

Bulk earthworks and excavation for a two level basement car park with access from the new sub-arterial road by-pass on the northern edge of the subject site. A total of 479 retail and commercial car parking spaces are proposed on Basement Level 1 and 822 residential parking spaces on Basement Level 2. Basement 1 also includes the provision of a commercial car wash space with a floor area of 1,177m². The proposed basements

will provide for a possible future connection to a future connecting basement on Nos. 8 and 10 Mason Road.

Construction of the retail / commercial component (19,604m²) of the development providing 17,707m² of retail floor space and 1,897m² of commercial floor space below the podium level, with entry at grade with Mason Road, Terry Road and the new sub-arterial road. The retail / commercial component will comprise floor space for future supermarket, mini-major tenancies, specialty retail shops, commercial and SOHO (Small Office Home Office) units. The SOHO units are primarily commercial floor space and the upper levels proposed to be fitted out with residential inclusions, consistent with a traditional shop-top housing arrangement, however the applicant has advised that these upper levels are often used as an annex to the commercial operations on the lower levels for example as stock rooms or additional office space with the rooms being used as either offices or meeting rooms. Given the limitations on shop top housing floor space a condition is recommended that future development applications be submitted for residential fitout of these units.

Construction of a residential component of the development providing 668 apartments distributed between nine residential buildings ranging from heights between 4 and 6 storeys above the podium level. The application includes 1 x studio unit, 181 x 1 bedroom units (27%), 440 x 2 bedroom units (66%) and 46 x 3 bedroom (7%). These calculations include the potential fitout of the 17 SOHO units.

Land Use

The application does not seek approval for the specific use of the premises. It is noted that first uses (with exceptions) are able to be approved as Complying Development under the provision of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. First uses are limited to hours of operation if there are no conditions on a development consent of 7.00 am to 7.00 pm Monday to Saturday and no operation on a Sunday or a public holiday where a development adjoins or is opposite a residential lot within a residential zone a or in any other case 7.00 am to 7.00 pm Monday to Saturday and 9.00 am to 6.00 pm on a Sunday or a public holiday. In this regard any alteration to the Codes SEPP hours of operation will require further approval.

The proposal is defined as Nominated Integrated Development' under the provisions of Section 91 of the Environmental Planning and Assessment Act, 1979 as the proposal requires approval from the Office of Water under the provisions of the Water Management Act 2000.

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 \$226,461,090 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the Sydney West Central Planning Panel (SWCPP) for determination.

2. Compliance with Requirements of SEPP (Sydney Region Growth Centres) 2006

a. Permissibility

The subject site is located within the Box Hill Precinct, and is zoned pursuant to SEPP (Sydney Region Growth Centres) 2006. The development site is located on land zoned B2 Local Centre and SP2 Infrastructure (refer Attachment 3).

The proposal located on land zoned B2 Local Centre is defined as the following:

“Shop top housing” means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

It should be noted that the definition of shop top housing in the SEPP differs from the Standard Instrument definition subject to a recent decision in the Land and Environment Court (*Hrsto v Canterbury City Council*). In this case, the Council successfully argued that the part of the development that contained ‘residential accommodation’ on the ground floor level of the building could not be characterised as ‘shop top housing’ and was therefore prohibited. The standard Instrument definition states; **“one or more dwellings located above ground floor retail or business premises”**.

The SOHO (Small Office Home Office) units are primarily commercial floor space and the upper levels proposed to be fitted out with residential inclusions, consistent with a traditional shop-top housing arrangement, however the applicant has advised that these upper levels are often used as an annex to the commercial operations on the lower levels for example as stock rooms or additional office space with the rooms being used as either offices or meeting rooms. Given the limitations on shop top housing floor space a condition is recommended that future development applications be submitted for residential fitout of these units.

The application also includes the following uses which are permissible in the zone.

“Retail premises”

“Business premises”

“Food and drink premises”

b. Development Standards

The following addresses the principal development standards of the SEPP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1 Minimum subdivision lot size	1.5 Ha	3.058Ha Note: Nos 8 and 10 Mason Road which form part of the remaining part of the northern town centre site not included as part of this application would be unable to satisfy the Lot size requirement when developed if developed in accordance with the	Yes

		provisions of the SEPP and DCP. As such the issue of orderly development is addressed within this report.	
4.1B Residential Density	NA	NA	NA
4.3 Height of buildings	24 metres	31.86m – Components of the buildings exceed 24 metres in height. Encroachments of up to 7.86 metres.	No – see comments below.
4.4 Floor space ratio	As shown on the floor space ratio map (0.5: 1)	2.67: 1	Refer Clause 4.4A
4.4A Development of certain land within Zone R1 General Residential or Zone B2 Local Centre—additional floor space ratio	<p>Despite clause 4.4(2), the maximum floor space ratio for a building on land shown hatched red and lettered "A" on the Floor Space Ratio Map is 1: 1 if the site area is 3 hectares or more.</p> <p>Despite clause 4.4 (2), the maximum floor space ratio for the shop top housing component of a building containing shop top housing on land shown hatched red and lettered "A" on the Floor Space Ratio Map, is 2: 1</p> <p>(3) Subclause (1) is subject to subclause (2) (a)</p> <p>Note: Explanation of Intended Effect issued by the Department of Planning indicates that the subject site has an entitlement to a FSR of 3: 1 encourage amalgamation and facilitate shop top housing.</p>	<p>The site area exceeds 3 hectares (3.058Ha) and is marked "A" Refer Attachment 6.</p> <p>The development is permitted to an FSR of 1: 1 (non-residential) plus 2: 1 for the shop top housing component of a building containing shop top housing.</p> <p>The development provides for:</p> <p>Retail/ Commercial FSR of 0.68: 1</p> <p>Residential FSR of 1.99: 1</p>	Yes
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	Variations proposed to height are addressed below.	

c. Variation to Height

Clause 4.3 of SEPP Sydney Region Growth Centres 2006 limits the height of the development to 24 metres. The proposal has a maximum height of 31.86m being encroachment of 7.86m (32.7%) above existing ground level and 5.35m (24.2%) when considered against future finished ground levels.

Clause 4.3 Height of Buildings of the SEPP contains the following objectives:

- (a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct,*
- (b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,*
- (c) to facilitate higher density development in and around commercial centres and major transport routes.*

The applicant has provided a Clause 4.6 Variation to vary Clause 4.3 of the SEPP which is provided at Attachment 20.

Clause 4.6 Exceptions to Development Standards states as follows:

(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 Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation 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.*

Five of the nine buildings exceed the 24m height limit from existing ground level. The proposed height variation varies across the development site with the maximum exceedance located on Building C located in the north west corner of the site. The exceedance at its highest point relates to the lift over-run and would not be visible from any public space. The main building height that could be viewed from the public domain is 28.25m.

The specific heights for the proposed buildings are:

Building	Height from Natural Ground Level (NGL)	Height from Finished Ground Level)(FGL
Building A	21.70	20.40m
Building B	29.25m	28.05m
Building C	31.86m	29.35m
Building D	22.62m	20.20m
Building E	30.85m	28.45m
Building F	31.00m	28.45m
Building G	21.05m	19.54m

Building H	26.80m	26.40m
Building J	22.50m	20.90m

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

Measurement of building height

The SEPP defines building height as:

"building height (or **height of building**) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."

It is noted that the ground levels surrounding the site relating to roads and associated infrastructure will be raised by up to 3m. The applicant has also provided levels from future levels to provide a perspective of the height for when the development is completed. Using these levels; the development would still result in a variation to the 24m standard so this constraint alone is not considered a reason to support the variation.

Site Characteristics

As identified above the variation is considered satisfactory given that the site is surrounded by existing and proposed future roads. The surrounding sites also have height limits of 16m, 21m or 24m.

Impacts

The shadow impact from the development is considered reasonable and will fall primarily onto the substation site to the south and retail pad site which is part of this application. The separation to adjoining future development will reduce the potential for overlooking and privacy impacts.

Density

In assessing the appropriateness of the height variation it needed to be demonstrated and justified that the proposal was not an over development and the additional height was not as a result of the developer wanting to increase yield. The subject site is subject to a FSR bonus control (Clause 4.4A) that would allow a commercial/retail FSR of 1:1 and 2:1 for the shop top housing component of the building. The development has a combined FSR of 2.67:1 with the residential component providing an FSR of 1.99:1.

Built Form

The applicant has sought to provide a mix of built form and articulation. Five of the nine buildings exceed the 24m height limit. The urban form is considered to be appropriate for the intended character of the area given the planning controls in place. The proposal incorporates a variety of finishes and colours and will result in an appropriate urban outcome. It is considered that the varied building heights result in a better planning outcome than a complying proposal with the same FSR would, being nine buildings of identical or similar height. Although the proposal includes five buildings above the 24m height control, the remaining four buildings are located a similar distance below the 24m height control resulting in a better built form.

Specifically in relation to recent judgments of the Land and Environment Court, for the reasons identified above it is considered that:

- The Applicant's request is well founded;

- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the B2 Local Centre zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- The proposal results in a better planning outcome.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

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.

d. 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;
- 6.1 Public utility infrastructure; and
- 6.6 Active Street Frontages

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 preliminary Contamination Assessment Report has been prepared by Trace Environmental to determine whether historical land uses have the potential to contaminate the site and affect the viability of the medium/high density residential development. The report finds no evidence of potential contamination on the site as a result of the previous residential and farming/agricultural land uses. As demonstrated in the report, the subject site is suitable for the proposed development including commercial and residential development. The assessment concludes that the site presents a low risk of harm to human health or the environment and is therefore suitable for the proposed development.

Council's Environmental Health Coordinator has reviewed the proposal and concurs with the findings and recommendations of the Preliminary Contamination Assessment, particularly given the extent of excavation that will occur on site. Accordingly,

appropriate conditions of consent have been recommended to ensure that the recommendations of the reports are implemented during the course of construction.

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. SEPP (Infrastructure) 2007

This Policy aims to facilitate the delivery of infrastructure and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. Specifically the SEPP contains provisions relating to traffic generating development.

Clause 104 'Traffic-generating development' of the SEPP states:-

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) new premises of the relevant size or capacity, or*
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

(2) In this clause, relevant size or capacity means:

- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
- (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*

(3) Before determining a development application for development to which this clause applies, the consent authority must:

- (a) give written notice of the application to the RTA within 7 days after the application is made, and*
- (b) take into consideration:*

(i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.

Comment:

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP 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. The proposed development comprises of 1301 car spaces.

The Development Application was referred to the NSW Roads and Maritime Service for review. The NSW Roads and Maritime Service raised no objections to the proposal in their letter dated 25 January 2016.

Additionally, Council's Principal Traffic & Transport Coordinator has reviewed the proposal and raised no objection with respect to traffic generation.

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

The required Design Verification Statement was prepared by Krikis Tayler 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

Currently the immediate area is characterised by single rural style dwellings, market gardens, plant nurseries and similar low scale activities, however recent activity related to a number of approved subdivisions has occurred. The context will change over the coming years as further development occurs in the Precinct. Ground floor premises including shops, restaurants and cafes will encourage street interaction. Commercial uses and apartments will be located on the upper floors. It is considered that the development meets the anticipated context for the locality.

Principle 2: Built form and scale

The design of the building elements are of a contemporary style with a number of elements being used to provide an architectural character. The ultimate form of development is achieved in the articulation of the elevations by creating active retail uses, with the residential floors above. The selection of colours and materials enhances the segmented appearance and provides distinct yet harmonious building facades.

Principle 3: Density

The permissible FSR for the retail/commercial component is 1:1 and 2:1 for the residential component above podium level. The proposed FSR for the retail/commercial podium component is 0.68:1 and 2:1 for the above podium residential towers. The density therefore complies and is appropriate for the site and precinct.

Principle 4: Sustainability

The design achieves natural ventilation and solar access as required 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. Council, on 9 September 2014, adopted The Hills Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings which introduced new development standards in relation to unit mix. Although these controls do not apply to the site, it is noted the development is reasonably close to the numerics in the DCP which state that no more than 25% of the dwelling yield is to comprise of one bedroom apartments and no less than 10% of the units comprise 3 or more bedrooms. The application includes 1 x studio unit, 181 x 1 bedroom units (27%), 440 x 2 bedroom units (66%) and 46 x 3 bedroom (7%).

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 36% of site area

		(10,893m 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 .	No The site is unable to provide true deep soil zones as defined within the ADG given the location of basement within the entire development site. However 23% of the site area at the podium level is landscaped which includes landscaping on structure consistent with Section 4P – Planting on Structures of 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 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	<p>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:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>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).</p>	<p>Not Applicable - Not located within a metropolitan sub-regional centre.</p> <p>There is a total of 479 retail and commercial car parking spaces on Basement Level 1 and 822 residential parking spaces on Basement Level 2.</p>
Designing the Building		
Solar and daylight access	<p>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.</p> <p>2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>Yes 77% of apartments receive 2 hours direct sunlight between 9am and 3pm midwinter.</p> <p>Yes 13% of apartments receive no direct sunlight between 9am and 3pm at mid-winter.</p>
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>No A total of 52.7% of units will meet the cross ventilation requirements (i.e. with openings on orthogonal or opposite aspects). An additional assessment was undertaken by a Natural Ventilation consultant has been undertaken and the results indicate that a total of 64.5% of the units are expected to satisfy the ADG requirements for natural ventilation.</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>Ground floor retail – 3.3 metres</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% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p>Yes</p> <p>1 bedroom – 50m² 2 bedroom – 75m² 3 bedroom – 120m²</p> <p>Where additional bathrooms are proposed, an additional 5m² has been provided.</p> <p>NA</p> <p>Yes</p> <p>All habitable rooms have windows greater than 10% of the floor area of the dwelling.</p>
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>No - Refer to discussion below.</p> <p>For the habitable rooms on A1704 and A1804, kitchen depth exceeds 8 metres.</p> <p>No - Refer to discussion below.</p>
Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m² with no minimum depth</p>	<p>Yes</p> <p>All balcony sizes and</p>

	1 bedroom – 8m ² with a minimum depth of 2m 2 bedroom – 10m ² with a minimum depth of 2m 3 bedroom – 12m ² with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m ² with a minimum depth of 3m is required.	depths comply.
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Yes NA
Storage	Storage is to be provided as follows: Studio – 4m ³ 1 bedroom – 6m ³ 2 bedroom – 8m ³ 3+ bedrooms – 10m ³ At least 50% of the required storage is to be located within the apartment.	Yes Each unit contains the minimum storage area. No – Storage requirements provided with basement areas.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	Yes The apartment mix is satisfactory.

6. Box Hill Development Control Plan 2016

The proposal has been assessed against the requirements of the Box Hill Development Control Plan.

Section 8.1.2 of the DCP provides a set of site specific controls for the Box Hill Town Centre. The controls relate to the provision of active street frontages, awnings, signage, parking and site servicing. The proposed development has active street frontages which promote pedestrian activity and casual surveillance. The design incorporates a number of features to provide an attractive street address with awnings and shop fronts provided to ensure passive and active use. The application does not include any signage and as such a condition of consent has been recommended requiring a further application for signage. Adequate parking and servicing arrangements have also been provided for the development. A variation is proposed to this section of the DCP which is addressed in detail below.

Section 5.4 of the DCP provides development controls that specifically relate to shop top housing. The development generally complies with the DCP requirements however a variation to the setback controls is proposed. This is addressed in detail below.

The proposal includes the following variations to the DCP.

a. Box Hill Town Centre - Indicative Layout

The Box Hill Town Centre indicative layout plan is shown in the Box Hill DCP (Refer Attachment 7). The applicant has undertaken an analysis against the indicative layout provided in the DCP and the subject proposal to quantify and qualify the variation (Refer Attachment 19).

Comment:

The proposal comprises an outcome that is considered consistent with the key planning principles, being active street frontages and a range of uses to ensure the vitality of the centre.

b. Function and Uses

This clause specifies that the town centre will provide up to a maximum of 30,000m² of retail and commercial floor space. It is noted that the DCP is inconsistent with the SEPP which permits 1:1 floor space ratio of non-residential floor space as addressed in Section 2 of this report. Given that the proposal is consistent with the provision of the SEPP the variation to the DCP is considered supportable.

The proposal incorporates 28 tenancies including a future supermarket and mini major along with various smaller retail tenancies flanking external streets and the internal mall areas. The indicative layout plan includes a community plaza and community centre. These uses partly located on the subject site and adjoining sites at Nos. 8 and 10 Mason Road. These uses which would normally be incorporated into the relevant Contribution Plan however they have not been incorporated as Contribution Items. The applicant **discussed these items with Council's Planning and Infrastructure staff who have indicated** that a public community space does not generally integrate with large retail or shop top housing developments and as such alternate facilities will be planned by Council in areas of open space which are consistent with successful community centres within the Shire such as that at Wrights Road Reserve Kellyville.

c. Building Height

The DCP also requires that development provide a range of building heights up to six storeys. The Development Application proposes a part six and eight storey built form. As identified in Section 2 of this report the variation to height has been assessed against the site specific opportunities and constraints, impacts and density.

d. Front Setback

The DCP requires all retail and commercial buildings in the centres to have a zero front setback. The DCP also requires mixed use buildings have the residential floors set back 4 metres from the retail levels that have a zero setback. The development is generally set back beyond the 4m, however does in part have a nil setback.

The applicant has justified the front setback variation on the basis it does not result in any privacy or overshadowing impacts.

The proposed setbacks are considered satisfactory as the setbacks will provide satisfactory articulation to the mixed use buildings. This area of the site is self-contained in that it is surrounded by existing and proposed roads and therefore there will be little opportunity for impact on privacy or amenity to adjoining properties. The external design, colours and finishes chosen for the development will assist in ensuring that the proposal, when completed, will have an appropriate modern appearance in keeping with the future character of the area.

Accordingly, the proposed variation is considered satisfactory and can be supported.

7. Draft Amendment to SEPP for Shop Top Housing

Council resolved to prepare a planning proposal to amend both The Hills Local Environmental Plan 2012 and SEPP Growth Centres (North Kellyville and Box Hill). The planning proposal was exhibited between 28 June 2016 and 29 July 2016. The planning proposal was re-exhibited until the 11 November 2016. The matter is likely to be reported to Council in December and if adopted forwarded to the Department of Planning for finalisation.

The subject application was lodged on 15 December 2015 prior to the exhibition of the proposed amendment. As a result, the amendment was not considered within the original documentation submitted by the applicant.

Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act, 1979 states:

In determining a development application, a consent authority is to take in to consideration the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority.

The key changes within the amendment for the subject site include a limitation on the maximum height and residential floor space within shop top housing and mixed use developments in neighbourhood zones.

A summary of the proposed changes to the SEPP and DCP is provided as follows:

- A maximum building height of 20 metres for shop top housing developments in the Box Hill Town Centre; and
- A requirement that at least 50% of the total floor area within new shop top housing developments must comprise non-residential uses.

Given the lodgement date and the current status of the planning proposal it is considered that the draft should not be given determinative weight particularly given that the proposed amendments do not seek repeal the Floor Space Ratio controls identified in Section 2 of this report.

8. Orderly Development

The Development Application will result in the isolation of parts of No. 8 and 10 Mason Road zoned B2 Local Centre which together total 403m² exclusive of roads. Both of these sites incorporate a number of zonings in addition to the B2 Local Centre Zone including SP2 Infrastructure, R4 High Density Residential (No. 10), R3 Medium Density and R2 Low Density Residential (No. 8). (See Attachment 3). While ideally the portion of B2 zoned land of these sites would be aggregated with the subject site, supporting documentation has been provided by the applicant which satisfies the planning principle established in Grech vs. Auburn Council [2004] which indicates that reasonable attempts have been made to purchase land zoned B2 from both properties and details provided as to how these sites (land zoned B2) could be developed in the future.

The Planning Principle states that:

- *Applicants should commence early negotiations with owners of isolated sites, prior to lodgement of the DA.*

- *Applicants should make genuine efforts and reasonable offers to the owner of the isolated properties. The offers should be in writing and based on at least one recent valuation.*
- *If negotiations are not successful, details/evidence of the negotiations are to be provided with the Development Application.*

The Land and Environment Court has also established a Planning Principle to address isolated sites, which is set out in *Karavellas v Sutherland* in which Tuor C required the following two questions to be considered when assessing whether it is reasonable to isolate a site through redevelopment:

1. Is amalgamation of the sites feasible?

2. Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

The applicant has addressed the above Planning Principles by providing documentation to demonstrate that reasonable attempts have been made to acquire No. 8 and 10 Mason Road. These attempts commenced on 30 June 2015. The applicant has provided evidence of four individual offers made to those owners. Those offers were made based on advice received by the applicant from Colliers International. The offers were only to purchase the portion of B2 zoned land. The adjoining owners did not formally respond to the offers.

Subsequently amendments made to the application and a concept plan provided for the development of the B2 portion of the adjoining land, (Refer Attachment 18), demonstrates a reasonable future development outcome on these sites. The concept incorporates:

- Retail at the ground level with a gross floor area (GFA) up to 250m²;
- A 6-storey residential apartment building above the ground floor retail with 18 apartments, including 6 x 1 bedroom apartments and 12 x 2 bedroom apartments; and
- Parking spaces for 22 cars to be provided within the proposed town centre development. This would be achieved through the creation of an easement, and would require an auto roller shutter to prevent unauthorised access to this car parking.

The **Applicant's** Planning Consultant has provided the following comments:

"It is noted that the developable portion of 10 Mason Road zoned B2 Local Centre is 403m². This would allow development of up to 506m² of retail GFA and 2,016m² of residential GFA. As mentioned above this scheme provides 250m² of retail GFA as well as 1,600m² of residential GFA. There is potential for the ground floor retail GFA to be increased if an easement were to be provided for service access to the to the proposed town centre development's loading dock.

This scheme is only achievable by providing a zero lot line to the subject site's eastern boundary, which would require revisions to the design and layouts of Buildings G and H of 29-31 Terry Road, Box Hill.

Overall, these plans show that if the applicant is unable to purchase the portion of the neighbouring property at 10 Mason Road zoned B2 Local Centre, for incorporation into the proposed town centre development, it can still be developed for the purpose of shop top housing as the highest and best use for land in the B2 Local Centre zone."

A key consideration during the assessment of the application was the impact of the proposal upon the orderly development on a portion of Nos. 8 and 10 Mason Road zoned B2 Local Centre.

Council staff have actively encouraged the applicant to undertake negotiations with the adjoining owners from the pre-lodgement stage of the proposal and during the assessment phase of the application. The applicant has made a number of attempts (four) to acquire the land zoned B2 Local Centre of these properties without success.

The applicant has provided documentary evidence to demonstrate that offers were presented and negotiations attempted with the owners of No. 8 and 10 Mason Road prior to the lodgement of the Development Application and during the assessment phase of the application. It is understood that at least one of the owners expects that the developer acquire their entire property rather than just the B2 portion. Although the court principles do not specifically deal with these circumstances, it is considered unreasonable that the entire properties would have to be acquired by the developer given the circumstances do not necessarily result in those properties being coming undevelopable. It is noted that if road dissecting the front portion of No. 10 Mason Road was required by this development proposal, however, although would provide for an ideal planning outcome, the road is a contributions item and it has been demonstrated that this portion of the road is not required for this development.

It is considered that the applicant has satisfied the process established by the planning principle by demonstrating that they have made reasonable attempts to acquire the adjoining portions of B2 zoned land and a paper trail has been provided as evidence of the negotiations between the parties. The applicant has also provided a development concept for this land which details how development could possibly occur in the future.

Whilst the aggregation of the subject site is the most desirable outcome, it would be unreasonable to sterilise the re-development of the subject site in the circumstances.

9. Issues Raised in Submissions

ISSUE/OBJECTION	COMMENT	OUTCOME
I have been intimidated to sell my property at an under realistic price and have also expressed that they must purchase the whole of my property and not just a very small portion, that they require which excludes the roads and drainage that are necessary for this multi-storey development. Their reasons for this is that they don't want to be liable for the cost of roads and drainage to this development, maybe they're thinking I will pay for it or council will, hence not really paying for the total costs of the complex they are wanting to build.	Council staff have actively encouraged the applicant to undertake negotiations with the adjoining owners from the pre-lodgement stage of the proposal and during the assessment phase of the application. The applicant has made a number of attempts to acquire these properties without success. As addressed in Section 8 of this report, it is has been demonstrated that the applicant has made reasonable attempts to acquire the adjoining portions of B2 zoned land and a paper trail has been provided as evidence of the negotiations between the two parties. Whilst the aggregation of the subject site is the most desirable outcome, it would be	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	unreasonable to sterilise the re-development of the subject site in the circumstances.	
So far with the lodgement of this application I have had surveyors access my property without my consent, I have had tree's undergrowth cut and branches left and also holes have been dug without being filled once they had carried out their work without my consent, thus leaving my property in a hazardous condition to all.	Trespassing is a civil matter not relevant to the Development Application.	Issue Addressed.
If this development needs to progress they must consider the land holders first, work with them and display consideration.	The recommended conditions of consent seek to ameliorate the impacts of construction activities once construction commences.	Issue addressed.
A property on Terry Road which was purchased by Coles was used to dump asbestos and our lives were put at risk, do we really need another occurrence of that.	The use of the property identified in the submission occurred without consent. Council staff subsequently took action for the use to cease and the site to be cleaned up. This has occurred and that matters has been finalised.	Issue addressed
Unless this application acquires all the roads and drainage for their multi-storey complex, I believe they should not commence it. As without the accessibility there is no consideration to all.	The applicant proposes the construction or reconstruction either in part or full and dedication to Council of three new roads adjacent to the development site. Terry Road to the west of the site and new bypass road to the north of the site are captured by the Contributions Plan. However, in order facilitate the development proposal, it is likely that these works will be constructed by the applicant as Works-in-Kind given Council is unlikely to be in a position to acquire land and construct these roads prior to the development commencing. Mason Road will be constructed and dedicated to Council at no cost by the Applicant.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>I have concerns for the overdevelopment of the proposed development. The site area is 30,589m². According to Box Hill Town Centre DCP, a maximum of 30,000m² GFA is set for retail and commercial premise including north and south side. The application's site (Town Centre North), consists of approximately 40% of the Town Centre; however, the proposed retail and commercial area is 20,685m² GFA which is 68.95% of the total 30,000m² limit set within the DCP. It has clearly exceeded the DCP limit and even damaged the potential development for retail and commercial area south of the Town Centre where 55% of the Town Centre will be.</p>	<p>This DCP specifies that the Town Centre (north and south) will provide up to a maximum of 30,000m² of retail and commercial floor space. It is noted that the DCP is inconsistent with the SEPP which permits a 1:1 floor space ratio of non-residential floor space as addressed in Section 2 of this report. Given that the proposal is consistent with the provision of the SEPP the variation to the DCP is considered supportable.</p>	<p>Issue addressed.</p>
<p>The applicant has submitted a written objection to the building height development standard under State Environmental Planning Policy No 1—Development Standards, however we note that pursuant to Clause 1.9(2) of Appendix 11 of the Growth Centres SEPP, "State Environmental Planning Policy No 1—Development Standards does not apply to the land to which this Precinct Plan applies". Accordingly the DA does not provide sufficient justification in regard to the variations proposed to Clause 4.3, pursuant to Clause 4.6 of Appendix 11 of the Growth Centres SEPP.</p>	<p>A SEPP 1 Variation was lodged with the application. The applicant subsequently provided a Clause 4.6 Variation as required. This document was forwarded to the objector.</p>	<p>Issue addressed.</p>

DEPARTMENT OF PRIMARY INDUSTRIES - WATER

The proposal is defined 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 have issued General Terms of Approval.

ROADS & TRAFFIC AUTHORITY COMMENTS

The application was referred to RMS in accordance with Schedule 3 of SEPP Infrastructure 2007. Below are RMS's comments on the subject application:

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. 7).

ENGINEERING COMMENT

The proposal includes extensive engineering works primarily associated with provided a flood free site and access and infrastructure associated with rezoning of the area from rural to urban.

The applicant proposes the construction or reconstruction either in part or full and dedication to Council of three new roads adjacent to the development site. Terry Road to the west of the site and new bypass road to the north of the site are captured by the Contributions Plan. However, in order to facilitate the development proposal, it is likely that these works will be constructed by the applicant as Works-in-Kind given Council is unlikely to be in a position to acquire land and construct these roads prior to the development commencing. Mason Road will be constructed and dedicated to Council at no cost by the Applicant.

Similarly, the proposal seeks to use part of the existing site north of the bypass road for temporary stormwater management purposes. The permanent regional basins identified within the contribution plan cannot be built at this stage as the development site only includes half of the creek corridor/ basin area.

No objection is raised to the proposal subject to recommended conditions of consent.

TRAFFIC COMMENTS

The traffic generation from the proposed development is consistent with intent of the Box Hill DCP. The proposed access is suitably located to provide sufficient sight distance for vehicles entering and exiting the property. Any traffic facility improvements in the vicinity of the property are accommodated within the provisions of the Section 94 Contributions plan.

TREE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

ENVIRONMENT AND HEALTH COMMENTS

The subject application has been assessed by Council's Environmental and Health Section. The following comments were provided and no objection was raised to the proposal subject to the recommended conditions.

Contamination

Whilst the contamination assessment did not find any matters of concern, the excavation of the site and removal of the material will negate any potential concerns.

Acoustics

Conditions have been provided to ensure that any future development under the SEPP (Exempt and Complying development) will comply with the appropriate standards.

Acoustic assessment at this stage is difficult as the acoustic environment now is significantly different from what is expected when the Town Centre is built. The design of the Town Centre will also impact upon acoustics and therefore an acoustic report at Construction Certificate phase has been requested.

As the uses of the individual tenancies are not known, it is not possible to condition for them to comply with a specific noise criteria. Further, regulatory controls may be used to address any issues in the future (although having those matters adequately assessed prior to development and thereby minimising any issues would be more desirable).

Levels within the acoustic report could be conditioned as project specific noise levels, however should the background level increase (highly likely) those levels may become too onerous.

RESOURCE RECOVERY COMMENTS

The development is designed for Council and its contractor to service the residential component of the development. There are two loading docks suitable for Heavy Rigid Vehicles to achieve this. The residential component consists of garbage chutes that terminate into various garbage rooms on the ground level. Garbage discharges into a two-bin 660L carousel and compacted at a ratio of 2:1. Recycling bins are collected in 240L bins and are rotated from the floor level waste compartments.

The design can accommodate collection frequencies such as twice weekly garbage and once fortnightly recycling (32 x 660L garbage bins and 342 x 240L recycling bins) or once weekly garbage and once weekly recycling (64 x 660L garbage bins and 171 x 240L recycling bins).

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, SEPP Sydney Region Growth Centres and the Box Hill Development Control Plan and is considered satisfactory.

The variations to the SEPP Height control and the DCP variations 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 objectives of Clause 4.3 Height of Building and the B2 Local Centre zone objectives, 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 approved plans and details submitted to Council, as amended in red, stamped and returned with this consent. No work (including excavation, land fill or earth reshaping) shall be undertaken prior to the issue of the Construction Certificate, where a Construction Certificate is required.

The amendments in red include: -

- Details of eastern façade treatment of 'Building H' are to be submitted to and approved by Council's Manager Development Assessment prior to Issue of a Construction Certificate.
- Residential fitout of 'SOHO' units require separate approval. Refer Condition 3.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
A00	Title Sheet, Location and Demolition Plan	C	08/07/2016
A01	Site Analysis Plan	D	21/10/2016
A02	Basement 2 Plan	K	21/10/2016
A03	Basement 1 Plan	H	21/10/2016
A04	Ground Level Plan	K	21/10/2016
A05	Mezzanine Plan	J	21/10/2016
A06	Level 1 Plan	G	21/10/2016
A07	Level 2 Plan	G	21/10/2016
A08	Level 3 Plan	G	21/10/2016
A09	Level 4 Plan	G	21/10/2016
A10	Level 5 Plan	G	21/10/2016
A11	Level 6 Plan	G	21/10/2016
A12	Level 7 Plan	G	21/10/2016
A13	Roof Plan	D	21/10/2016
A20	Building A Level 1 and Typical Plan	C	08/07/2016
A20_1	Building A Level 4 and 5 Plans	A	08/07/2016
A21	Building B Level 1 Plan	C	08/07/2016
A21_1	Building B Typical Plan	A	08/07/2016
A21_2	Building B Level 6 and 7	A	08/07/2016

	Plans		
A22	Building C Ground, Mezzanine and Typical Plans	D	08/07/2016
A22_1	Building C Typical and Level 7 Plans	A	08/07/2016
A23	Building D Plans	D	08/07/2016
A24	Building E Plans	D	08/07/2016
A25	Building F Plans	C	08/07/2016
A26	Building G Ground, Mezzanine and Typical Plans	E	21/10/2016
A26_1	Building G Level 4 Plan	C	21/10/2016
A27	Building H Plans	D	21/10/2016
A28	Building J Level 1 and Typical Plans	D	21/10/2016
A28_1	Building J Level 4 and 5 Plans	B	21/10/2016
A30	Elevations 1	E	21/10/2016
A31	Elevations 2	E	21/10/2016
A32	Elevations 3	E	21/10/2016
A33	Elevations 4	E	21/10/2016
A40	Sections A and B	E	21/10/2016
A55	Material Board	C	21/10/2016
50.16(15) 446 to 455 Inclusive	Landscape Package - Sheets 1 -10	A	01 November 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. Compliance with Department of Primary Industries - Water Requirements

Compliance with the requirements of the Department of Primary Industries - Water as attached as Appendix A to this consent and dated 14 March 2016.

3. Residential Fitout of SOHO Units not Approved

The residential components of the 'SOHO' units are not approved. They are permitted to be used for retail or commercial purposes only. Any change of use to these units for residential purposes will require lodgement of a Development Application. Any application shall demonstrate compliance with the permitted Floor Space Ratio for the site.

4. 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.

5. Separate application for signs

A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.

6. Separate Development Application for Occupations

A separate development application is required for the occupation of the approved tenancies unless allowed by the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Where a Development Application is required, the application should specifically address the following:

- Proposed use and its Permissibility
- Hours of Operation
- Delivery Details
- Staff Numbers
- Signage, and
- Parking Provision

7. Compliance with NSW Police Force Requirements

The following conditions are required by the NSW Police or as otherwise agreed by NSW Police and Council in writing: -

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.

8. 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.

9. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

10. Tree Removal

Approval is granted for the removal of 87 trees in accordance with the Tree Report prepared by Birds Tree Consultancy dated 18 June 2015.

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

11. Adherence to Operational Waste Management Plan

All requirements of the Waste Management Plan submitted as part of this Development Application must be implemented during the construction (design of facilities) and the operational phases of the development, unless where amended by other conditions of consent.

12. Demolition Inspections

Before demolition works commence, a pre-demolition inspection must be arranged with Council's Development Certification team. All conditions required to be addressed before works commence must be satisfied. Once demolition works are complete, a post demolition inspection must be arranged with Council's Development Certification team.

13. External Finishes

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

14. Management of Construction and Demolition Waste

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent off site. 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 on site 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 off site 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

15. Surplus Excavated Material

The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without the formal 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.

16. Waste and Recycling Collection Contract(s)

There must be a contract with a licenced contractor(s) for the removal of all waste generated on site. Written evidence of a valid and current collection contract(s) must be held on site at all times and produced in a legible form to any authorized officer of the Council who asks to see it. Council and its contractor are to provide a waste service to the residential component of the development, unless otherwise determined by Council. All servicing instructions from Council are to be complied with at all times.

17. Construction of Garbage Rooms

The development must incorporate separate garbage rooms constructed in accordance with the construction requirements for garbage rooms as specified in the Waste Management Plan submitted as part of this Development Application, to facilitate the separation of retail/ commercial waste and recycling from residential waste and recycling. All rooms are to easily accommodate all bins and equipment required in them as per the plan.

18. Food premises construction standards

The construction of any food premises is to comply with *Australian Standard 4674:2004 – Design, construction and fitout of food premises*, which includes solid construction walls (ie walls without voids or cavities).

19. Contamination

Any new information, that may come to light during construction works, which has the potential to alter previous conclusions about site contamination, shall be immediately notified to Council's Manager – Environment and Health.

20. Approved Subdivision Detail/ Extent

No subdivision plan was submitted with the amended (approved) plan set. The subdivision of the site is included as part of this approval, but only to the extent of dedicating the required roads and road widening, excising the stormwater management part of the site and creating a single development lot in accordance with the plans/ detail that was submitted. The final subdivision plan must include/ account for the following:

- The dedication as road of the section of the new bypass road (BHNRO9) within the subject site. This road reserve must be 24m wide as per the concept plan prepared by ACE Revision C dated 2/11/2016 (noting the site plan prepared by KTA refers to a road width of 21m). The additional 3m is attributed solely to the proposed additional right hand turn lane servicing the development which is not required by/ accounted for in the DCP or Contribution Plan 15. Any planned works in kind/ material public benefit agreement or voluntary planning agreement must take this into consideration. The additional 3m must be taken from the part of the site north of the SP2 zoned road extent rather than the B2 zoned land to the south. This will reduce the size of the SP2 zoned stormwater management land/ lot required to be created (see below).
- The dedication as road widening of the SP2 zoned road widening along the Terry Road site frontage (BHRU02B). The eventual/ full width road reserve must be 25.7m as per the concept plan prepared by ACE Revision C dated 2/11/2016 however this will not be realised until the road widening opposite is taken from 10 to 38 Terry Road.
- The dedication as road widening of the additional land-take associated with the planned traffic signals at the intersection between the bypass road/ Terry Road (BHT18). This additional land-take must come from the B2 zoned part of the site as per the detail/ extent provided by Council on 13/05/2016 (2036 option) and generally as shown on the concept plan prepared by ACE Revision C dated 2/11/2016 and the site plan prepared by KTA. The roof level building

encroachment shown extending into the planned road reserve/ footpath verge amended (approved) plan set must be removed at the detailed design/ Construction Certificate stage.

- The dedication as road widening at no cost to Council of the road widening along the Mason Road site frontage within the subject site/ B2 zoned land. The necessary road widening (2.4425m and variable) to provide for the eventual 25m wide road reserve is shown on the concept plan prepared by ACE Revision C dated 2/11/2016 and the site plan prepared by KTA. A 4m by 4m splay corner (minimum) must be provided at this location also, so that the road/ footpath and all associated services (including street drainage) are contained to the road reserve. This dedication must occur at no cost to Council.
- The creation of a separate lot containing the SP2 zoned stormwater management land north of the bypass road associated with the future basins (BH02A/ RGB02A and BH02B/ RGB02B) and containing the two temporary basins proposed under this approval. This needs to be created as a separate lot so that it may be acquired later under a separate process, unless the transfer is included in any planned works in kind/ material public benefit agreement or voluntary planning agreement.
- The creation of a second/ separate lot containing the actual development site/ remainder of the B2 zoned land. Any planned subdivision of this proposed lot will require separate approval.
- A right of access (easement) relating to the eventual orderly development of the B2 zoned part of 8 and 10 Mason Road (conditioned separately/ later).
- The final subdivision plan must be registered before an Occupation Certificate can be issued.
- The requirements of any other relevant/ applicable conditions of this consent.

21. 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.

22. Right of Access/ Orderly Development of 8 to 10 Mason Road

The final subdivision plan must include a right of access (easement) over the subject site/ development lot within basement levels one and two to provide legal access to the planned/ possible extension of these basements as part of the planned/ possible future development of the B2 zoned parts of 8 and 10 Mason Road generally in accordance with the details submitted with the application in the letter prepared by TPG dated 21/10/2016. The authority with the rights to vary, release or modify the easement must be Council and the terms must comply with Council's standard recitals (a copy of which is available on our website).

23. Subdivision Certificate Preliminary Review

Prior to the submission of a Subdivision Certificate application a draft copy of the final plan, administration sheet and Section 88B instrument (where included) must be submitted in order to establish that all conditions have been complied with.

Street addresses for the lots within this subdivision will be allocated as part of this preliminary check process, for inclusion on the administration sheet.

24. Approved Street Naming

Street naming must comply with Council's approved street names map; which will be finalised by the time street name signs need to be installed and the roads dedicated to the public.

Mason Road (within the subject site) between Terry Road and the eastern extent of the bypass road within 10 and 12 Mason Road will need to be renamed to reflect the fact that the new bypass road will be named Mason Road instead. This renaming is not

included on the exhibited street naming map for Box Hill; because it requires the physical realignment of Mason Road/ the construction and dedication of the bypass road to occur first.

25. Street Trees

Street trees must be provided on both sides of the bypass road within the development site and in Terry Road and Mason Road fronting the development site spaced between 7m and 10m apart. 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, including the Box Hill Street Tree Masterplan. 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.

26. Process for Council Endorsement of Legal Documentation

Where an encumbrance on the title of the property is required to be released or amended and Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges. Sufficient time should be allowed for the preparation of a report and the execution of the documents by Council.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. Service Vehicles – Access Requirements

All service vehicles, defined as a vehicle classified by AS 2890.2 rather than AS/ NZS 2890.1; must access and service the site via the two service vehicle areas and associated driveways on Terry Road and the planned bypass road. Service vehicles are not to access either basement level or service the development directly from any of the existing or proposed fronting public roads.

33. 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.

34. Finished Floor Level – Flooding

The finished floor level (or levels) of the structure must reflect the approved plans and are to be no lower than:

- RL 38.5 AHD along any point in the bypass road.
- RL 39 AHD for the finished floor level of the retail tenancies facing the bypass road.
- RL 39 AHD for the crest/ highest point along all four driveways facing the bypass road.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

35. 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.

36. Special Infrastructure Contribution – Growth Centres

The applicant is to make special infrastructure contribution in accordance with any determination by the Minister administering the Environmental planning and Assessment Act 1979 under Section 94EE of the Act that is in force on the date of this consent, and must obtain a certificate to that effect from the Growth Centres Commission before a Construction certificate or subdivision certificate is issued in relation to any part of the development to which this consent relates

More information on the Special Infrastructure Contribution can be found at the Growth Centres Commission's website at www.gcc.nsw.gov

To obtain an estimate of the Special Infrastructure Contribution that may be payable for the application please email infrastructurecontribution@gcc.nsw.gov.au

37. Property Numbering and Mailboxes

The responsibility for property numbering is vested solely in Council.

Council's Land Information Section is to be issued with amended unit numbering plans prior to the issue of a construction certificate. Unit numbering must comply with NSW Addressing policy and must not be repeated throughout the site

Council's Land Information Section has prepared marked plans to reflect the correct numbering. Plans relating to this development must be renumbered by applicant so that

any reference to a particular unit for any purpose, including marketing, will reflect the approved numbering.

Approved unit numbering for this development based on plans provided is as follows:

Retail & Commercial Numbering

Basement 1 B101

Ground G01 – G49

Unit Numbering (clockwise from lift location)

	<u>Building A</u>	<u>Building B</u>	<u>Building C</u>
	Lift A	Lift B1	Lift B2
Mezzanine	N/A	N/A	N/A
First	1001-1013	1014-1033*	1014-1033*
Second	2001-2013	2014-2018	2019-2033
Third	3001-3013	3014-3018	3019-3033
Fourth	4001-4013	4014-4018	4019-4033
Fifth	5001-5013	5014-5018	5019-5033
Sixth	N/A	6001-6020*	6001-6020*
Seventh	N/A	7001-7005	7006-7020

Note: * = units can be accessed via either of 2 lifts

	<u>Building D</u>	<u>Building E</u>	<u>Building F</u>
	Lift D	Lift E	Lift F
Mezzanine	114-122	N/A	N/A
First	1043-1052	1053-1063	1064-1071
Second	2043-2052	2053-2063	2064-2071
Third	3043-3052	3053-3063	3064-3071
Fourth	4043-4052	4053-4063	4064-4071
Fifth	N/A	5043-5053	5054-5061
Sixth	N/A	6030-6040	6041-6048
Seventh	N/A	7030-7040	7041-7048

	<u>Building G</u>	<u>Building H</u>	<u>Building J</u>
	Lift G1	Lift G2	Lift H
Mezzanine	123-126	N/A	N/A
First	1072-1079	1080-1089	1090-1099
Second	2072-2079	2080-2089	2090-2099
Third	3072-3079	3080-3089	3090-3099
Fourth	4072-4079	4080-4089	4090-4099
Fifth	N/A	N/A	5062-5071
Sixth	N/A	N/A	6049-6058
Seventh	N/A	N/A	7049-7058

Plans detailing the positioning of letterboxes are also to be submitted and approved prior to issue of Construction Certificate. This will determine the street address for each particular building once plans are received.

Written correspondence from Australia Post certifying that they have agreed to the proposed location of the letterboxes must accompany this plan.

38. Section 94 Contribution

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: -

Residential component

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 182	No. of 2 Bedroom Units: 440	No. of 3 Bedroom Units: 46	Sum of Units	No. of Credits: 1	Total S94
Open Space - Land	\$ 5,625.33	\$ 5,956.24	\$ 6,640.98	\$ 6,640.98	\$ 1,023,810.12	\$ 2,620,743.60	\$ 308,485.21	\$ 3,950,038.93	\$ 6,640.98	\$ 3,943,397.96
Open Space - Capital	\$ 7,066.72	\$ 7,482.42	\$ 8,342.61	\$ 8,342.61	\$ 1,286,143.93	\$ 3,292,262.84	\$ 383,760.79	\$ 4,962,166.95	\$ 8,342.61	\$ 4,953,824.34
Transport Facilities - Land	\$ 545.27	\$ 577.35	\$ 643.72	\$ 643.72	\$ 99,239.94	\$ 254,034.01	\$ 29,611.07	\$ 382,885.02	\$ 643.72	\$ 382,241.30
Transport Facilities - Capital	\$ 4,665.63	\$ 4,940.07	\$ 5,508.00	\$ 5,508.00	\$ 849,144.00	\$ 2,173,631.17	\$ 253,367.98	\$ 3,276,143.14	\$ 5,508.00	\$ 3,270,635.14
Water Management - Land (KCP)	\$ 2,073.98	\$ 2,195.97	\$ 2,448.43	\$ 2,448.43	\$ 377,463.62	\$ 966,228.83	\$ 112,627.82	\$ 1,456,320.26	\$ 2,448.43	\$ 1,453,871.83
Water Management - Capital (KCP)	\$ 5,214.34	\$ 5,521.07	\$ 6,155.78	\$ 6,155.78	\$ 949,009.21	\$ 2,429,269.27	\$ 283,166.05	\$ 3,661,444.53	\$ 6,155.78	\$ 3,655,288.74
Administration	\$ 220.64	\$ 233.62	\$ 260.47	\$ 260.47	\$ 40,156.80	\$ 102,791.48	\$ 11,981.69	\$ 154,929.97	\$ 260.47	\$ 154,669.50
Total	\$ 25,411.91	\$ 26,906.73	\$ 30,000.00	\$ 30,000.00	\$ 4,624,967.62	\$ 11,838,961.20	\$ 1,380,000.00	\$ 17,843,928.82	\$ 30,000.00	\$ 17,813,928.82

Non-residential component

Development Category	Rate per M ² of GFA: 16,889	TOTAL S94
Transport Facilities - Land	\$ 6.04	\$ 102,009.56
Transport Facilities - Capital	\$ 59.14	\$ 998,815.46
Administration	\$ 0.90	\$ 15,200.10
Water Management - Land (KCP)	\$ 6.64	\$ 112,142.96
Water Management - Capital (KCP)	\$ 16.68	\$ 281,708.52
Total	\$ 89.40	\$ 1,509,876.60

The contributions above are applicable at the time this consent was issued. Please be aware that Section 94 contributions are updated quarterly.

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 15.

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.

39. 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.

40. Acoustic assessment

Prior to the issue of the Construction Certificate, an acoustic report shall be submitted to the satisfaction of Council's Manager – Environment and Health which confirms that:

- the selected mechanical plant should not give rise to offensive noise;
- the design and proposed materials will be adequate to prevent offensive noise from the loading docks and car parks.

41. Erosion & Sediment Control Plan

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

- Allotment boundaries
- Location of the adjoining roads
- Contours
- Existing vegetation
- Existing site drainage
- Critical natural areas
- Location of stockpiles

- 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).

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. Controlled Activity Authority – NSW Department of Primary Industries - Water

A copy of the Controlled Activity Authority must be submitted before a Construction Certificate is issued.

44. Separate Approval for WIK/ MPB Agreement

Separate approval is required where a works in kind (WIK) or material public benefit (MPB) is proposed in lieu of the part or full payment of either a monetary contribution or the dedication of land. Any WIK or MPB application must be made in writing. Contact Council to ascertain the information required to accompany any such application.

The WIK or MPB agreement must be finalised before a Construction Certificate is issued.

Once the WIK or MPB agreement has been finalised an application must be submitted to modify the Section 94 Contribution amount identified in this consent, unless it is agreed that the difference can be reimbursed after payment is made.

45. 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.

46. Requirements for Creek Crossing/ Culvert – Terry Road

The design and construction of the creek crossing/ culvert under Terry Road (CR-F) must be carried out with the subdivision works.

Prior to the issuing of a Construction Certificate, the applicant must submit to Council for approval detailed design plans and specifications for the creek crossing/ culvert prepared by a suitably qualified structural engineer with demonstrated experience and knowledge of creek crossing/ culvert design and construction. The design must be accompanied by certification from the design engineer confirming that the design complies with:

- Any requirements of DPI – Water;
- All relevant or applicable RMS road bridge design standards;
- All relevant or applicable Australian Standards;
- **Council's Design Guidelines Subdivisions/ Developments;**
- **Council's Works Specifications Subdivisions/ Developments;**
- Any other relevant design or construction considerations.

The design engineer must nominate all necessary critical stage inspections. These inspections are to be carried out by a suitably qualified structural engineer with demonstrated experience and knowledge of creek crossing/ culvert design and construction as the creek crossing/ culvert construction progresses, with a copy of the results submitted to Council as soon as practicable after the inspection. Additionally, Council must be notified of any upcoming inspections a minimum of 24 hours beforehand.

The proposed creek crossing/ culvert must be transferred into Council ownership at the end of the project. The following is required in order to facilitate this handover process:

- Council staff inspects the creek crossing/ culvert.
- A whole of life assessment is provided for the creek crossing/ culvert and documentation is provided to confirm the expenses nominated.
- WAE drawings and all required as-built structural engineering certifications and inspection results are provided to Council.

If Council determines that the creek crossing/ culvert is not complying with the conditions of this approval, Council may request that alterations be made to the creek crossing/ culvert prior to transfer.

47. Construction Management Plan

Prior to the issuing of a Construction Certificate a Construction Management Plan must **be submitted to Council's Manager** – Subdivision and Development Certification for approval. The Construction Management Plan must specifically address each of the following matters:

- Construction traffic (internal).
- Traffic control (external). This needs to consider road closures and delivery routes with respect to the surrounding road network.
- Public asset protection.
- Dust (and mud/ silt) management. This has been separately conditioned.
- Sediment and erosion control. This has been separately conditioned.
- Stockpiles, both temporary and non-temporary.
- Noise. Outside of standard work hours for float deliveries will need to have RMS written approval and Council and affected neighbours must be notified in writing.

- Working hours. This needs to include plant warming up and/ or noise above conversation levels before the nominated starting time.
- Tree/ vegetation protection.
- Fauna (and fauna habitat) protection, recovery and relocation.
- Dam dewatering (water quality, contamination and aquatic fauna).

48. 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 WSUD 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.

49. Works on Adjoining Land

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

50. Stormwater Discharge Acceptance

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

51. 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 \$150,000.00 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 at the rate of \$85.00 per square metre based on the road frontage of the subject site plus an additional distance on either side multiplied by the width of the road but reduced to account for the fact both Terry Road and Mason Road are being reconstructed (partial width only however) as part of the approved subdivision works.

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.

52. Security Bond – External Works

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

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

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

53. 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” as categorised below:

1. Works within an existing or proposed public road, or works within an existing or proposed public reserve. These works can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively.
2. Works within the development site, or an adjoining private property, that relates to existing or proposed Council infrastructure assets, such as the laying of a stormwater pipeline or the formation of an overland flow path within a public drainage easement. These works can only be approved, inspected and certified by Council because Council will have an ongoing risk exposure and management/ maintenance liability with respect to these assets once completed. A “compliance certificate” as per Section 109(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the detailed design for these works complies with the requirements listed and the above documents. This “compliance certificate” can be issued by Council’s Manager – Subdivision and Development Certification and not a private certifier, as discussed. Once approved, the works must be carried out under the supervision of Council’s Construction Engineer in accordance with the terms attached to the issued “compliance certificate”. Post construction, a further “compliance certificate” as per Section 109(1)(a)(i) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the as-built infrastructure and associated works have been carried out to the satisfaction of Council’s Construction Engineer. Alternatively, these works can be incorporated into any construction approval granted under category (1) above.
3. Works within the development site, or adjoining private properties, that do not relate to existing or proposed Council infrastructure assets, such as water sensitive urban design elements or inter-allotment drainage pipelines. Such works can be approved, inspected and certified by either Council or a private certifier, so long as the private certifier is accredited to do so. This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

The following engineering works are required:

a) Full Width Road Construction

The full width construction of the roads listed below is required, including footpath paving and other ancillary work to make this construction effective:

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Bypass Road	Road Type: DCP Typical Sub-arterial Road (amended) 4.5m/ 16m/ 3.5m (24m) Pavement Design: Sub-arterial/ Enhanced Collector (Design Guidelines Section 3.12)
Terry Road (1)	Road Type: DCP Collector Road 3.5m/ 11.6m/ 4.5m (19.6m)

	Pavement Design: Collector (Design Guidelines Section 3.12)
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The following additional/ specific requirements apply:

- The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council/ addressed in this consent.
- The wider 4.5m verge must be located on the northern side of the bypass road and on the western/ opposite side of Terry Road correlating with the shared path required at this location.
- Terry Road (1) relates to the section of this road north of the intersection between the bypass road/ Terry extending to the northern site boundary. The portion of Terry Road south of this intersection is a different road type/ formation and only partial width reconstruction is required (see below).
- Roll kerb is to be used for all roads other than sub-arterial roads or roads fronting a park or creek corridor, in which case barrier kerb must be used.
- All roads are to have a two-way cross fall with a crown in the middle of the carriageway.
- The footpath verge on the northern side of the bypass road facing the creek/ basin must have a reverse cross-fall of 4% falling away from the kerb, contrary to the concept plan prepared by ACE Revision C dated 02/11/2016. The level difference between the creek/ basin and the road needs to be addressed via a stabilised batter informed by a geotechnical engineer. This interface/ batter needs to consider the planned basins here (BH02A/ RGB02A and BH02B/ RGB02B) and not affect the flood storage/ surface treatment area provided by the same.
- The same applies to the footpath verge on both sides of Terry Road (1) where this road crosses the creek/ basin.
- Council is in the process of having a detailed concept design prepared for Terry Road, Mason Road/ the bypass road, the intersections between these roads, the culvert/ creek crossing under Terry Road and the basins on either side of Terry Road. If this design is available/ finalised by the time the detailed design for the subdivision works is being prepared then it must be considered as part of the **same. Contact Council's Construction Engineer to discuss the progress of this** detailed concept design prior to finalising the detailed design.
- Dish crossings at intersections between roads are to be avoided wherever possible. Where they are proposed, the detailed design must be accompanied by a design statement from the design engineer clearly explaining why they are unavoidable in each case.
- The construction of Terry Road (1) must account for the culvert/ creek crossing required here (CR-F), see below.
- The construction of Terry Road (1) must account for the regrading (lifting) of this road, requiring a temporary transition/ section of reconstruction to a rural residential road standard back to the existing road carriageway further north (at the existing road surface level), generally as shown on the concept plan prepared by ACE Revision C dated 02/11/2016.
- The works proposed/ required on 33 Terry Road relating to the existing driveway for that property must be arranged in consultation with the affected neighbour. Consent/ agreement from that owner for these works on their land must be submitted with the Construction Certificate/ detailed design.
- Temporary retaining walls within the road reserve are to be avoided wherever possible/ replaced with steeper (stabilised) batters. A bond for 150% of the cost

of removing the temporary retaining walls must be submitted. The bond amount must be confirmed with Council prior to payment. Alternatively, it must be demonstrated that a reasonable attempt has been made to obtain written consent from the owner/s of the affected properties opposite/ fronting the works at the detailed design/ Construction Certificate stage for battering into their land to provide for the future/ permanent finished levels along this boundary up-front (save the need for temporary works/ the bond).

- The filling/ regrading within the site adjacent to the eastern edge of Terry Road (1) between chainages 95 and 140 must be added to the cross-sections for this road, showing how the road edge correlates with the creek/ basin (and temporary basin/ swale) here.
- Sags, crests and cross roads (and other similar/ standard detail) needs to be added to the long-sections for all roads.
- All civil infrastructure (roads, stormwater drainage and the like) should be built for saline soils.

b) Partial Width Road Reconstruction

The partial width reconstruction of the existing roads listed below is required, including any necessary service adjustments and ancillary work required to make the construction effective:

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Terry Road (2)	Road Type: DCP Sub-arterial Road (between KCP and Mason Road) 4.5m/ 7m/ 1.2m/ 7m/ 6m (25.7m) Pavement Design: Sub-arterial/ Enhanced Collector (Design Guidelines Section 3.12)
Mason Road	Road Type: DCP Town Centre Main Street 4m/ 15m/ 6m (25m) Pavement Design: Industrial/ Commercial (Design Guidelines Section 3.12)

The following additional/ specific requirements apply:

- The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council/ addressed in this consent.
- The narrower 4.5m verge must be located on the western/ opposite side of Terry Road correlating with the shared path required at this location.
- The narrower 4m wide verge must be located on the northern side of Mason Road fronting the site.
- Terry Road (2) relates to the section of this road south of the intersection between the bypass road/ Terry extending to the southern site boundary. The portion of Terry Road north of this intersection is a different road type/ formation and full width reconstruction is required (see above).
- Roll kerb is to be used for all roads other than sub-arterial roads or roads fronting a park or creek corridor, in which case barrier kerb must be used.

- All roads are to have a two-way cross fall with a crown in the middle of the carriageway.
- Council is in the process of having a detailed concept design prepared for Terry Road, Mason Road/ the bypass road, the intersections between these roads, the culvert/ creek crossing under Terry Road and the basins on either side of Terry Road. If this design is available/ finalised by the time the detailed design for the subdivision works is being prepared then it must be considered as part of the **same. Contact Council's Construction Engineer to discuss the progress of this detailed concept design prior to finalising the detailed design.**
- Dish crossings at intersections between roads are to be avoided wherever possible. Where they are proposed, the detailed design must be accompanied by a design statement from the design engineer clearly explaining why they are unavoidable in each case.
- The construction of Mason Road and Terry Road (2) must account for the regrading (lifting) of this road, requiring a temporary transition/ section of reconstruction to a rural residential road standard back to the existing road carriageway further south and east respectively (at the existing road surface level), generally as shown on the concept plan prepared by ACE Revision C dated 02/11/2016.
- The works proposed/ required on 34, 36 and 38 Terry Road relating to the existing driveways for those properties must be arranged in consultation with the affected neighbours. Consent/ agreement from those owners for these works on their land must be submitted with the Construction Certificate/ detailed design.
- Temporary retaining walls within the road reserve are to be avoided wherever possible/ replaced with steeper (stabilised) batters. A bond for 150% of the cost of removing the temporary retaining walls must be submitted. The bond amount must be confirmed with Council prior to payment. Alternatively, it must be demonstrated that a reasonable attempt has been made to obtain written consent from the owner/s of the affected properties opposite/ fronting the works at the detailed design/ Construction Certificate stage for battering into their land to provide for the future/ permanent finished levels along this boundary up-front (save the need for temporary works/ the bond).
- Where partial width construction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width construction does not exist opposite, you will be responsible for the formation of the footpath verge, kerb and gutter and the construction of 7m of road pavement (for Terry Road (2)) and 11m of road pavement (for Mason Road), generally as shown on the concept plan prepared by ACE Revision C dated 02/11/2016. This new road pavement must transition into the existing road pavement opposite where possible.
- Any requirements relating to partial width road construction from the relevant **section of Council's DCP must also be complied with. All works must be carried out in accordance with the submitted traffic safety statement.**
- Sags, crests and cross roads (and other similar/ standard detail) needs to be added to the long-sections for all roads.
- The temporary intersection/ bend connecting the new part of Mason Road at the eastern site boundary with the existing section of this road as it extends further east must be provided generally in accordance with the concept plan prepared by ACE Revision C dated 02/11/2016.
- All civil infrastructure (roads, stormwater drainage and the like) should be built for saline soils.

c) Temporary Turning Heads

A temporary cul-de-sac turning head must be provided at the end of all roads that will be extended into adjoining properties if/ when they are developed. The cul-de-sac must have a diameter of 19m measured from the edge pavement.

A temporary turning head is required at the eastern end of the bypass road.

d) Street Names Signs

Street name signs and posts are required in accordance with the above documents and **Council's Standard Drawing 37. Details for all signage and line-marking** must be submitted to Council for checking prior to works commencing.

e) Creek Crossing/ Culvert – Terry Road

The alignment, width and formation of the creek crossing/ culvert for Terry Road between basins BH02A/ RGB02A and BH02B/ RGB02B must be provided for generally in accordance with the limited detail included with the concept plan prepared by ACE Revision C dated 02/11/2016.

The following additional/ specific requirements apply:

- Council is in the process of having a detailed concept design prepared for Terry Road, Mason Road/ the bypass road, the intersections between these roads, the culvert/ creek crossing under Terry Road and the basins on either side of Terry Road. If this design is available/ finalised by the time the detailed design for the subdivision works is being prepared then it must be considered as part of the **same. Contact Council's Construction Engineer to discuss the progress** of this detailed concept design prior to finalising the detailed design.
- Design to be substantially in accordance with the principles set out in the publications Australian Standard Bridge Design Part 1: Scope and General Principles (AS 5100.1-2004 (Incorporating Amendment No.1)), and Austroads Guide to Bridge Technology Part 4: Design Procurement and Concept Design.
- Minimum freeboard to the underside of the bridge structure is to be in accordance with the requirements of the abovementioned publications, having regard to carriageway cross-falls.
- Bridge clear opening to be a minimum of 50% of the overall width of the riparian corridor, measured from toe of abutments, and allowing for bridge pier widths.
- Piers are to be designed to be streamlined in the direction of flow. Other than in unavoidable circumstances, no piers are to be constructed so as to obstruct the primary waterway area (between low banks).
- Bridges are to be low energy style structures, minimising afflux at the design flood (100 year ARI post-development case).
- Allowance for blockage is to be in accordance with the requirements of the publication Australian Rainfall and Runoff Revision Project 11: Blockage of Hydraulic Structures - Blockage Guidelines (February 2015).
- Consideration may be made for the construction of relief culverts through each abutment to account for the allowance of blockage in the bridge design.
- Hydraulic modelling is to be undertaken to determine the two dimensional flow behaviour for channel forming flows (consider the 1:2 and 1:5 year storm events) and the design flood (1:100 year storm event) to enable the design of any bed, bank and abutment scour protection works.

a) Intersection Design – Terry Road Traffic Signals

The construction/ reconstruction of the bypass road, Terry Road and Mason Road must design for/ include the planned traffic signals at bypass road/ Terry Road (BHT18) and

Mason Road/ Terry Road (BHT11). The basic intersection geometry/ required land-take for both were provided by Council on 13/05/2016 (2036 option). The land-take is generally shown correctly on the concept plan prepared by ACE Revision C dated 2/11/2016 and the site plan prepared by KTA however the intersection geometry is not.

Council is in the process of having a detailed concept design prepared for Terry Road, Mason Road/ the bypass road, the intersections between these roads, the culvert/ creek crossing under Terry Road and the basins on either side of Terry Road. If this design is available/ finalised by the time the detailed design for the subdivision works is being prepared then it must be considered as part of the same. Contact Council's Construction Engineer to discuss the progress of this detailed concept design prior to finalising the detailed design.

The warrants for traffic signals here are not met yet. Until this is the case, the detailed design must provide for an appropriate level of priority control informed by a traffic consultant. This signage/ line-marking will need to be approved by the Local Traffic Committee because it relates to existing public roads.

The conduits for the eventual/ planned traffic signals must be installed up-front to save the need for re-work later.

b) Concrete Footpath

A 3.5m wide concrete footpath, including access ramps at all intersections, must be provided on the southern side of the bypass road in accordance with the DCP and the above documents. Street tree pits must be accounted for. The footpath finish/ detail must be approved by Council via a public domain plan.

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided on the eastern side of Terry Road (1) in accordance with the DCP and the above documents.

A 6m wide concrete footpath, including access ramps at all intersections, must be provided on the eastern side of Terry Road (2) of the bypass road in accordance with the DCP and the above documents. Street tree pits must be accounted for. The footpath finish/ detail must be approved by Council via a public domain plan.

A 4m wide concrete footpath, including access ramps at all intersections, must be provided on the northern side of Mason Road in accordance with the DCP and the above documents. Street tree pits must be accounted for. The footpath finish/ detail must be approved by Council via a public domain plan.

c) Concrete Cycleway/ Shared Path

A 2.5m wide concrete cycleway/ shared path, including access ramps at all intersections, must be provided on the western side of Terry Road (1) in accordance with the DCP and the above documents.

A 2.5m wide concrete cycleway/ shared path, including access ramps at all intersections, must be provided on the northern side of the bypass road in accordance with the DCP and the above documents.

d) Driveway Requirements

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

All five proposed driveways must be built to Council's heavy duty standard.

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

e) Disused Layback/ Driveway Removal

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

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) 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 plan prepared by ACE Revision C dated 02/11/2016.

h) 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.

i) Stormwater Drainage – Creek Outlets

Piped stormwater outlets/ connections to a natural watercourse must comply with the requirements of Council and the Department of Primary Industries – Water (even where the receiving waterbody is not a natural watercourse).

j) Water Sensitive Urban Design Elements – Permanent/ On-site

Water sensitive urban design elements within the development site/ lot, consisting of three rainwater reuse tanks (with volumes of 121.26 cubic metres, 77.7 cubic metres and 60.8 cubic metres) and three filtration tanks containing a total of 15 SW 360 690mm high filtration cartridges (or an approved/ industry tested and accepted equivalent proprietary product), are to be located generally in accordance with the concept stormwater plan prepared by ACE Revision E dated 02/11/2016.

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/>

k) Stormwater Drainage – Temporary Management (Box Hill)

The temporary stormwater management measures described below are to be provided in accordance with the concept plan prepared by ACE Revision C dated 02/11/2016. The temporary stormwater management measures referred to above include:

- Two temporary detention basins (east and west) with a minimum storage volume of 280.6 cubic metres and 536.3 cubic metres respectively. These basins have a staged discharge via a low flow pipe and two weirs/ spillways for each.
- A grassed/ vegetated swale (the final finish and treatment will depend on how DPI – Water want to see this area treated temporarily via the Controlled Activity Approval process) along the northern edge of both basins to act as an outlet for the basins and to convey runoff from the upstream catchment around the temporary stormwater management measures towards the planned culvert under Terry Road (see above).
- A temporary piped inlet to each basin from the bypass road (two).
- A piped outlet to the grassed/ vegetated swale from the trapped low point in the bypass road near Terry Road.
- A piped outlet to the downstream side of the planned culvert under Terry Road (see above) from the street drainage network in Terry Road.

The detailed design must include/ account for the eventual/ permanent street drainage in both roads and the discharge of this runoff to the planned basins here (BH02A/ RGB02A and BH02B/ RGB02B), so that the kerb and gutter etc; being installed now does not need to be removed to provide for the permanent street drainage when adjoining properties are developed and the temporary basins referred to above removed. Where additional lines need to be added to the plan, the permanent/ future lines need to be capped so that water does not pond in them in the meantime.

The purpose of the temporary stormwater management measures is to ensure there is no impact downstream between the pre-development and post development conditions for a range of storm events. The cost of removing these temporary stormwater management measures and all associated re-work to pits and pipes must be determined at the detailed design stage, with a bond for 150% of the cost of these works submitted to ensure this occurs when the permanent basin/ rain gardens planned here (BH02A/ RGB02A and BH02B/ RGB02B) are constructed and runoff from the subject site is/ can be connected to the same. The bond amount must be confirmed with Council prior to payment.

Where the design of any temporary stormwater management measure relies on steep batters; the design must incorporate whatever stabilisation methods are recommended **by a geotechnical engineer in consultation with Council's Construction Engineer.**

As these measures are primarily located within the stormwater management land intended to be acquired by Council under a separate process, the detailed design will **need to be finalised in consultation with Council's Infrastructure Group via Council's Construction Engineer.**

PRIOR TO WORK COMMENCING ON THE SITE

54. Principal Certifying Authority

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

55. 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.

56. 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.

57. 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.

The building plans must be submitted to the appropriate Sydney Water office to **determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water’s requirements, the building plans will be stamped indicating that no further requirements are necessary.**

58. Stabilised Access Point

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

59. Approved Temporary Closet

An approved temporary closet connected to the sewers of Sydney Water, or alternatively an approved chemical closet is to be provided on the land, prior to building operations being commenced.

60. 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.

61. Construction and Demolition Waste Disposal Details Required

Prior to the commencement of works, the location of waste disposal and recycling for all construction and demolition waste materials (bricks, concrete, timber and so on) must be submitted to and approved by the Principal Certifying Authority. Alternatively, details of an appropriately licensed skip bin hire company or site clean company can be provided where the company is engaged to undertake all works during construction of the development (collection, transportation and disposal).

62. Erosion & Sediment Control Plan Kept on Site

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and available to Council on request.

63. Erosion and Sedimentation Controls

Erosion and sedimentation controls shall be in place prior to the commencement of site works and maintained throughout construction activities, until the site is landscaped and/or suitably revegetated.

64. Dust Management Plan

Due to the size of the area being disturbed by the works a site specific dust management plan must be developed by a suitably qualified and experienced construction management consultant in conjunction with the civil contractor to proactively address **this issue. This plan must be submitted to Council's Manager** – Subdivision and Development Certification for written approval before works commence. The plan must address/ include the following matters, at a minimum:

- Water carts must be used to regularly wet down exposed areas. The number of water carts on site at all times (and additional carts available on demand) must be nominated and justified.
- Additives that can be mixed with the water to aid dust suppression.
- A dust cloth must be installed along the perimeter of the site.
- A sprinkler/ misting system along the perimeter of the site.
- Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- Heavy vehicle speed control on haul routes.
- Stockpile management such as location, orientation, volume and height must be carefully considered to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- Final topsoil placement and planting or seeding exposed areas as soon as possible.
- Jute matting of the core riparian zone within the creek/ riparian corridor.
- Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- Education of all site personnel on reducing dust.
- Complaints management and community engagement plan.
- Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to.

The plan must also demonstrate how the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.

65. 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.

66. Erection of Signage – Supervision of Work

In accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

- The name, address and telephone number of the Principal Certifying Authority;
- The name and telephone number (including after hours) of the person responsible for carrying out the works;
- That unauthorised entry to the work site is prohibited.

This signage must be maintained while the subdivision work is being carried out and must be removed upon completion.

67. Contractors Details

In accordance with Section 109E(3) of the Environmental Planning and Assessment Act 1979, the contractor carrying out the subdivision works must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. The policy must indemnify Council from all claims arising from the execution of the works. A copy of this insurance must be submitted to Council prior to works commencing.

68. 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.

69. 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

70. 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.

71. 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.

72. 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 Certificates Nos. 630855M_02, 630871M and 670878M_02 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.

73. 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.

74. 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).

The recommendations contained within the Day Design Pty Ltd report *Construction Noise Management Plan, Box Hill Town Centre Corner of Mason Road and Terry Road (Report No 5706-1.1R, dated 2 October 2015)* shall be implemented.

75. 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.

76. 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.

77. 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.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

78. 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.

79. Provision of Electricity Services

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

80. 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 19978 (Cth).
- The standard specifications of NBN Co current at the time of installation.
- All telecommunications infrastructure must be undergrounded.

The Telecommunications Act 19978 (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.

81. 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.

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

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

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

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

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

83. 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.

84. Final Inspection of Garbage Rooms

Prior to an Occupation Certificate being issued, a final inspection of all residential garbage rooms and associated areas must be undertaken by Council. This is to ensure compliance with design specifications (as per other conditions of consent) and that necessary arrangements are in place for waste collection by Council. The garbage chutes and bin carousels must be operational at the time of this inspection. The time for the inspection should be arranged with Council at least 48 hours prior to the suggested appointment time.

85. Agreement for Onsite Waste Collection

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

86. Completion of Subdivision Works

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

87. Compliance with NSW Department of Primary Industries – Water Requirements

A letter from the NSW Department of Primary Industries – Water must be submitted confirming that all works associated with the Controlled Activity Authority have been completed to their satisfaction.

88. Works as Executed Plans

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

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

89. Performance/ Maintenance Security Bond

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

90. 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.

91. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

- One copy of the final plan.
- The original administration sheet and Section 88B instrument.
- All certificates and supplementary information required by this consent.
- An AutoCAD copy of final plan (GDA 1994 MGA94 Zone56).

92. Stormwater CCTV Recording

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

93. Public Asset Creation Summary

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

94. 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.

95. 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.

96. 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) Dedication – New Road

The dedication of the proposed public roads must be included on the final plan in accordance with the undertaking submitted relating to dedication.

b) Dedication – Road Widening

The dedication of the proposed road widening must be included on the final plan in accordance with the undertaking submitted relating to dedication.

c) Easement – Public Stormwater Drainage

Drainage easements must be created over all stormwater drainage pipelines and structures which convey public stormwater runoff, in accordance with the requirements of Council. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

d) Easement – Temporary Public Stormwater Drainage/ Outlet

Temporary drainage easements, minimum 5m wide and 30m long, must be created over all temporary outlets within the property or on adjoining land using the "temporary public stormwater outlet" terms included in the standard recitals.

e) Restriction – Bedroom Numbers

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

f) Covenant – Onsite Waste Collection

The development site/ lot 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

The development site/ lot 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.

h) Restriction/ Covenant – Temporary Stormwater Management (Box Hill)

The stormwater management site/ lot north of the bypass road must be burdened with a restriction and a positive covenant that refers to the temporary stormwater management measures referred to earlier in this consent using the "temporary stormwater management" terms included in the standard recitals.

i) Positive Covenant – Stormwater Pump

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

97. Security Bond – Temporary Turning Head

A \$20,000.00 security bond must be provided in order to guarantee the maintenance and subsequent removal of the temporary cul-de-sac turning head. The bond is refundable upon written application to Council and is subject to a final inspection. If Council is required to maintain or remove the temporary cul-de-sac turning head these costs will be deducted from the security bond. If these costs exceed the value of the bond Council will issue an invoice for the recovery of the outstanding amount.

This bond is not required if the temporary cul-de-sac turning head is not required to be constructed.

98. 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.

99. 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.

100. Public Road/ Road Widening Dedication

An Occupation Certificate must not be issued until the proposed public roads/ road widening have been dedicated.

101. 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.

102. Construction Certification of Bridge Structures

A certificate of structural adequacy prepared by a suitably qualified and practicing structural engineer must be submitted with the WAE plans certifying that the bridge has been built in accordance with the approved design. An itemised list detailing the quantity, length and tendered cost of each bridge component and associated works must also be submitted, along with a maintenance schedule.

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. Shopping Trolley Management

Shopping Trolley Management Plan shall be implemented to ensure the effective management of shopping trolley collection. The plan shall: -

- Install a geospatial fenced trolley containment plan. All new trolleys are to be fitted with a wheel lock that is enabled before leaving a geospatial area (no access to public land). Details are to be submitted and approved by Council's Manager Development Assessment.
- Provide to The Hills Shire Council a list of contacts for the store;
- Ensure that all trolleys are easily identifiable by Council staff;
- Ensure that trolley collection services are sufficiently resourced to enable collection within agreed timeframes and at all times, including after hours;
- Ensure that trolleys reported as posing risk or nuisance are collected immediately on notification;
- Ensure that all trolleys reported are collected within the time frame agreed by Council;
- Inform customers (through clearly visible signage and other means) that trolleys should not be removed from the premises or abandoned, and that penalties apply for the dumping of trolleys outside the retail outlet/complex;
- Provide suitable, well signed trolley bays at exit points; and
- Provide to Council, on request, an up to date map showing usual trolley collection routes and schedules.

105. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area(s), which includes 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. Under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided onsite.

106. Waste and Recycling Collection

All waste generated onsite must be removed at regular intervals. The collection of waste and recycling must not cause nuisance or interfere with the amenity of the surrounding area. Garbage and recycling must not be placed on public property for collection without the formal approval of Council. Waste collection vehicles servicing the development are not permitted to reverse in or out of the site.

107. Hours of operation of the loading dock

Delivery of goods shall be restricted to the following times;

Monday to Saturday – 7.00am to 8.00pm

Sunday and public holidays – 8.00am – 8.00pm

These times may be varied if it can be demonstrated that the noise from the loading docks will not cause offensive noise at residential receivers.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning
4. Zoning and DCP Road Layout
5. Height of Building Map
6. Floor Space Ratio Map
7. DCP Indicative Layout Plan
8. Basement 2 Plan
9. Basement 1 Plan
10. Ground Floor Plan
11. Mezzanine Level Plan
12. Podium and Level 1 Plan
13. Level 2, 3 and 4 Plan
14. Level 5 Plan
15. Level 6 Plan
16. Level 7 Plan
17. Elevations and Sections
18. Concept Sketches Nos 8 and 10 Mason Road
19. **Applicant's DCP Justification**
20. Clause 4.6 Variation Request
21. Isometric with Height Plane
22. Department of Primary Industries – Water General Terms of Approval

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

THE HILLS
Sydney's Garden Shire

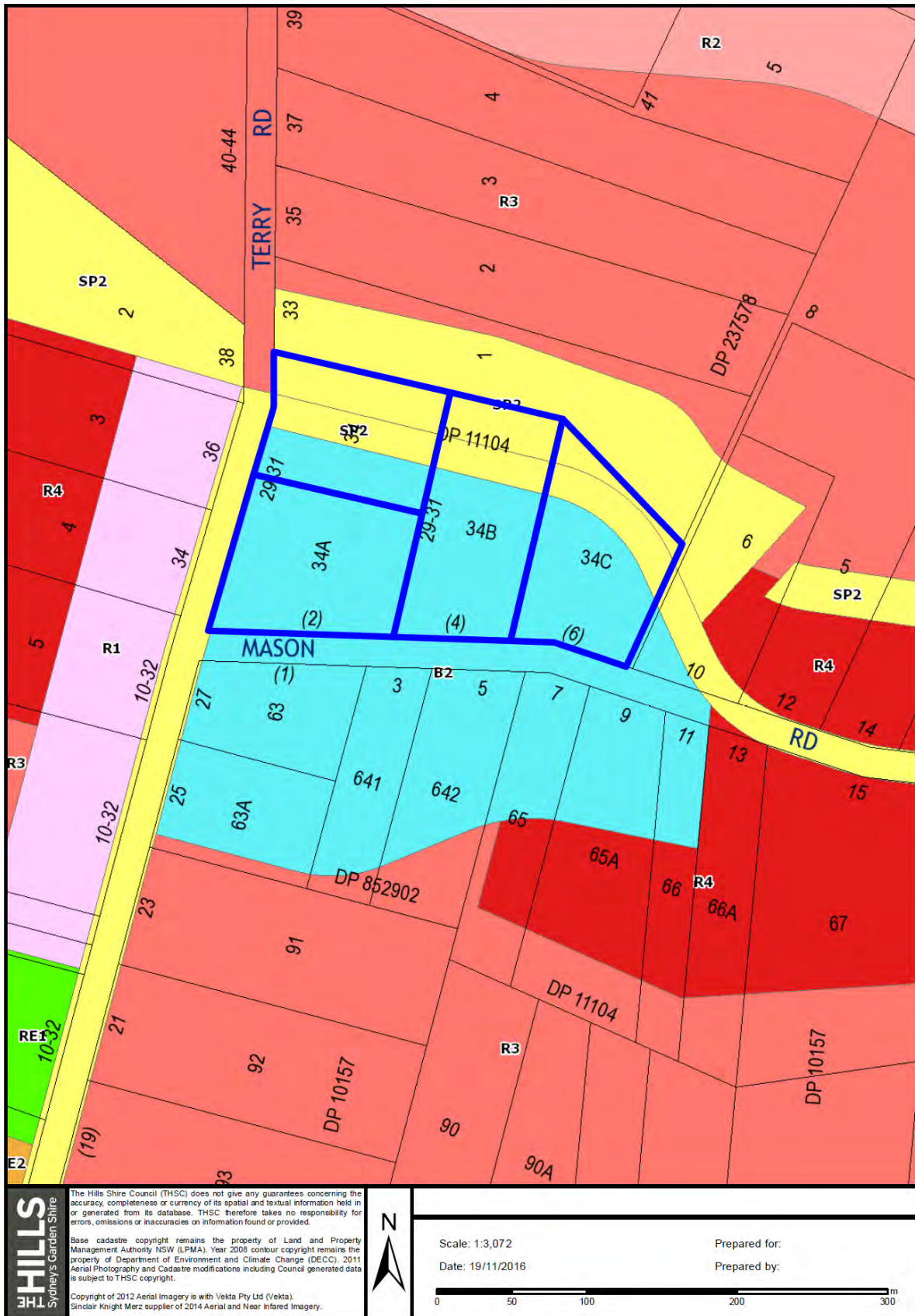
THE HILLS SHIRE COUNCIL

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.

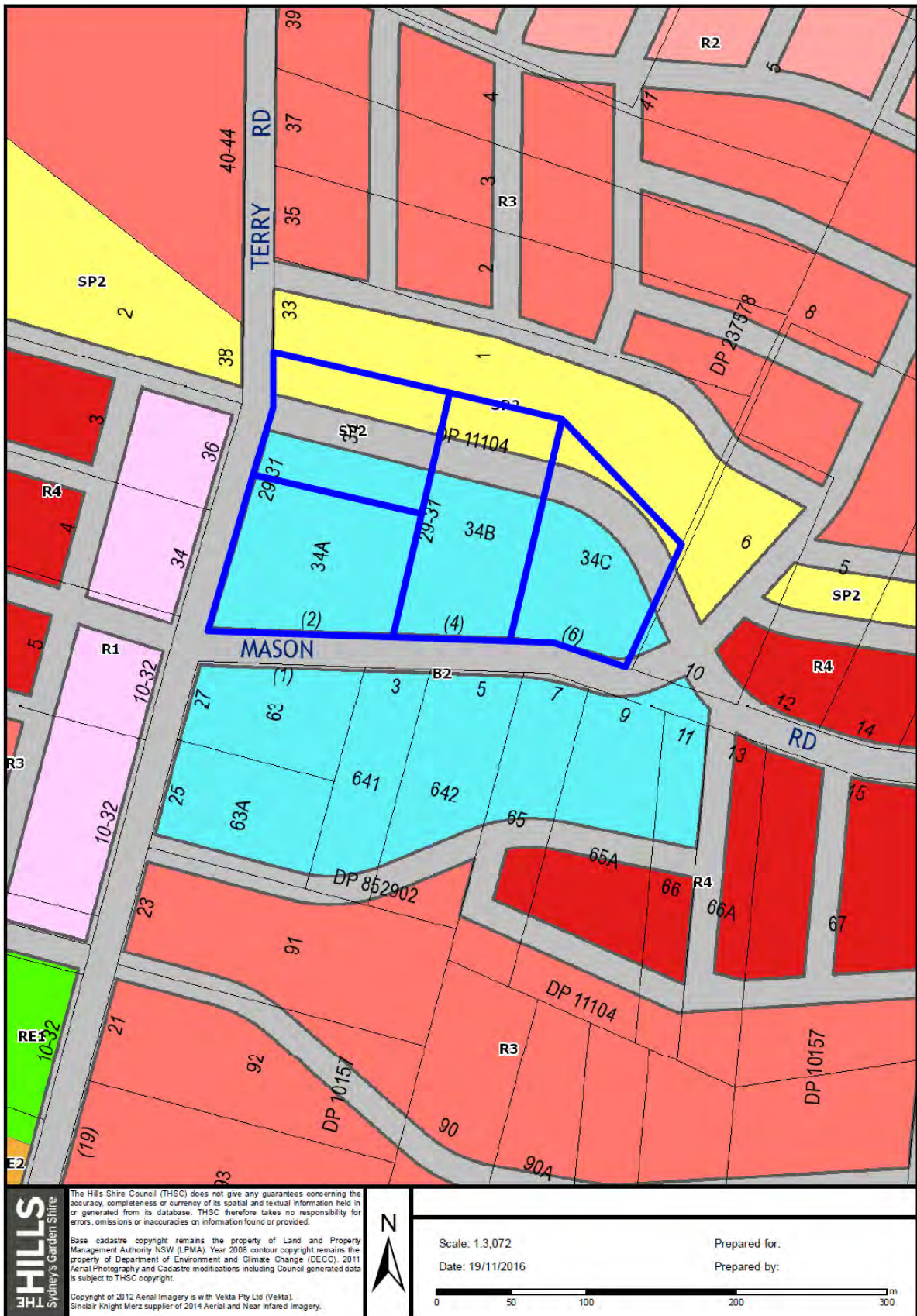
ATTACHMENT 2 – AERIAL PHOTOGRAPH



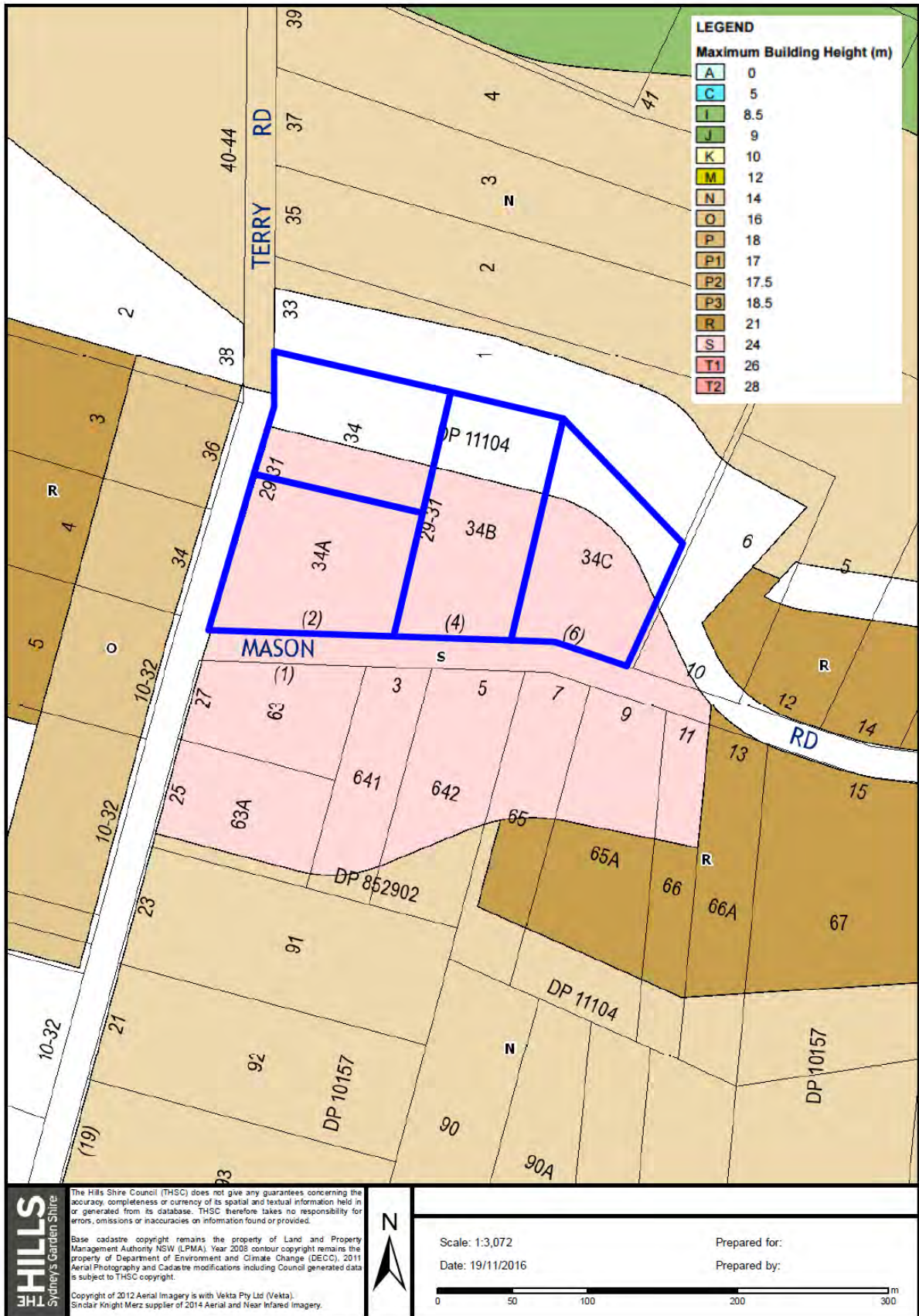
ATTACHMENT 3 – ZONING



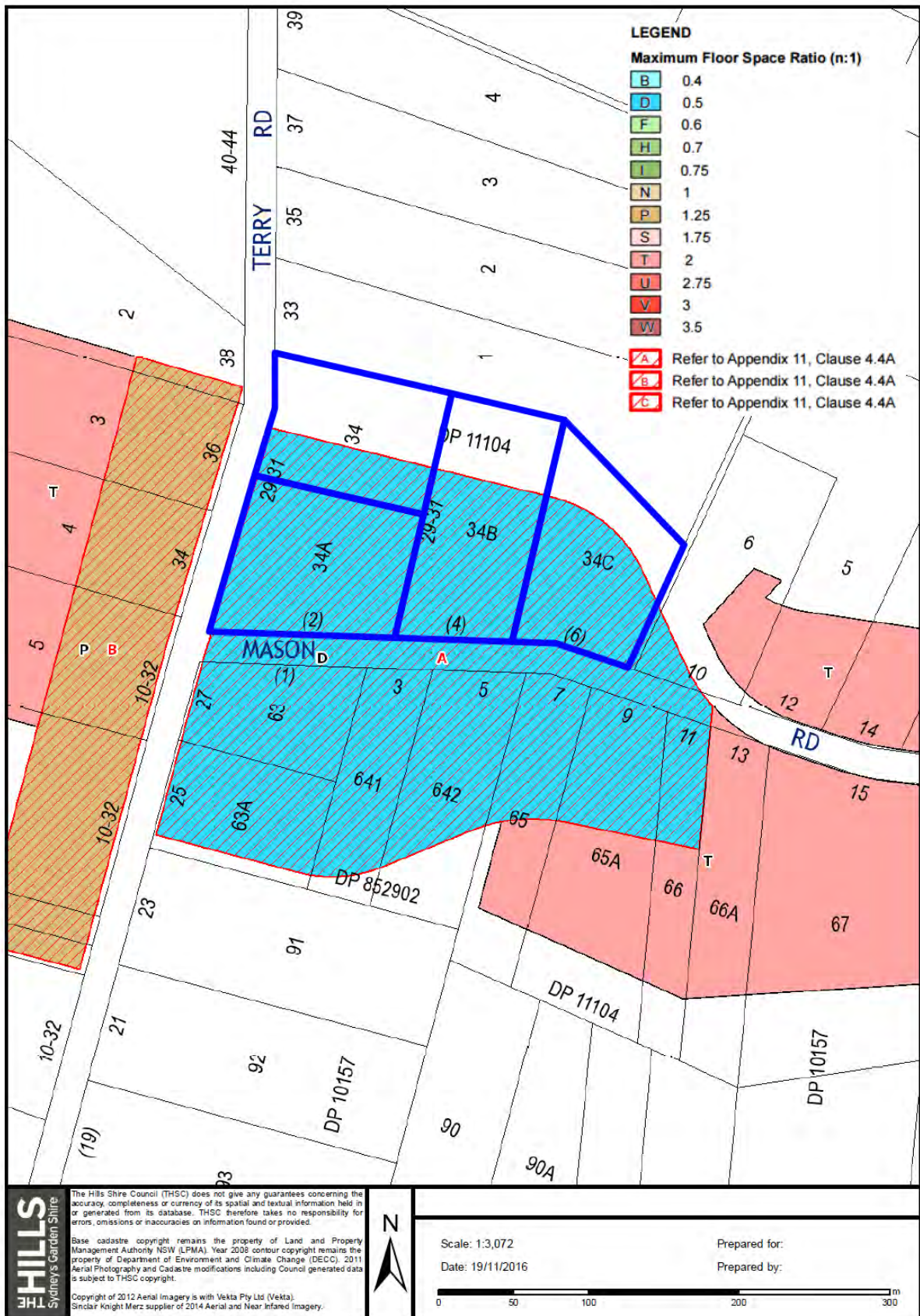
ATTACHMENT 4 – ZONING MAP AND DCP ROAD LAYOUT



ATTACHMENT 5 – HEIGHT OF BUILDING MAP



ATTACHMENT 6 –FLOOR SPACE RATIO MAP

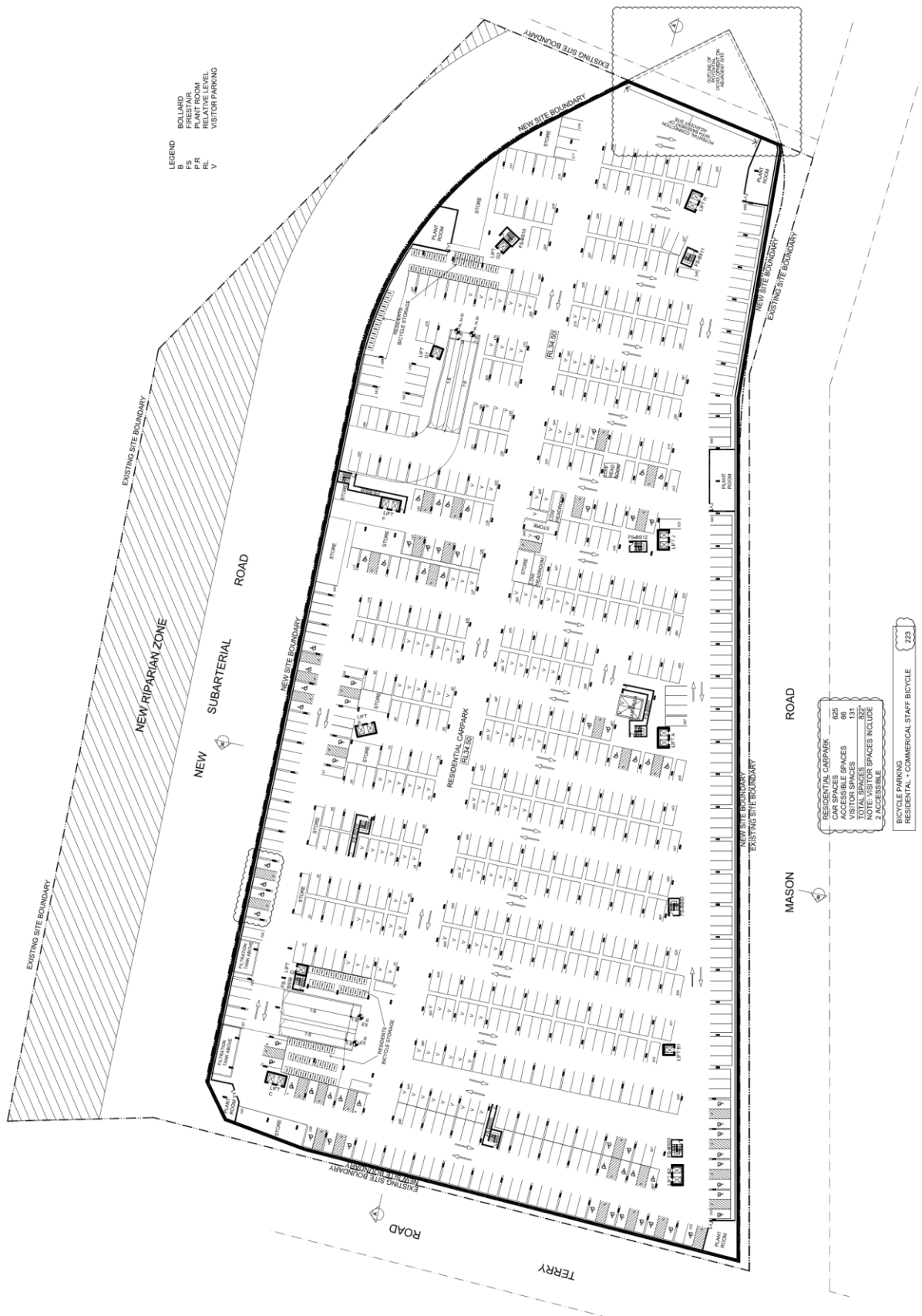


ATTACHMENT 7 – DCP INDICATIVE LAYOUT PLAN



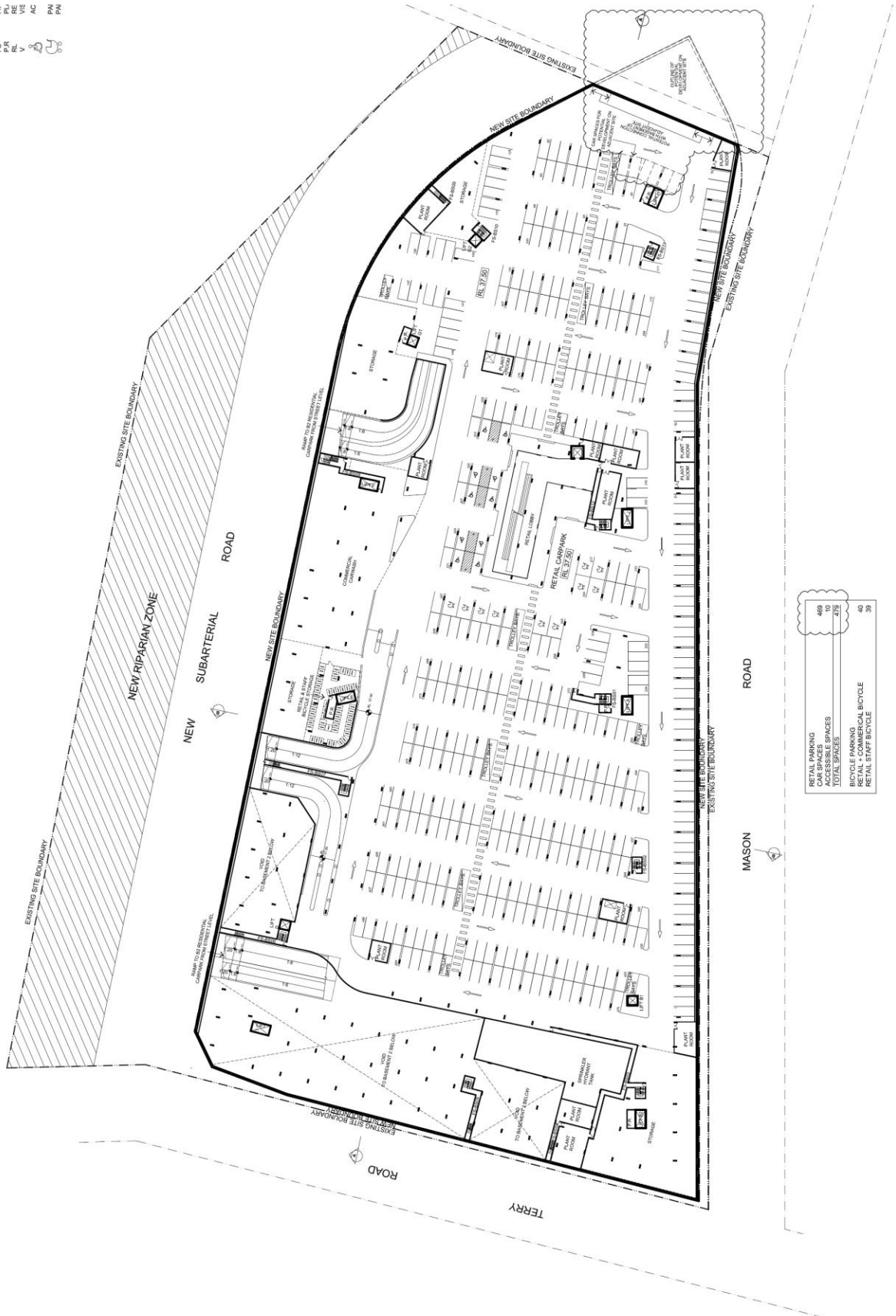
Note: Approximate location of subject Development Site shown in blue.

ATTACHMENT 8 – BASEMENT 2 PLAN



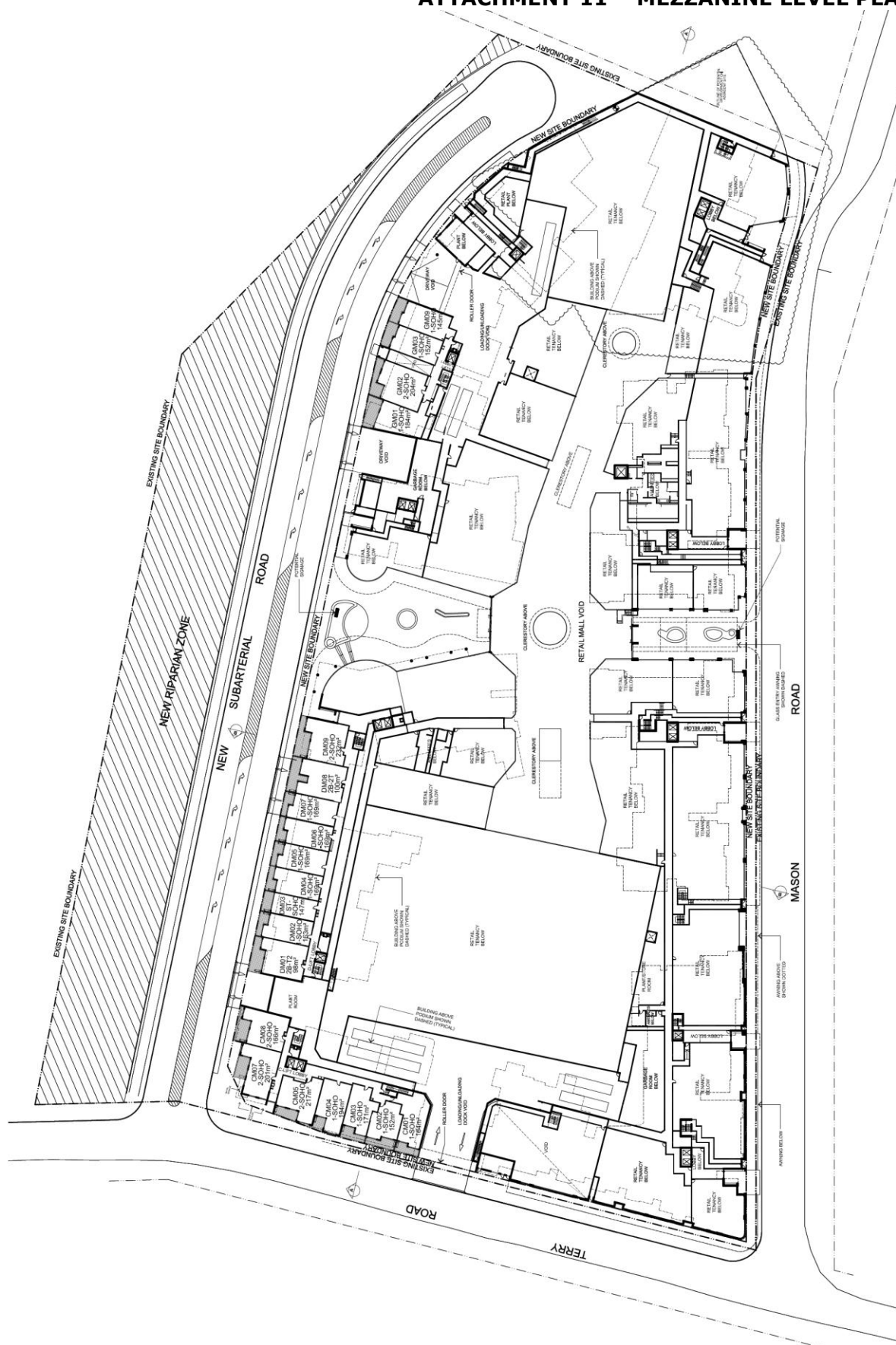
ATTACHMENT 9 – BASEMENT 1 PLAN

LEGEND
 B BD
 B PU
 B P.A.
 B W
 B AC
 B PM

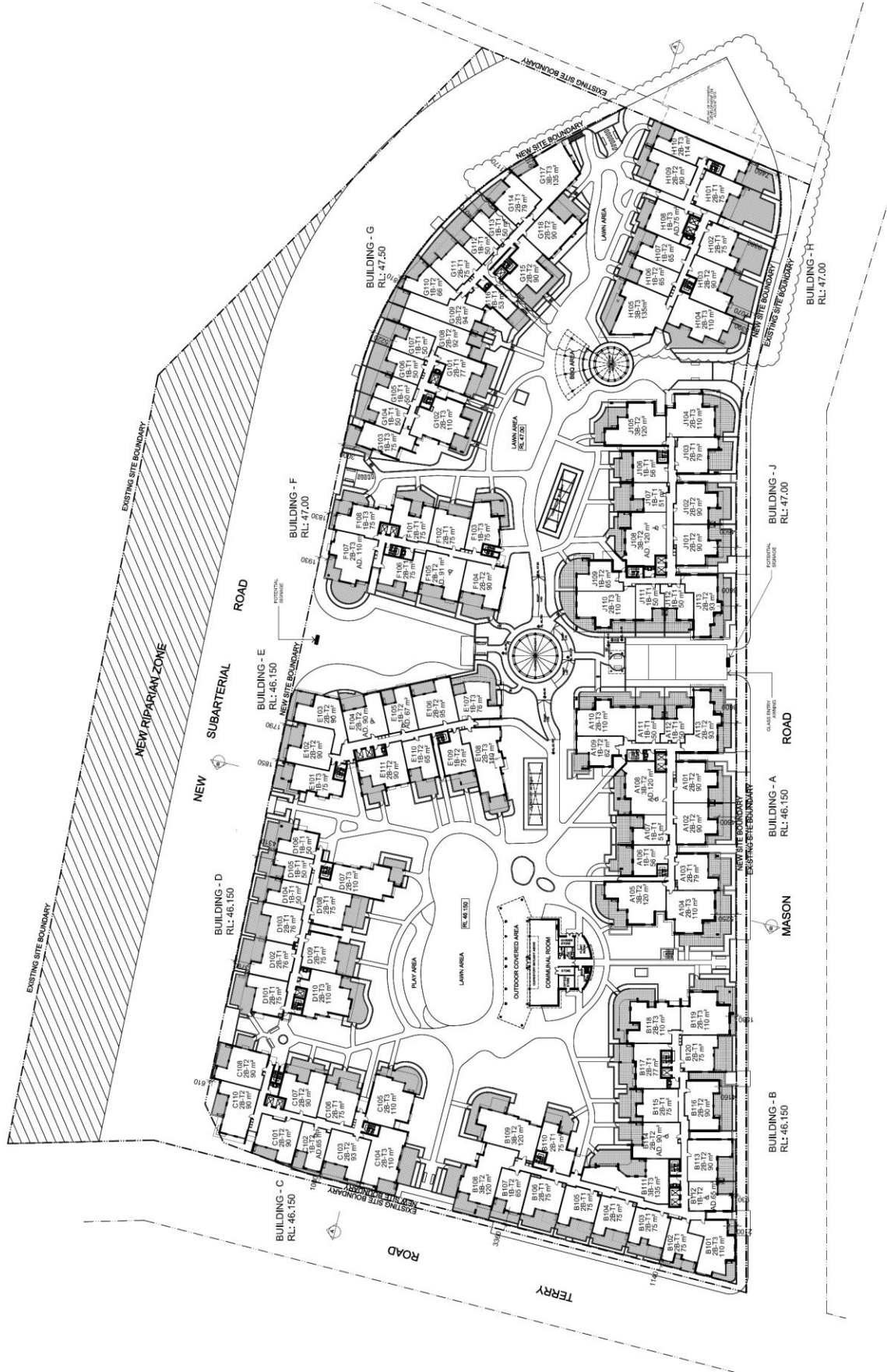


[illegible]

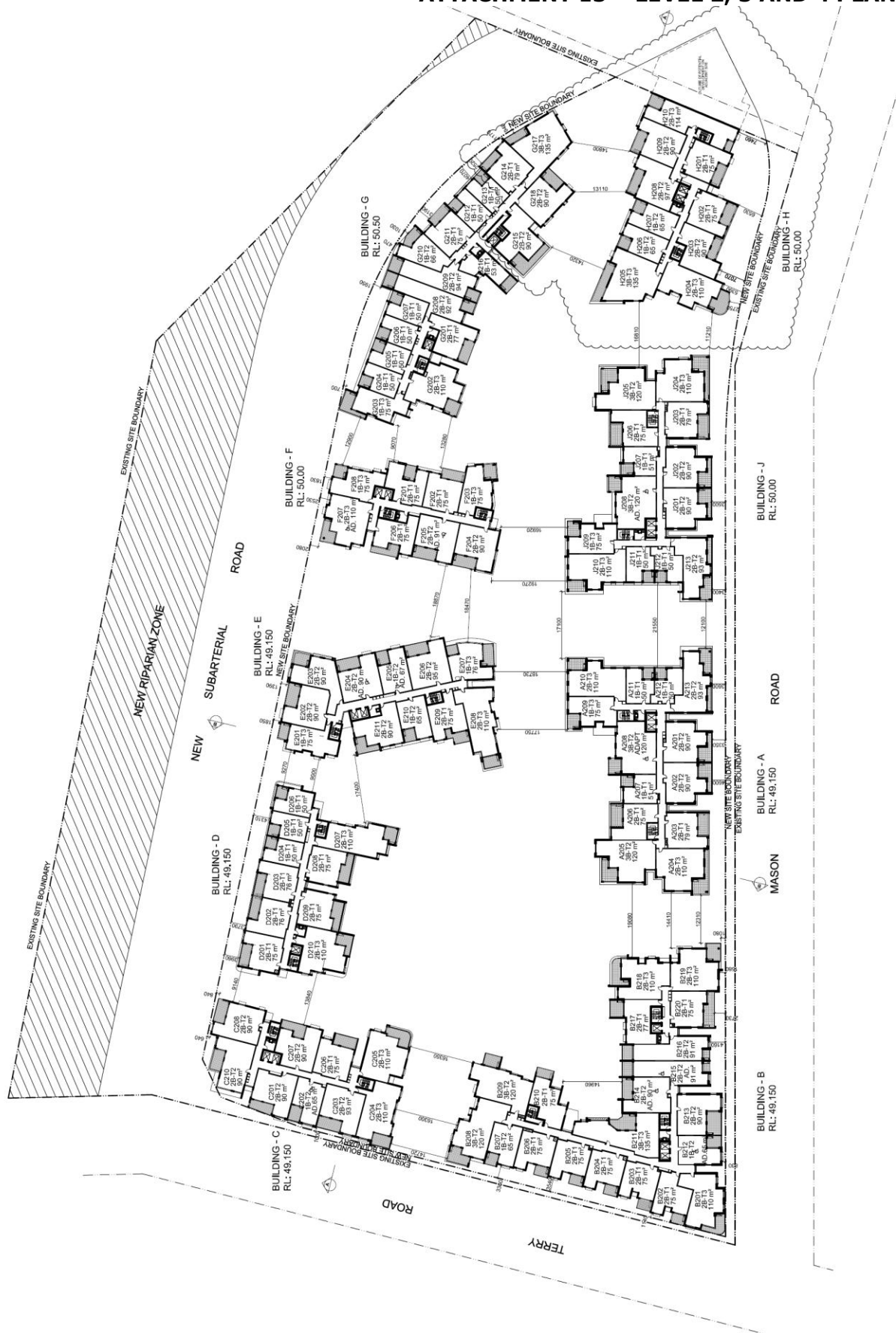
ATTACHMENT 11 – MEZZANINE LEVEL PLAN



ATTACHMENT 12 – PODIUM / LEVEL 1 PLAN



ATTACHMENT 13 – LEVEL 2, 3 AND 4 PLAN



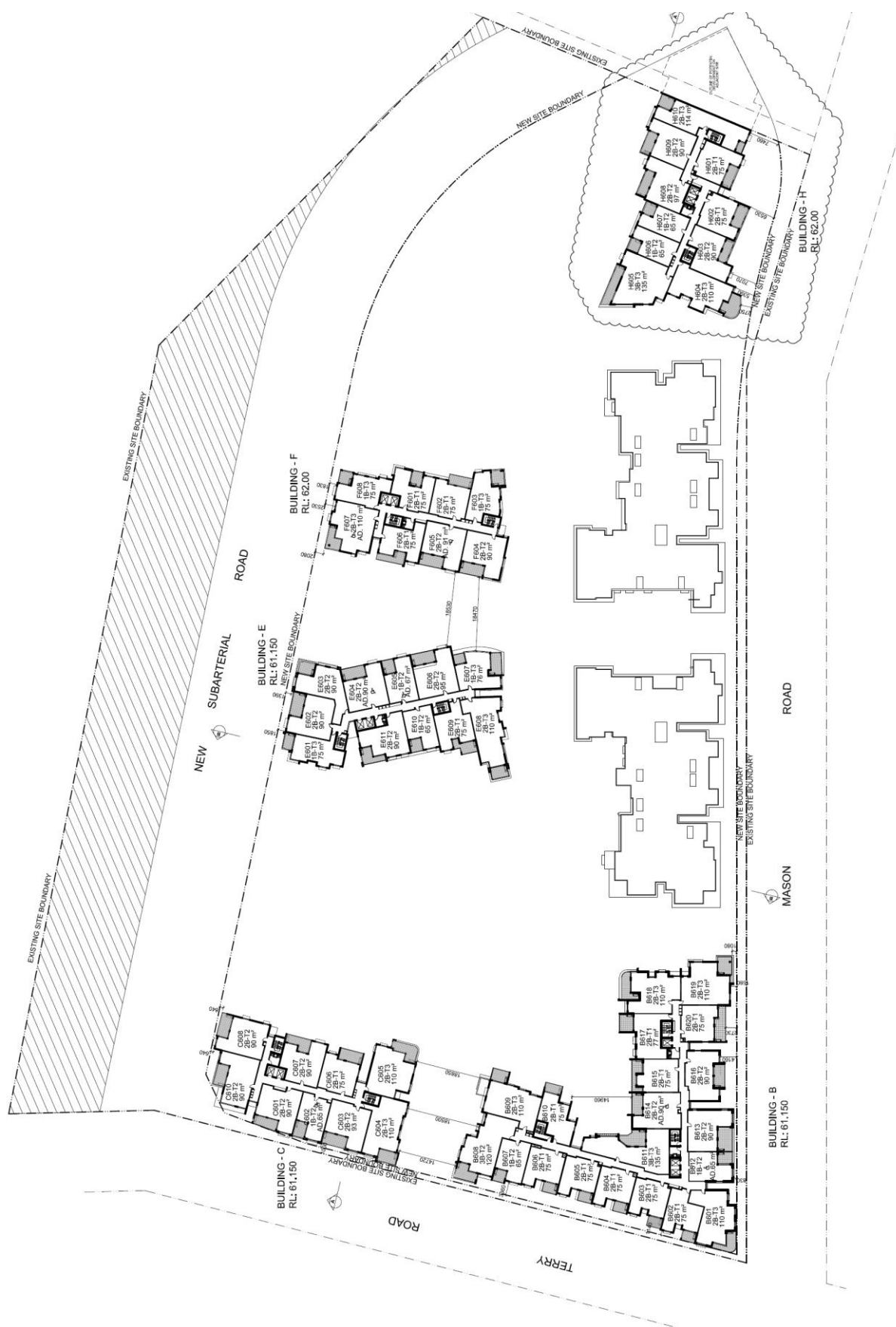
The site plan illustrates the proposed development at 1000 Terry Road, featuring a series of buildings (A through J) and associated parking areas. The plan is bounded by an existing site boundary on the left and a new site boundary on the right. The buildings are arranged in a row, with parking areas interspersed between them. The plan includes detailed dimensions for each building and parking area, as well as labels for the existing and new site boundaries. The buildings are labeled as follows:

- BUILDING - A**: RL: 58.150
- BUILDING - B**: RL: 58.150
- BUILDING - C**: RL: 58.150
- BUILDING - D**: RL: 58.150
- BUILDING - E**: RL: 58.150
- BUILDING - F**: RL: 59.00
- BUILDING - G**: RL: 59.00
- BUILDING - H**: RL: 59.00
- BUILDING - I**: RL: 59.00
- BUILDING - J**: RL: 59.00

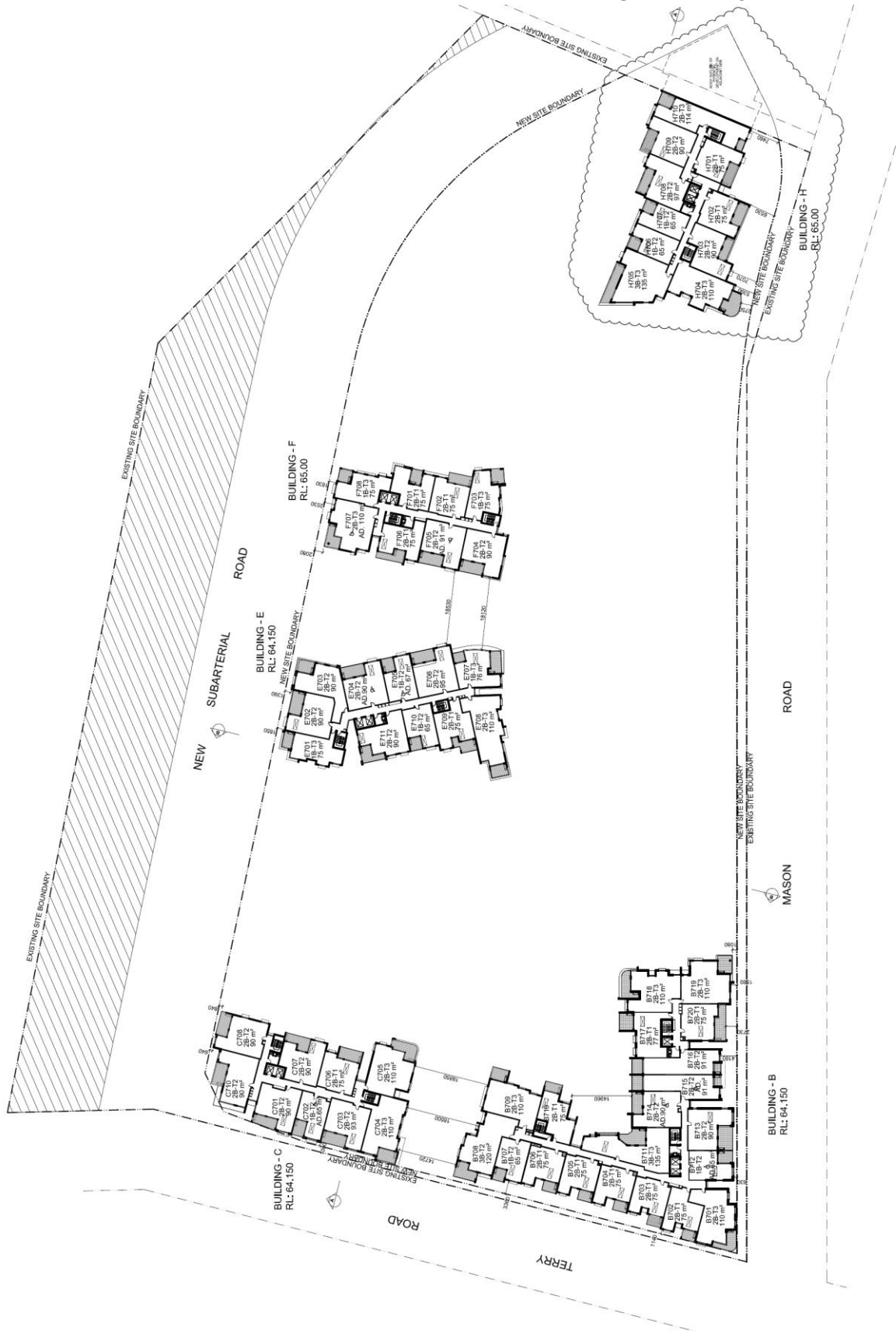
The plan also shows the location of the existing site boundary, the new site boundary, and the proposed parking areas. The buildings are arranged in a row, with parking areas interspersed between them. The plan includes detailed dimensions for each building and parking area, as well as labels for the existing and new site boundaries. The buildings are labeled as follows:

- BUILDING - A**: RL: 58.150
- BUILDING - B**: RL: 58.150
- BUILDING - C**: RL: 58.150
- BUILDING - D**: RL: 58.150
- BUILDING - E**: RL: 58.150
- BUILDING - F**: RL: 59.00
- BUILDING - G**: RL: 59.00
- BUILDING - H**: RL: 59.00
- BUILDING - I**: RL: 59.00
- BUILDING - J**: RL: 59.00

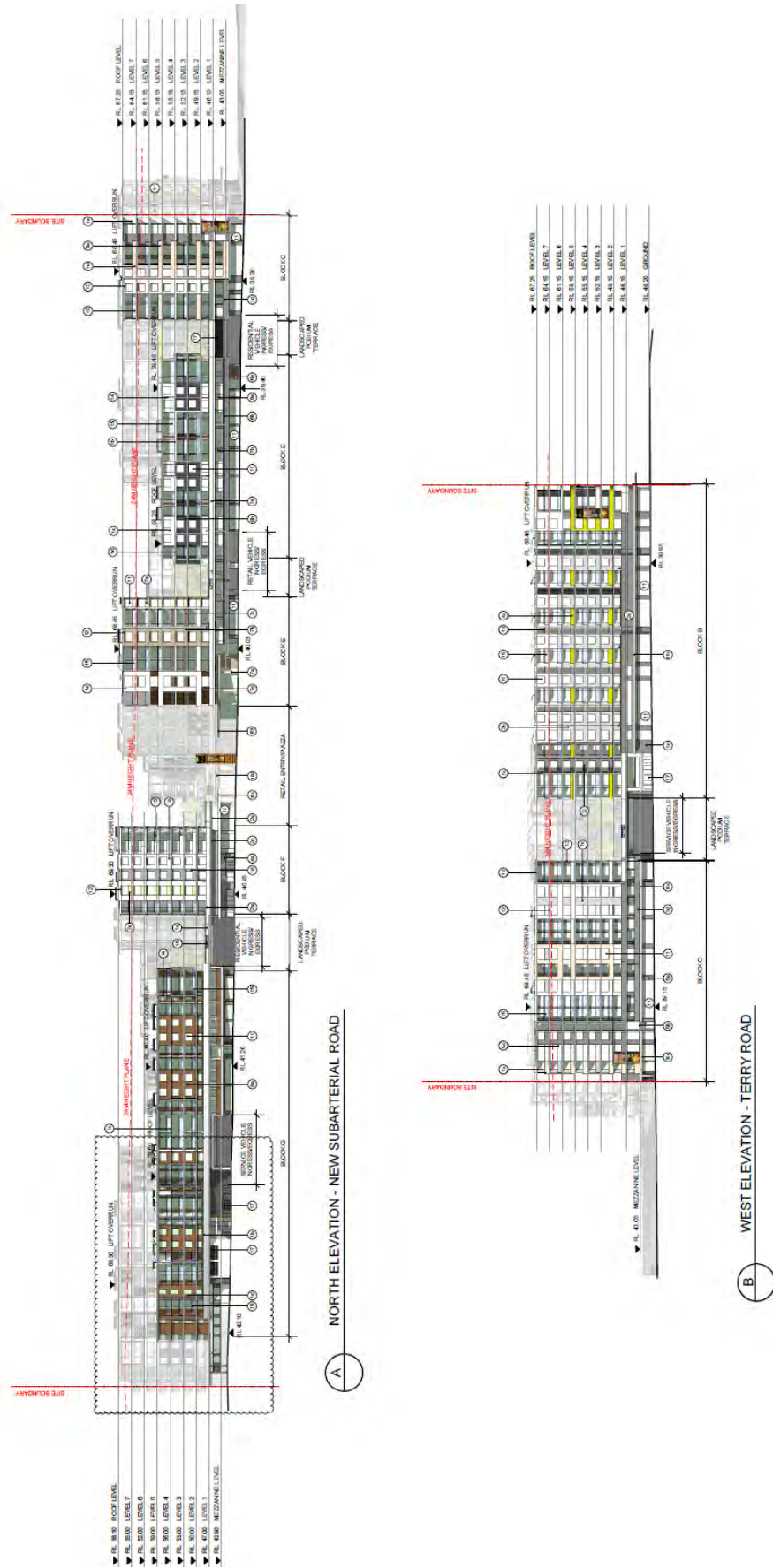
ATTACHMENT 15 – LEVEL 6 PLAN

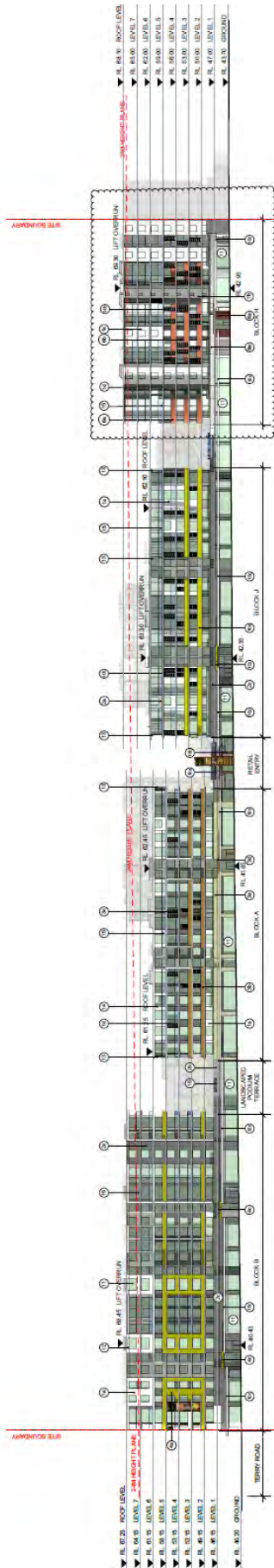


ATTACHMENT 16 – LEVEL 7 PLAN

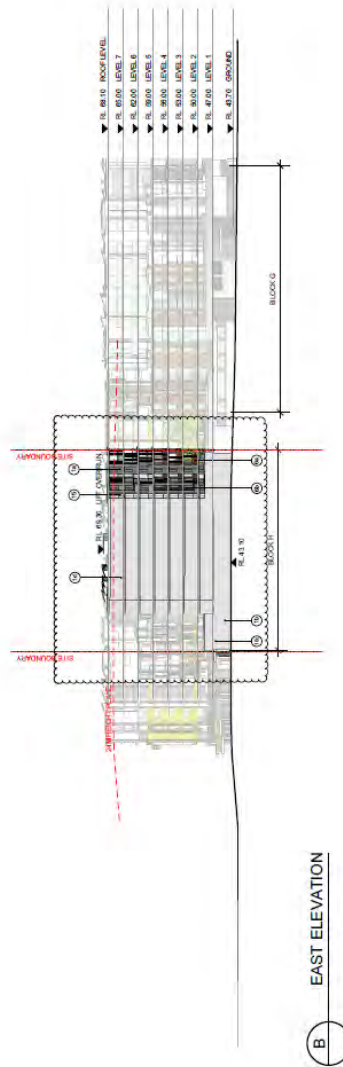


ATTACHMENT 17 – ELEVATIONS AND SECTIONS

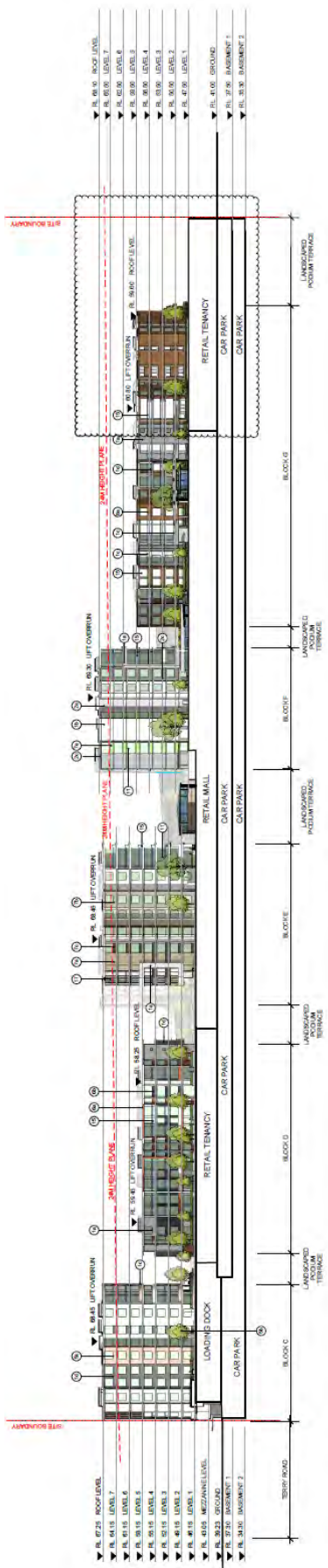




A SOUTH ELEVATION - MASON ROAD



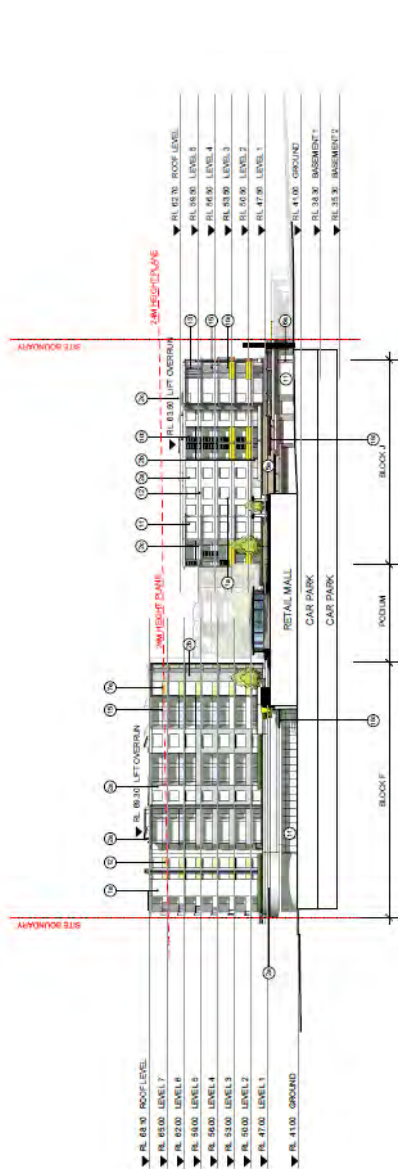
B EAST ELEVATION



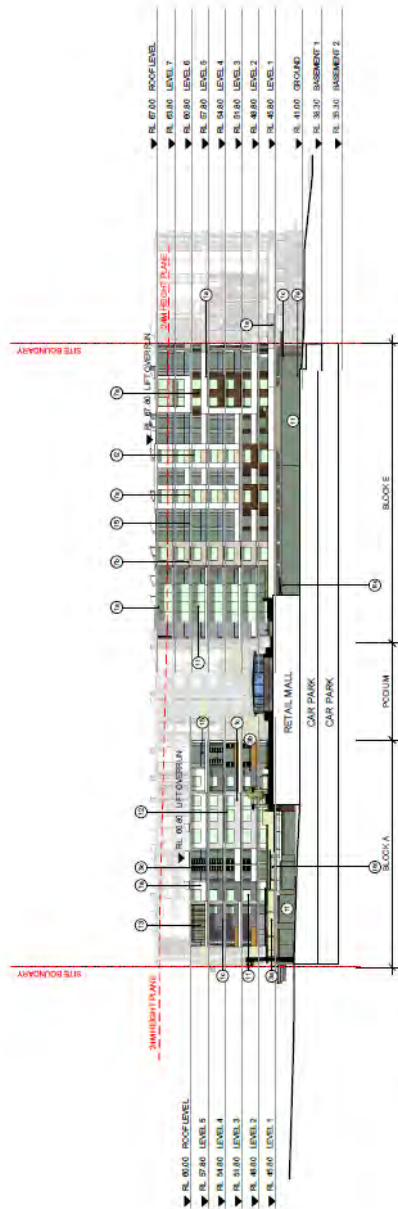
A INTERNAL SOUTH ELEVATION



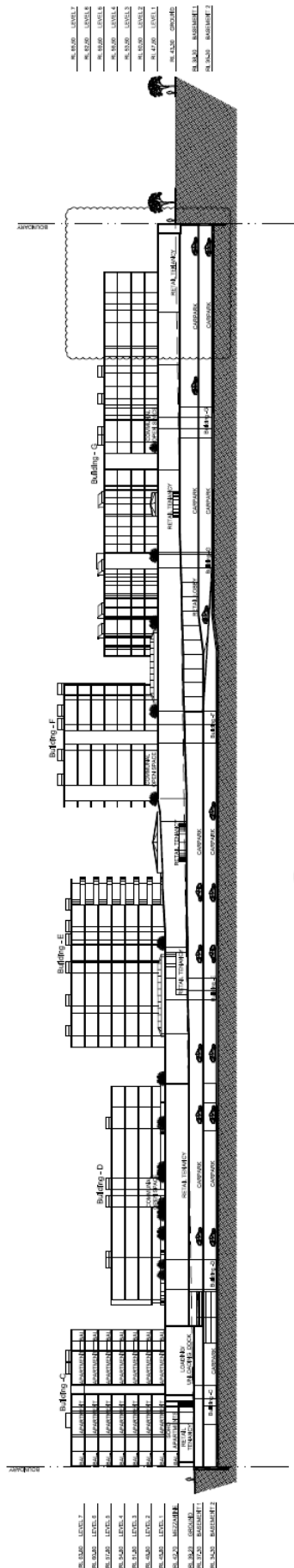
B INTERNAL NORTH ELEVATION



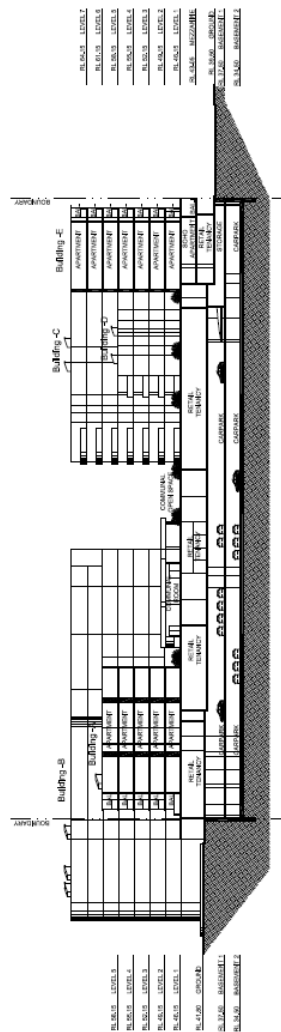
A INTERNAL WEST ELEVATION



B INTERNAL EAST ELEVATION

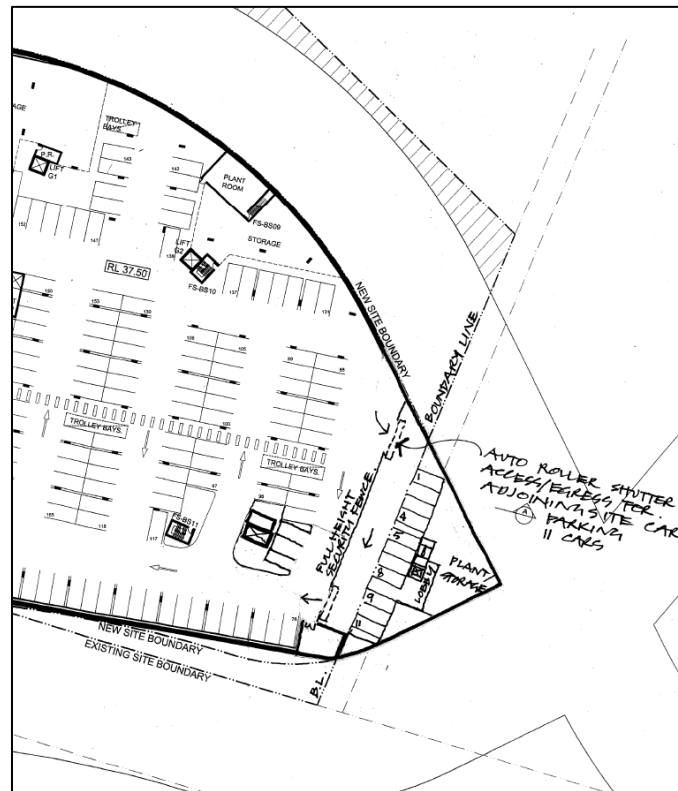


SECTION A-A
1:500

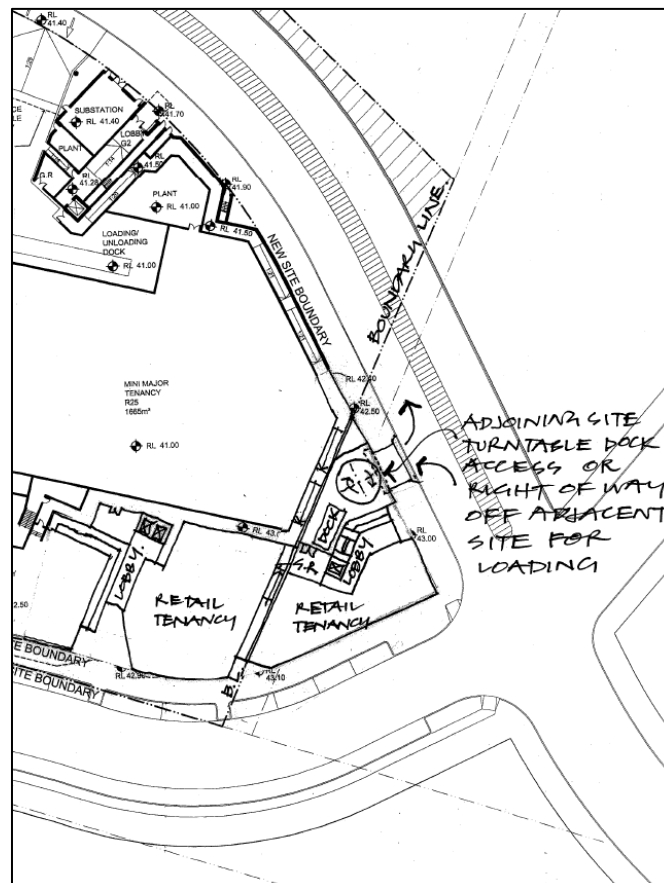


SECTION B-B
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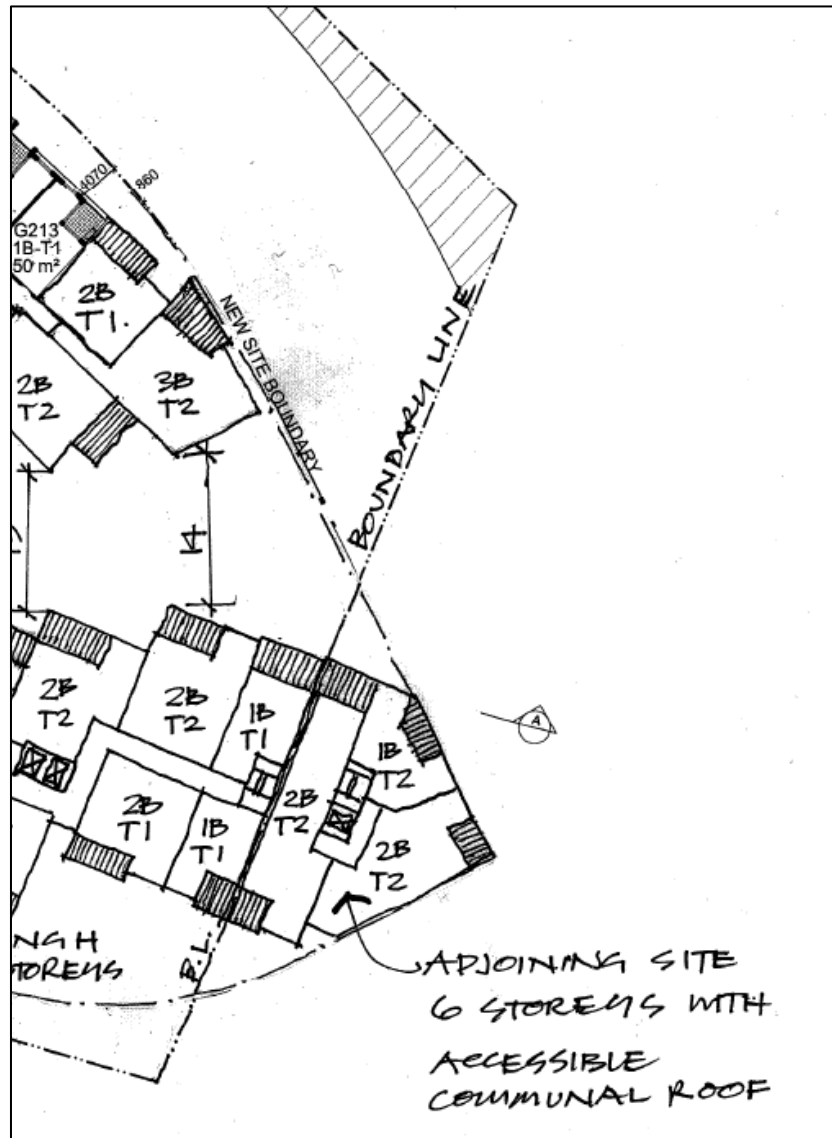
ATTACHMENT 18 – CONCEPT SKETCHES NOS 8 AND 10 MASON ROAD



Level 1 and 2 Basement Plan







Ground floor Plan






Residential Levels


ATTACHEMENT 19 - APPLICANT'S DCP JUSTIFICATION



Item	DCP Guidance Overall Layout	Proposed Design Outcome	Comment and Justification
1	 <p>Figure 1 (source base map - Box Hill and Box Hill Industrial Precincts Development Control Plan 2014)</p>	 <p>Figure 2 (source base drawing – KTA)</p>	<p>Section 8.1.2 of the DCP provides an indicative layout for the town centre with the following objectives:</p> <ul style="list-style-type: none"> (a) To create a vibrant Town Centre that provides amenity to the Box Hill and Box Hill Industrial Precincts. (b) To ensure that the detailed design of the Town Centre is undertaken in a coordinated manner in order to achieve a high quality urban design outcome. (c) To create a sense of place through the relationship of the Town Centre to the landscape. (d) To promote a pedestrian friendly main street through the Town Centre. (e) To ensure that the Town Centre is centrally located and easily accessible by pedestrians, cyclists and public transport users. (f) To ensure that the Box Hill Town Centre is well served by public transport and has connections to the major transport nodes of Rouse Hill and Riverstone. (g) To provide a good range of retail and commercial services for the future communities of the Precincts whilst minimising risk of oversupply and adverse economic impact on existing centres. (h) To promote a Town Centre that is financially viable and easy to stage. <p>The layout in the DCP as illustrated in Figure 1 is conceptual and is intended to provide a suggestion of the various components and their general location. It is considered that the DCP is not intended to provide a definitive and inflexible layout for the centre. Rather, it reflects particular design principles that focus on the activation of the local streets and the provision of facilities and services to meet the needs of the community. The layout does not take into consideration detailed requirements for the servicing of the centre and design development of the principles prior to its realisation was always intended.</p> <p>Figure 2 illustrates the location of the various components that are proposed within the development proposal and their location. In conceptual terms the proposal is consistent with the DCP indicative layout with reference to the following key aspects.</p> <ol style="list-style-type: none"> 1. Activation of the “high street” with retail. 2. Inclusion of a supermarket and mini major as anchor tenants within the centre supported by arcade retail. 3. Location of less intensive uses such as commercial and residential along Terry Road and the new bypass road. <p>The only significant departure from the DCP is deletion of the community centre and associated plaza. This was done on the basis of advice from Council prior to submission of the application that a community facility in this location is not required or desired.</p>

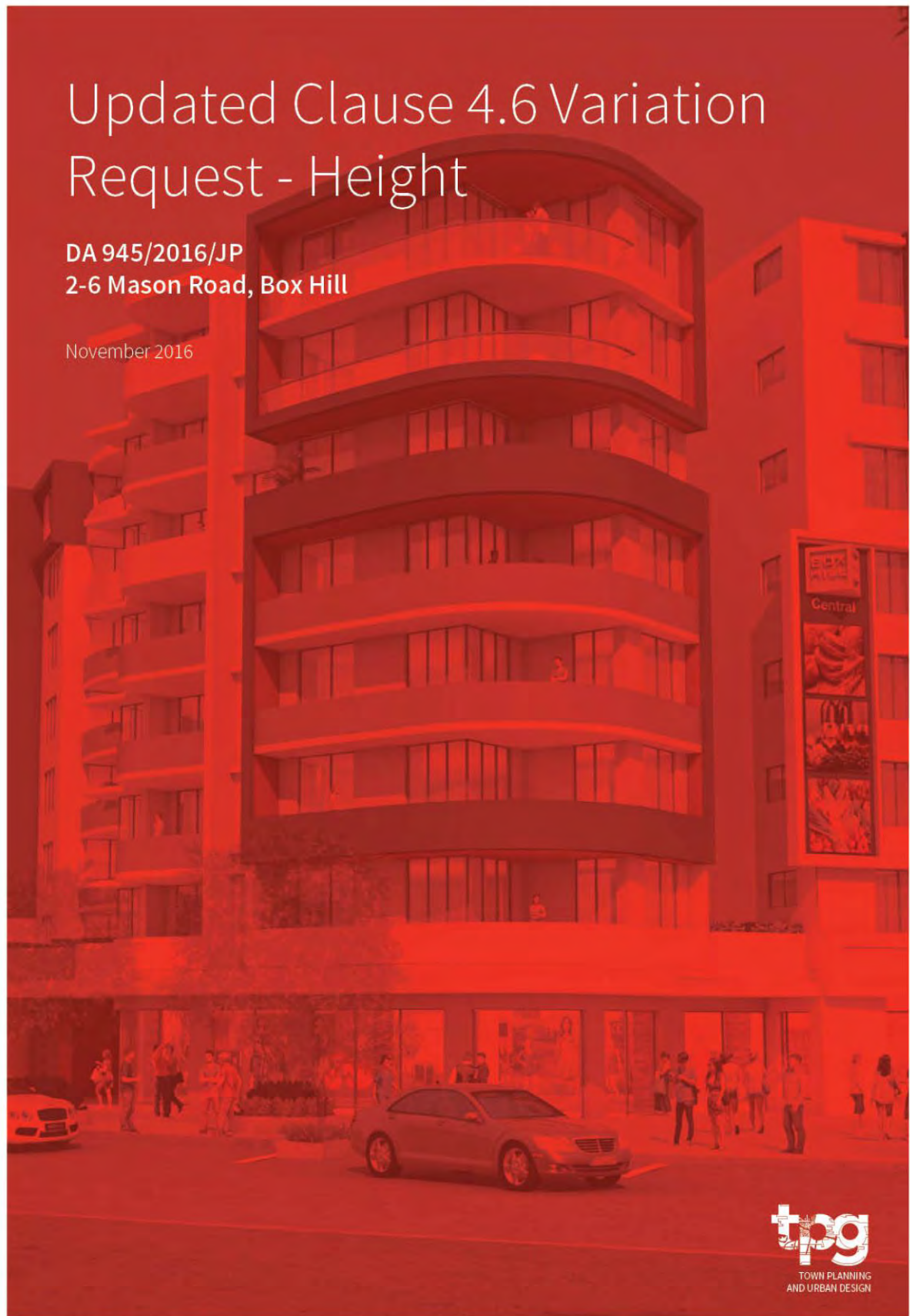
Item	DCP Guidance	Proposed Design Outcome	Comment and Justification
2	Arcade Axes	 <p>Figure 3 (source base map - Box Hill and Box Hill Industrial Precincts Development Control Plan 2014)</p>	<p>Section 8.1.2 of the DCP provides an indicative layout for the town centre, which is represented as Figure 3, with a classic cruciform arcade axes layout. It is considered that the DCP is not intended provide a definitive and inflexible layout for the centre. Rather it reflects particular design principles that focus on the activation of local streets and the provisions of facilities and services that meet the day to day needs of the community.</p> <p>The general principles of the cruciform arcade axes as indicated in the DCP in Figure 3, allows for a major north-south axis linking the future town square to the bypass road and SP2 land to the north. The secondary east-west axis provides connectivity to the supermarket and mini major tenancies.</p> <p>Figure 4 illustrates the proposed arcade axes, which are generally consistent with those illustrated in the DCP with only minor variance to the length of the east-west axis. This elongation of the east-west axis allows for greater length of specialty shop frontage while also incorporating adequate provision for vertical circulation between the retail centre and its car parking facilities.</p>
		 <p>Figure 4 (source base drawing - KTA)</p>	

Item	DCP Guidance	Proposed Design Outcome	Comment and Justification
3	<p data-bbox="408 1456 440 1937">Location of Supermarket</p>  <p data-bbox="734 1456 766 1937">Figure 5 (source base map - Box Hill and Box Hill Industrial Precincts Development Control Plan 2014)</p>	 <p data-bbox="734 952 766 1456">Figure 6 (source base drawing - KTA)</p>	<p data-bbox="408 248 558 952">Section 8.1.2 of the DCP provides an indicative layout for the town centre, which is represented as Figure 5, with the location of the supermarket (SM) and mini major (MM) stores highlighted in red. It is considered that the DCP is not intended provide a definitive and inflexible layout for the centre. Rather it reflects particular design principles that focus on the activation of local streets and the provisions of facilities and services that meet the day to day needs of the community.</p> <p data-bbox="558 248 734 952">The general principles underpinning the location of supermarket and mini major stores in the DCP is the 'sleeving' of large format retail from the street front with supporting retail and commercial land uses. These complementary land uses provide activation to the street front and public realm and provide opportunity for day and night time activity.</p> <p data-bbox="734 248 798 952">Figure 6 illustrates the proposed location of the supermarket (SM) and mini major (MM), effectively anchoring the east and west axis of the centre. The proposal is consistent with this objective. Whilst there are some departures from the specific layout identified within the DCP, the following identified departures from the DCP are consistent with the above principles:</p> <ol data-bbox="798 248 1197 952" style="list-style-type: none"> 1. Reorientation of the proposed supermarket enables a supermarket of an appropriate area to be provided. This is accomplished in a manner that achieves the desired sleeving to activate streets with commercial, retail and home occupation tenancies. 2. The reorientation and relocation of the mini major enables the location of a second loading dock, which is required to service the mini major and tenancies on the eastern side of the proposed development. 3. The DCP indicates that each large format retail 'box' would be accessible from shopping centre interior and the external street front. The commonplace internal layouts of supermarkets generally focus towards a single entry and egress point, meaning that the proposed arrangement in the DCP would not be conducive to the collocation of checkout points and dual access would create security monitoring issues. Therefore the proposed supermarket and mini major are each provided with a single access from the interior of the centre. This will also serve to provide greater activation of the retail arcade and support the specialty shops trading within it.

Item	DCP Guidance	Proposed Design Outcome	Comment and Justification
4	Location of Plaza	 <p>Figure 7 (source base map - Box Hill and Box Hill Industrial Precincts Development Control Plan 2014)</p>	<p>Section 8.1.2 of the DCP provides an indicative location for a community plaza space and the proposed town square, which is represented as Figure 7, with the location of the community plaza (PZ) and town square (TS) highlighted in red.</p> <p>The key principles underpinning the provision of a community plaza are the connection to the new street to the north of the site and the interrelationship between adjacent uses to enable ongoing activation of the space. The configuration proposed in the DCP shares minimal relationship with the ground floor retail and commercial uses and access to the space could only be achieved via the new bypass road or from Mason Road. The suggested location of the community plaza in the DCP also inhibits the relationship between the town square and the community plaza.</p> <p>The proposed development in Figure 8 proposes to relocate the community plaza towards the west and provides an improved relationship between the community plaza, the ground floor retail and commercial uses and the town square by creating a legible axis through the town centre precinct. The relocated community plaza will also achieve improved north solar access during winter months.</p>

Item	DCP Guidance	Proposed Design Outcome	Comment and Justification
5	<p data-bbox="387 1666 403 1933">Provision of Community Centre</p>  <p data-bbox="715 1442 754 1933">Figure 9 (source base map - Box Hill and Box Hill Industrial Precincts Development Control Plan 2014)</p>	 <p data-bbox="715 938 754 1442">Figure 10 (source base drawing - KTA)</p>	<p data-bbox="387 228 451 938">Section 8.1.2 of the DCP provides an indicative location for a community centre, which is represented as Figure 9, with the location of the community centre highlighted in red.</p> <p data-bbox="451 228 547 938">Based on advice received from Council that a community centre is not required or desired on this site, a community centre is not included within the proposed development. However, the design is sufficiently robust to facilitate the incorporation of a community centre should Council's requirements change in the future.</p> <p data-bbox="547 228 659 938">As indicated in Figure 10, a range of commercial tenancies exists that are of an appropriate size and configuration should Council or any community service provider seek to enter into a commercial arrangement with the view to establish a community related service or facility on the site.</p>

Item	DCP Guidance Vehicle Access Points	Proposed Design Outcome	Comment and Justification
6	 <p>Figure 11 (source base map - Box Hill and Box Hill Industrial Precincts Development Control Plan 2014))</p>	 <p>Figure 12 (source base drawing - KTA)</p>	<p>Vehicle access points provided within 8.1.2 of the DCP illustrated as Figure 11 focuses vehicle and service access from the new bypass road to the north of the site. It is considered these access points have been determined on a principles basis and given no detailed design of the development and surrounding roads is reflected in the DCP, further consideration of the number and location of access points is warranted as a part of detailed design processes.</p> <p>The key principle underpinning vehicle access to the subject site is locating access points away from Mason Street as the key pedestrian destination.</p> <p>As illustrated in Figure 12, the proposed development incorporates five (5) separate vehicular access points with discrete access points being provided for:</p> <ul style="list-style-type: none"> • Retail car parking; • Residential car parking (two (2) access points due to the number of vehicles being serviced); • Loading dock for supermarket and western retail tenancies; and • Loading dock for mini major and eastern retail tenancies. <p>The separate vehicular access points will facilitate efficient vehicular access and egress without resulting in conflict between disparate uses within the development.</p> <p>The proposed development is generally consistent with the DCP in that the majority of access is provided from the new bypass road, however a service vehicle access is provided to the loading dock of the proposed supermarket off Terry Road. No vehicle access is proposed to Mason Road and therefore, the proposed access points still enable appropriate levels of street front activation to all streets and are appropriate in their context.</p>



DOCUMENT REVIEW SHEET

CLIENT: Toplace

PROJECT: Proposed Box Hill Mixed Use Development

TITLE: Updated Clause 4.6 Variation Request – Height – DA 945/2016/JP – 2-6 Mason Road, Box Hill

DOCUMENT REFERENCE NO: Updated Clause 4.6 Variation (Height) – Draft

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Development Application 945/2016/JP

Mixed Use Development

2-6 Mason Road, Box Hill

Request under clause 4.6 Exemption to development standards to vary the height standard under clause 4.3 of Appendix 11 The Hills Growth Centre Precincts Plan of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

1. INTRODUCTION

This submission has been made in connection with The Hills Shire Council's assessment of the proposed mixed use development at 2-6 Mason Road (also known as 29-31 Terry Road), Box Hill and seeks to vary the height provisions contained in Appendix 11 The Hills Growth Centre Precincts Plan of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP).

The clause 4.6 variation request has been updated to address the height of building from both the existing ground levels as well as the new proposed ground levels as requested by Council in its email dated 24 November 2016. It should be noted that the new proposed ground levels have been set as a result of discussions with Council and relate to the design of the roads surrounding the subject site and the flood levels generated by the SP2 Infrastructure zone stormwater basin adjacent to the north.

This submission forms a request to grant an exception to the development standard Height of Buildings in clause 4.3 of Appendix 11 of the Growth Centres SEPP under clause 4.6 Exceptions to development standards.

4.6 Exceptions to development standards

(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 Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation 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.

1.1 THE PROPOSED DEVELOPMENT

As per plans lodged with Council on 28 October 2016 the proposed mixed use development forms Stage 1 of the Box Hill Town Centre Precinct and includes:

- Demolition of all existing buildings and structures;
- Bulk earthworks and excavation for a two level basement car park with access from the new sub-arterial road on the northern edge of the subject site. There is 458 retail and commercial car parking spaces on Basement Level 1 and 822 residential parking spaces on Basement Level 2. This equals a total of 1,280 car parking spaces for the proposed development;
- Construction of the retail/commercial component of the development providing approximately 20,781m² of retail/commercial floor space below the podium level, with entry at grade with Mason Road, Terry Road and the new sub-arterial road. The

retail/commercial component will comprise of a supermarket, mini-major tenancies, specialty retail shops, commercial and SOHO apartments;

- Construction of the residential component of the development, providing 651 apartments distributed between 9 new residential buildings ranging from heights between 4 and 7 storeys above the podium level; and 17 SOHO apartments located below the podium level, totaling 651 apartments for the proposed development;
- A new sub-arterial bypass road on the northern edge that will be built at an elevated level to overcome flooding issues, and additional road works on Terry Road and Mason Road;
- Associated civil engineering works; and
- Landscaping.

Table 1: Summary of the Proposed Development (as at 28 October 2016)

Component	Proposed Development
Site Area	30,589m ²
Podium GFA	20,781m ²
Total No. of residential units	651
FSR for retail/commercial	0.68:1
FSR for above podium residential component	1.98:1
Building Height	Max. 7 storeys above podium Max. 31.86 metres above existing ground level Max. 29.35 m above new street level
Communal open space (podium level)	10,893m ² on podium level or 36% of site area
Landscaped Communal Open Space (podium level)	7,066m ² or 65% of communal open space
No. of car parking spaces (retail / commercial)	458
No. of car parking spaces (residential)	822
No. of bicycle spaces (retail / commercial)	79
No. of bicycle spaces (residential)	223

2. DEVELOPMENT STANDARD TO BE VARIED AND EXTENT OF VARIATION

This clause 4.6 variation request relates to a departure from the numerical standard set out under clause 4.3 of Appendix 11 of the Growth Centres SEPP Height of Buildings Map in relation to the 24 metre height standard applicable to the subject site and therefore applicable to the proposed development.

This development standard relates to the height of the proposed mixed use development, with clause 4.3 Height of Buildings of the Growth Centres SEPP falling within the scope of a "development standard" as defined under Section 4 of the *Environmental Planning and Assessment Act 1979* (1979) (EP&A Act).

Clause 4.3 of the Growth Centres SEPP contains a development standard for buildings proposed in the B2 Local Centre zone for the Box Hill locality where shop top housing is a permissible type of development.

Clause 4.3 of Appendix 11 of the Growth Centres SEPP states:

4.3 Height of buildings

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

- (a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct,
- (b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,
- (c) to facilitate higher density development in and around commercial centres and major transport routes.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The height control specified on sheet HOB_008 for the subject site prescribes a height limit of 24 metres.

The proposed development has a maximum height of 31.86 metres at the lift overrun of Building C when using the existing ground level thus breaching the height control prescribed for the site by 7.8 metres. The maximum height of the proposed development when using the new ground level is 29.35 metres thus breaching the height control prescribed for the subject site by 5.35 metres. It should be noted that the maximum height using the new ground RL also occurs at Building C's lift overrun. Using the new ground RL offers a significant improvement to the variation using the existing RLs.

Given that the new ground levels surrounding the subject site are the result of new road construction that will be required as part of any development consent rather than the design of the proposal, it is considered reasonable that the proposed height exceedance should be evaluated against the new rather than existing levels.

The following provides a breakdown of the issue of height compliance by building within the development, and is to be read in conjunction with the building height table included at **Appendix A**. In considering the issue of height compliance it is important to note that as a greenfield site a change in level is required to facilitate the development of the surrounding roads resulting in different existing and proposed RLs.

In summary:

- Building A complies with height regardless of whether using the existing ground RL or new ground RL.
- Building B does not comply with the building height regardless of whether applying the existing ground RL or new ground RL. However, the change in topography with the new ground RL does reduce the level of non-compliance for Building B of the proposed development by 1.20 metres from 5.25 metres to 4.05 metres at the lift overrun.
- Building C does not comply with the building height regardless of whether you apply to the existing ground RL or new ground RL. However, the change in the topography with the new RL does reduce the level of non-compliance for the building. Building C at the lift overrun with the existing ground RL will have the maximum height variation at 7.86 metres and with the new ground RL a maximum height variation of 5.35 metres.
- Building D complies with height regardless of whether using the existing ground RL or new ground RL.
- Building E does not comply with the building height regardless of whether you apply to the existing ground RL or new ground RL. However, the change in topography with new ground RL does reduce the level of non compliance in relation to Building E of the development by 2.40 metres from 6.85 metres to 4.45 metres at the lift overrun.
- Building F does not comply with the building height regardless of whether you apply to the existing ground RL or new ground RL. However, the change in the topography with the new RL does reduce the level of non compliance for Building F of the proposed development by 2.55 metres from 7.00 metres to 4.45 metres at the lift overrun.
- Building G complies with height regardless of whether using the existing ground RL or new ground RL.
- Building H does not comply with the building height regardless of whether you apply to the existing ground RL or new ground RL. However, the change in topography with new ground RL does reduce the level of non-compliance for Building H of the proposed development by 1.55 metres from 2.85 metres to 1.30 metres at its highest point being the NE point of the building rather than the lift overrun using the existing ground levels. Using the new ground RLs the highest point of the building is the lift overrun with a variation of 1.40 metres.
- Building J complies with height regardless of whether using the existing ground RL or new ground RL.

The above is demonstrated by the attached plan and table included at **Appendix A**.

3. REASONS FOR NON-COMPLIANCE WITH DEVELOPMENT STANDARDS

There are a number of issues to be taken into account when considering the compliance of the development with the Growth Centres SEPP's maximum building height requirement in Appendix 11:

- There is an existing ground RL which is to be substantially changed as a result of the earth works required to mitigate flooding and for the design of the new roads surrounding the developable portion of the site. The new ground level RLs have been set in discussions with Council to ensure they are above the area's flood levels that will result from the new SP2 stormwater basin to the north. Importantly, it should be noted that along the new bypass road the difference between the existing ground level and future ground level is almost as great as 3 metres.
- The definition of "building height (or height of building)" uses a reference to 'vertical distance between ground level (existing) at any point to the highest point of the building'. Given this is a greenfield development that requires a change in level to facilitate development of the surrounding roads, it is argued that the ground level existing should be considered to be that of the new existing RL.
- The development comprises of 9 towers on a podium, located on land that is sloping from the SE corner to the NW corner, but also has a varied topography throughout. This makes it more complicated when defining heights, so the following approach has been adopted: Up to four key locations are identified within each building footprint. Then, the height as defined by the SEPP, i.e., to the top of the lift overrun was considered, firstly, using the existing ground RL, and secondly to the new existing RL. This detail is provided in the building height table attached and should be read in conjunction with the marked up roof plan showing the locations from which the measurements have been taken, shown at **Appendix A**.
- Height compliance is not an issue for the majority of the site, as some of the buildings fully comply and are in fact substantially below the 24m height standard. For those buildings that do not comply, the extent of non compliance can vary significantly depending upon where the level is measured from.
- The highest point of each building is the lift overrun, with the exception of Building H which is the north-east corner of the roof, which is centrally located in each building and not visible at street level as shown on the photomontages accompanying the DA. Therefore, the effective overall height of the buildings will be lower than the height measured to the lift overrun of each of the buildings.

As demonstrated in section 2 of this submission and **Appendix A**, the variation to the maximum height standard of 24.0m is minor in terms of the overall development, and specific to portions of some buildings only, specifically in Buildings B, C, E, F, and H. All other buildings are well within the 24m height limit and in fact could be considered to offset any height non-compliance by adjoining

buildings. It is particularly important to note that the development remains completely compliant with FSR.

In summary, a variation of the maximum height of building standard will allow for varying tower heights:

- 4 of the 9 above podium towers (A, D, G and J) are set lower than the 24m height limits.
- While the remaining 5 buildings (B, C, E, F, and H) exceed the 24m maximum height, they are positioned at the corner of the site and at either sides of the beginning of the north-south axis running through the proposed new town centre.

Importantly, this height variation allows for the opportunity to create variety and interest to the skyline and articulation to the built form, which is fitting for a town centre.

The alignment of the proposed residential towers will appropriately address the street frontage and the north-south pedestrian link through the site. The scheme provides for higher buildings on signature corners of the site to clearly define the town centre precinct, while remaining consistent with the FSR development standard for the subject site under the Growth Centres SEPP.

A variation in this instance will not undermine the application of the control and can be supported in the circumstances of this case, specifically to create a better planning outcome for the new town centre and is of the public interest.

4. ASSESSMENT OF THE PROVISIONS OF CLAUSE 4.6 "EXCEPTIONS TO DEVELOPMENT STANDARDS"

The provisions of clause 4.6 Exceptions to development standards under Appendix 11 of the Growth Centres SEPP, provides the determining authority with the flexibility to vary a development standard where the circumstances of the development demonstrate that an exception to the development standard will maintain the objectives of the standard and achieve a better outcome.

The provisions of clause 4.6(1) and (2) of the Growth Centres SEPP state:

4.6 Exceptions to development standards

(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.

Clause 4.6(3) of the Growth Centres SEPP further states:

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

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

The provisions of clause 4.6(3)(a) and (b) have been considered in the preparation of this exception request to vary the Height of Buildings development standard in clause 4.3 as set out in **Table 1** below.

Table 1: Clause 4.6(3) Assessment

Objective	Comment
a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Strict compliance with the development standard is considered to be unreasonable and unnecessary in the current circumstances for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal is for a town centre development incorporating a number of buildings of varying heights. This is what would be

	<p>expected to form if the town centre was to be individually developed.</p> <ol style="list-style-type: none"> 2. The proposed development is consistent with the future scale, bulk and form of the new Box Hill Town Centre within The Hills LGA. This is further demonstrated by the proposal's compliance with the planning controls for the town centre; 3. Strict compliance with the prescribed height limit for the subject site would result in more block-like, less articulated building forms. The articulation and height variations creates an interesting skyline, which is fitting and appropriate for a town centre; 4. The proposed development is consistent with the desired high quality built form utilising a range of building heights to promote a sense of place and vibrancy in the new town centre to be developed; 5. There are minimal overshadowing or other amenity impacts upon future town centre development south of the site across Mason Road; 6. Despite the variation sought to increase building height, the FSR remains consistent with the development standards relating to FSR; and, 7. The proposed amendment to the building height development standard complies with the relevant objects of the EP&A Act 1979. The proposal will contribute to the employment generation and the economic growth of the Box Hill precinct and The Hills LGA generally. <p>The proposed development will provide opportunities for employment during operation as it seeks to establish high quality retail and commercial space at the ground level. Apart from the generation of jobs associated with the new Box Hill Town Centre, the provision of increased housing options is important to the continuing urban development of the area particularly as it is in an area that is in close proximity to both the Rouse Hill and Cudgegong Road Stations currently being constructed as part of the new North West Rail Link.</p> <p>Strict compliance with the development standard is also unreasonable and unnecessary in the circumstances of this case as the proposed development is consistent with the objectives of the B2 Local Centre zone in which it is located.</p> <table border="1"> <thead> <tr> <th colspan="2">B2 Local Centre Zone</th></tr> <tr> <th>Objectives</th><th>Applicant's Response</th></tr> </thead> <tbody> <tr> <td><i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area</i></td><td>The retail/commercial component of the proposed development will provide for a range of retail, business, entertainment and community uses at the ground floor that serve the needs of the people that are to live, work and visit the Box Hill locality.</td></tr> <tr> <td><i>To encourage employment opportunities in accessible locations.</i></td><td>The proposed development, which includes retail/commercial floor space and SOHO apartments, will provide employment opportunities in a location</td></tr> </tbody> </table>	B2 Local Centre Zone		Objectives	Applicant's Response	<i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area</i>	The retail/commercial component of the proposed development will provide for a range of retail, business, entertainment and community uses at the ground floor that serve the needs of the people that are to live, work and visit the Box Hill locality.	<i>To encourage employment opportunities in accessible locations.</i>	The proposed development, which includes retail/commercial floor space and SOHO apartments, will provide employment opportunities in a location
B2 Local Centre Zone									
Objectives	Applicant's Response								
<i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area</i>	The retail/commercial component of the proposed development will provide for a range of retail, business, entertainment and community uses at the ground floor that serve the needs of the people that are to live, work and visit the Box Hill locality.								
<i>To encourage employment opportunities in accessible locations.</i>	The proposed development, which includes retail/commercial floor space and SOHO apartments, will provide employment opportunities in a location								

		that is in close proximity to public transport and well-connected within the local road network so that it can be accessed by cars as well as bicycles and walking. It is also surrounded by land that is zoned for future residential purposes.
	<i>To maximise public transport patronage and encourage walking and cycling.</i>	The proposed development is located in close proximity to public transport, including the under construction North West Rail link with stations at Rouse Hill and Cudgegong Road west of Rouse Hill. The proposed development is also consistent with the proposed pedestrian and bicycle network for the Box Hill precinct and provides basement bicycle parking. In accordance with <i>Box Hill and Box Hill Industrial Development Control Plan</i> , Mason Road is set to become a major bus stop as the terminus of various routes.
	<i>To provide for residential development that contributes to the vitality of the local centre.</i>	The proposed development includes a reasonable amount of residential units that will contribute to the vitality of the town centre by co-locating residential and commercial/retail uses from the outset.
	<i>To ensure that residential development within the centre does not detract from the primary function of the centre being to provide for retail, business, entertainment and community uses.</i>	A portion of the first level of basement car park, the entire ground floor of the proposed development and the mezzanine level are dedicated retail/commercial floor space in excess of 20,685m ² with the residential component of the development located above the podium so as to ensure that the residential component does not detract from the primary function of the Box Hill Town Centre.
	<i>To facilitate active retail, commercial, entertainment and community facility uses at ground level of mixed use developments.</i>	<p>The proposed development facilitates active retail, commercial, entertainment and community facilities by locating these uses on the ground floor and allowing them to open up on to the streets.</p> <p>The proposed development also proposes a legible north-south through link from the community plaza at the ground floor through the ground floor retail and commercial uses to the southern part of the Box Hill Town Centre that will further facilitate active ground level uses.</p>

	<p><i>To encourage development which will contribute to the economic growth of, and creation of employment opportunities within, The Hills Shire.</i></p>	<p>The proposed development will directly contribute to the economic growth of the locality by providing employment opportunities in retail and commercial uses. The proposed development also contributes to the economic growth by providing uses that make it and surrounding developments more viable.</p>						
<p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>The proposed development is consistent with the objectives of Clause 4.3 Height of Buildings in Appendix 11 of the Growth Centres SEPP, which are as follows:</p> <p>4.3 Height of buildings</p> <p>(1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none">(a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct,(b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,(c) to facilitate higher density development in and around commercial centres and major transport routes. <p>The proposed development's consistency with Growth Centre SEPP's objectives for the height of buildings in Box Hill is demonstrated in the table below.</p> <table><tr><th colspan="2">Clause 4.3 Height of buildings</th></tr><tr><th>Objectives</th><th>Applicant's Response</th></tr><tr><td>(a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct.</td><td><p>The proposed mixed use development forms Stage 1 of the Box Hill Town Centre within the planned Box Hill Precinct.</p><p>The alignment of the proposed residential towers will appropriately address the street frontage and the north-south pedestrian link through the site, consistent with the indicative layout for the Box Hill and Box Hill Industrial Precincts DCP.</p><p>There is general overall compliance with the building heights stepping up and down, with large areas between buildings as shown in the section and 3D perspectives at Appendix B of the SEE. The minor variation to the height limit has been clearly outlined in section 2 of this submission. It is concluded that this</p></td></tr></table>		Clause 4.3 Height of buildings		Objectives	Applicant's Response	(a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct.	<p>The proposed mixed use development forms Stage 1 of the Box Hill Town Centre within the planned Box Hill Precinct.</p> <p>The alignment of the proposed residential towers will appropriately address the street frontage and the north-south pedestrian link through the site, consistent with the indicative layout for the Box Hill and Box Hill Industrial Precincts DCP.</p> <p>There is general overall compliance with the building heights stepping up and down, with large areas between buildings as shown in the section and 3D perspectives at Appendix B of the SEE. The minor variation to the height limit has been clearly outlined in section 2 of this submission. It is concluded that this</p>
Clause 4.3 Height of buildings								
Objectives	Applicant's Response							
(a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct.	<p>The proposed mixed use development forms Stage 1 of the Box Hill Town Centre within the planned Box Hill Precinct.</p> <p>The alignment of the proposed residential towers will appropriately address the street frontage and the north-south pedestrian link through the site, consistent with the indicative layout for the Box Hill and Box Hill Industrial Precincts DCP.</p> <p>There is general overall compliance with the building heights stepping up and down, with large areas between buildings as shown in the section and 3D perspectives at Appendix B of the SEE. The minor variation to the height limit has been clearly outlined in section 2 of this submission. It is concluded that this</p>							

		<p>assessment demonstrates any variation of a building to the maximum height is justifiable in the circumstances.</p> <p>It is noted that the RL/height breach varies due to changes in levels of existing ground level and to the new ground level, which will take into account Council's required road heights and implications of flooding.</p>
	<p><i>(b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space.</i></p>	<p>The amount of overshadowing to adjacent sites is minimal and does not affect existing dwellings or future intended uses on the sites, as shown in the Shadow Diagrams at Appendix B of the SEE. Furthermore, the two buildings located at the southern side of the site (Buildings A and J) and directly across from sites to the south that will be Stage 2 of the Town Centre, are both well below 24m height standard.</p> <p>It is expected that any residential portion will be elevated on a podium which will further lessen any impacts on amenity.</p>
	<p><i>(c) to facilitate higher density development in and around commercial centres and major transport routes.</i></p>	<p>The proposed development is located in an accessible location, well serviced by existing arterial roads with more public transport services to be delivered as the centre grows.</p> <p>It is an appropriate location for any minor height variation as it can support a higher density form of development in this locality, noting that the development does comply with the subject site's FSR.</p> <p>As such, it is consistent with the strategic growth plans for Greater Sydney including those specifically for the Box Hill Precinct and the Box Hill Town Centre.</p>
	<p>In addition to providing focused development within a commercial centre that is close to major public transport routes such as the North West Rail Link, there are further sufficient environmental planning grounds to justify the proposed variation to clause 4.3 Height of buildings of the SEPP given the following:</p> <ul style="list-style-type: none"> • The proposed height of the development does not represent any significant additional amenity impacts on surrounding developments; • The proposed height is consistent with the desired scale of development within the Box Hill Town Centre in the Box Hill Precinct; and 	

	<ul style="list-style-type: none"> The subject site has not been identified as a heritage item or being located in a heritage conservation area under the Growth Centres SEPP. <p>The proposed variation to the height of buildings development standard is consistent with the draft <i>West Central District Plan</i> prepared by the Greater Sydney Commission (SGC) as it will assist in the delivery of the District's five-year housing supply target and improve housing choice and capacity in the area.</p> <p>In light of the above there are sufficient environmental planning grounds to justify this variation to the Height of Buildings development standard in the SEPP.</p>
--	---

5. ACHIEVING THE UNDERLYING OBJECTIVES OF THE STANDARDS

Clause 4.6(4) of the Growth Centres SEPP states:

(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 Director-General has been obtained.

In terms of Clause 4.6(4)(a)(i) of Appendix 11 of the Growth Centres SEPP this submission is the written request that addresses the matters required to be considered in subclause (3) of clause 4.6.

In terms of clause 4.6(4)(ii) the proposed mixed-use development is consistent with the objectives for development within the B2 Local Centre zone that the height standard is applicable to, as well as the objectives of the height of buildings development standard as demonstrated in **Table 1** above.

In particular it is supporting a mixed-use development consistent with the desired character of the centre. The proposed minor variation to the height of some buildings is considered to be in the public interest in that it facilitates a residential form and scale that is consistent with the applicable planning controls in a town centre locality that is close to local and regional public transport that will provide for the day to day needs of the residents of the proposed development as well as those in the Box Hill Precinct and wider area.

The minor variation of the height of some buildings (which is not uniform across the site) will further result in a better outcome for the subject site in that it will maximise the number of people living in close proximity to retail/commercial uses, community facilities, open spaces and important infrastructure such as roads and schools without resulting in adverse impacts on the amenity of neighbouring properties. It will also provide more housing choice and employment opportunities in Sydney's north-west with the minor variation of the height of some buildings adding interest to the skyline.

It is important to note that the increase in height is not related to any increase in FSR. Increased height results from variations in height proposed across the site. Some residential buildings are only 4 storeys and assist with redistributing the FSR across the site to achieve a more dynamic skyline and better overall urban design outcome.

There are no amenity impacts as a result of the non-compliance (i.e. no detrimental overshadowing or likely privacy issues for future development).

6. CLAUSE 4.6(5) CONSIDERATIONS

Clause 4.6(5) of the Growth Centres SEPP states:

(5) In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*

The matters for consideration in clause 4.6(5) have been addressed in Table 2 below.

Table 2: Clause 4.6(5) Assessment

Objective	Comment
<i>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</i>	The non-compliance with the development standard does not raise any matters of significance for State or regional environmental planning as the development meets the objectives of the B2 Local Centre zone as well as the objectives of the height standard. The proposed development is not of a scale or form that is a matter of state or regional significance. The non-compliance is specific to the site and will not set a precedent for future development. Variation of a few buildings within an area identified for a new town centre is not a matter of state or regional significance.
<i>(b) the public benefit of maintaining the development standard, and</i>	<p>The proposed height non-compliance of several buildings will allow for a residential density that is consistent with the applicable planning controls around the town centre in close proximity to key services, facilities and public transport, noting that the development complies with the FSR controls for the site.</p> <p>As the minor non-compliance of a few buildings with respect to height will not result in significant impact on neighbouring properties, and where there are impacts these have been managed through appropriate design measures, it is considered that there is no public benefit in maintaining the development standard in this circumstance.</p> <p>The variation to the height of buildings development standard adds interest to the skyline and building form thus resulting in a better urban design outcome.</p>
<i>(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.</i>	It is considered that all matters required to be taken into account by the Secretary before granting concurrence have been adequately addressed as part of this clause 4.6 variation request.

7. CONCLUSION

It is considered that strict compliance with the height of buildings development standard in clause 4.3 in this instance has been demonstrated to be both unreasonable and unnecessary given the following:

- (1) The proposed development is consistent with the overall envisaged scale, bulk and form and is consistent with the indicative layout in the Box Hill and Box Hill Industrial Precincts DCP;
- (2) The alignment of the nine proposed residential towers will appropriately address the street frontage and the important north-south pedestrian link through the subject site. The varying building heights creates interest and articulation;
- (3) There is minimal overshadowing and amenity impact as a result of the few minor non-compliances in height;
- (4) The proposed development will provide more housing choice and employment opportunities in an accessible location that is close to major roads and public transport;
- (5) The scheme provides for higher buildings on signature corners of the subject site to clearly define the town centre precinct within the larger planned Box Hill Precinct; and
- (6) Despite the variation sought to increase building height, the FSR remains consistent with the development standards relating to FSR contained within Appendix 11 of the SEPP.
- (7) The variation is sought for only some of the buildings and is not a blanket breach. In fact, some buildings are well below the required height.

Appendix A:

Building Height Table and Marked-Up Roof Plan

Clause 4.6 – Building Height as per SEPP

Building	RL Location on Building	Height to Lift Overrun with Existing Ground Level (metres)	Difference Using Existing Ground Level to 24m Dev Standard (metres)	Height to Lift Overrun with New Street Level (metres)	Difference Using New Street Level to 24m Dev Standard (metres)	Height to Top of Main Roof Along Street Edge with Existing Ground Level (metres)	Difference Using Existing Ground Level to 24m Dev Standard (metres)	Height to Top of Main Roof Along Street Edge with New Street Level (metres)	Difference Using New Street Level to 24m Dev Standard (metres)	Dev Standard (metres)	Extent of Non-Compliance
A	SW					20.25	-3.75	19.50	-4.50	24.00	✓
	SE					20.25	-3.75	19.10	-4.90		
	*LOR	21.70	-2.30	20.40	-3.60						
B	SW					27.55	3.55	27.25	3.25	24.00	X
	SE					26.50	2.50	25.65	1.65		
	NW					30.45	6.45	27.85	3.85		
	*LOR	29.25	5.25	28.05	4.05						
C	SW					30.85	6.85	27.95	3.95	24.00	X
	NW					30.71	6.71	28.25	4.25		
	NE					30.58	6.58	28.25	4.25		
	*LOR	31.86	7.86	29.35	5.35						
D	NW					21.43	-2.57	19.05	-4.95	24.00	✓
	NE					21.25	-2.75	18.55	-5.45		
	*LOR	22.62	-1.38	20.20	-3.80						
E	NW					30.15	6.15	27.35	3.35	24.00	X
	*LOR	30.85	6.85	28.45	4.45						
F	NW					30.13	6.13	27.40	3.40	24.00	X
	*LOR	31.00	7.00	28.45	4.45						
G	NW					20.20	-3.80	18.55	-5.45	24.00	✓
	NE					19.10	-4.90	17.45	-6.55		
	*LOR	21.05	-2.95	19.54	-4.46						
H	SW					25.10	1.10	25.35	1.35	24.00	X

	SE					25.60	1.60	25.00	1.00		
	NE					26.85	2.85	25.30	1.30		
	*LOR	26.80	2.80	26.40	2.40						
J	SW					21.10	-2.90	19.80	-4.20	24.00	✓
	SE					19.60	-4.40	19.45	-4.55		
	*LOR	22.50	1.50	20.90	-3.10						

Note:

*

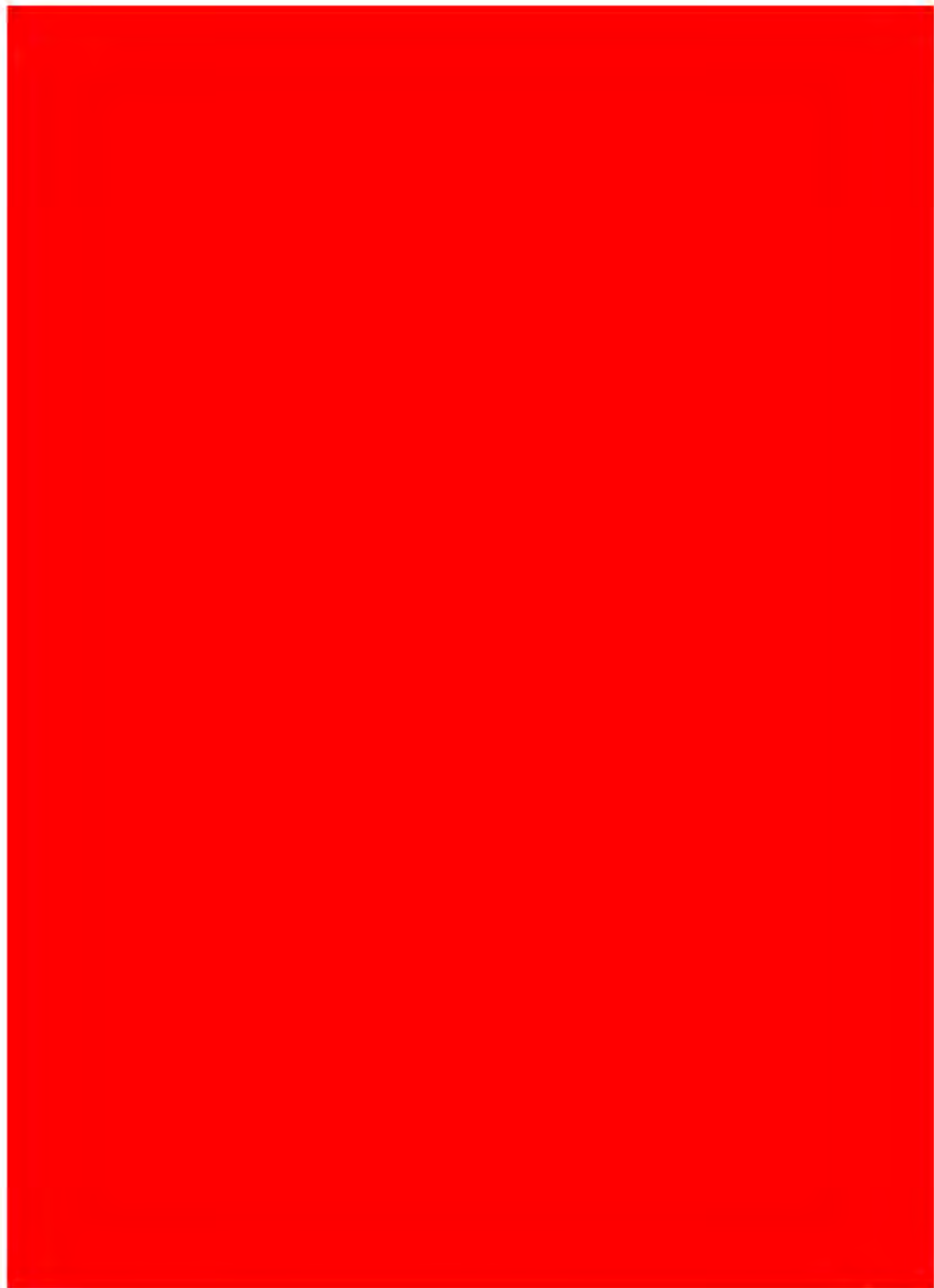


Lift Overrun (LOR)

Buildings with non-compliant height

Height (metres) – Existing ground level

Height (metres) – Existing ground level to main roof



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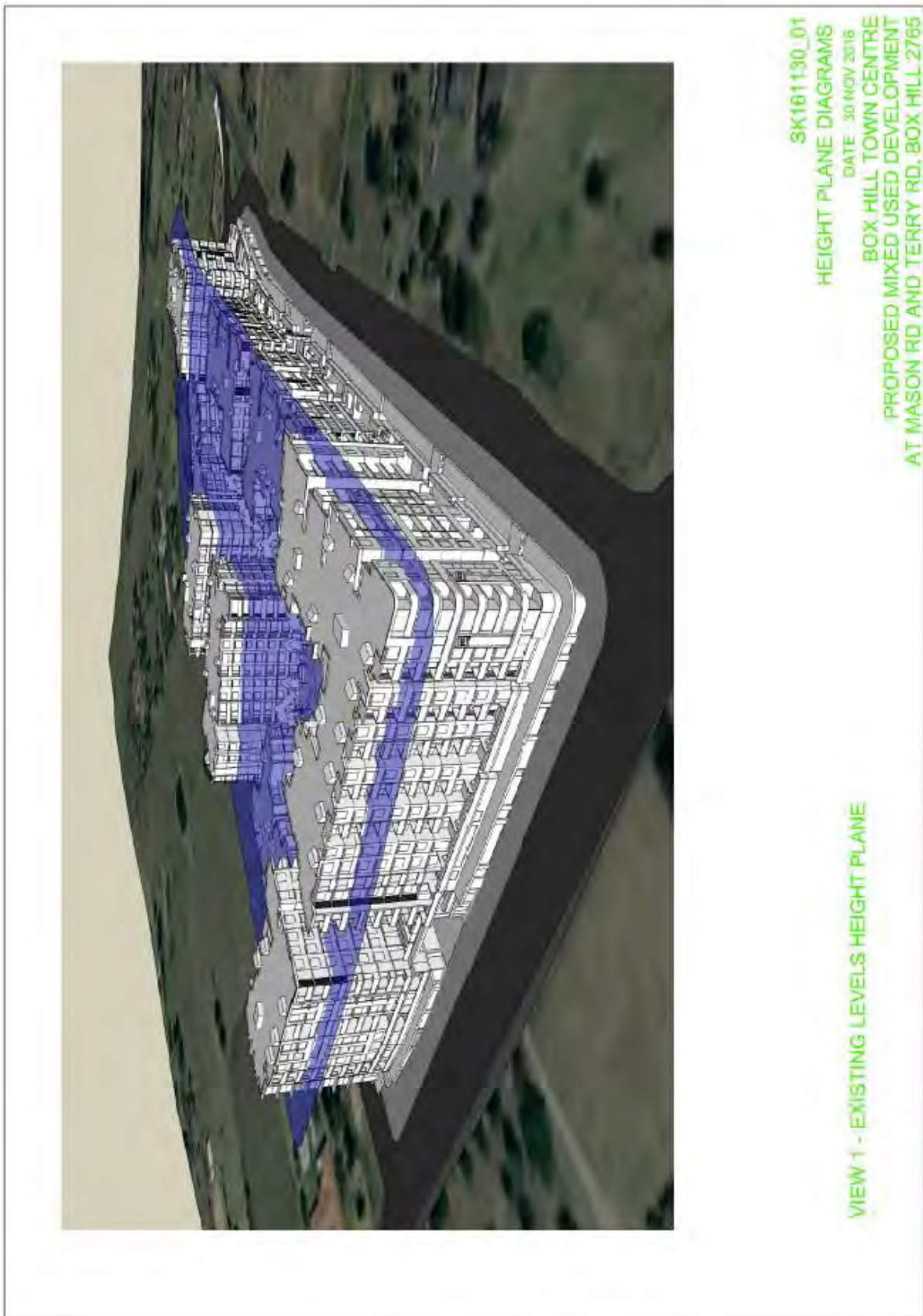
Fax +61 2 9025 0050

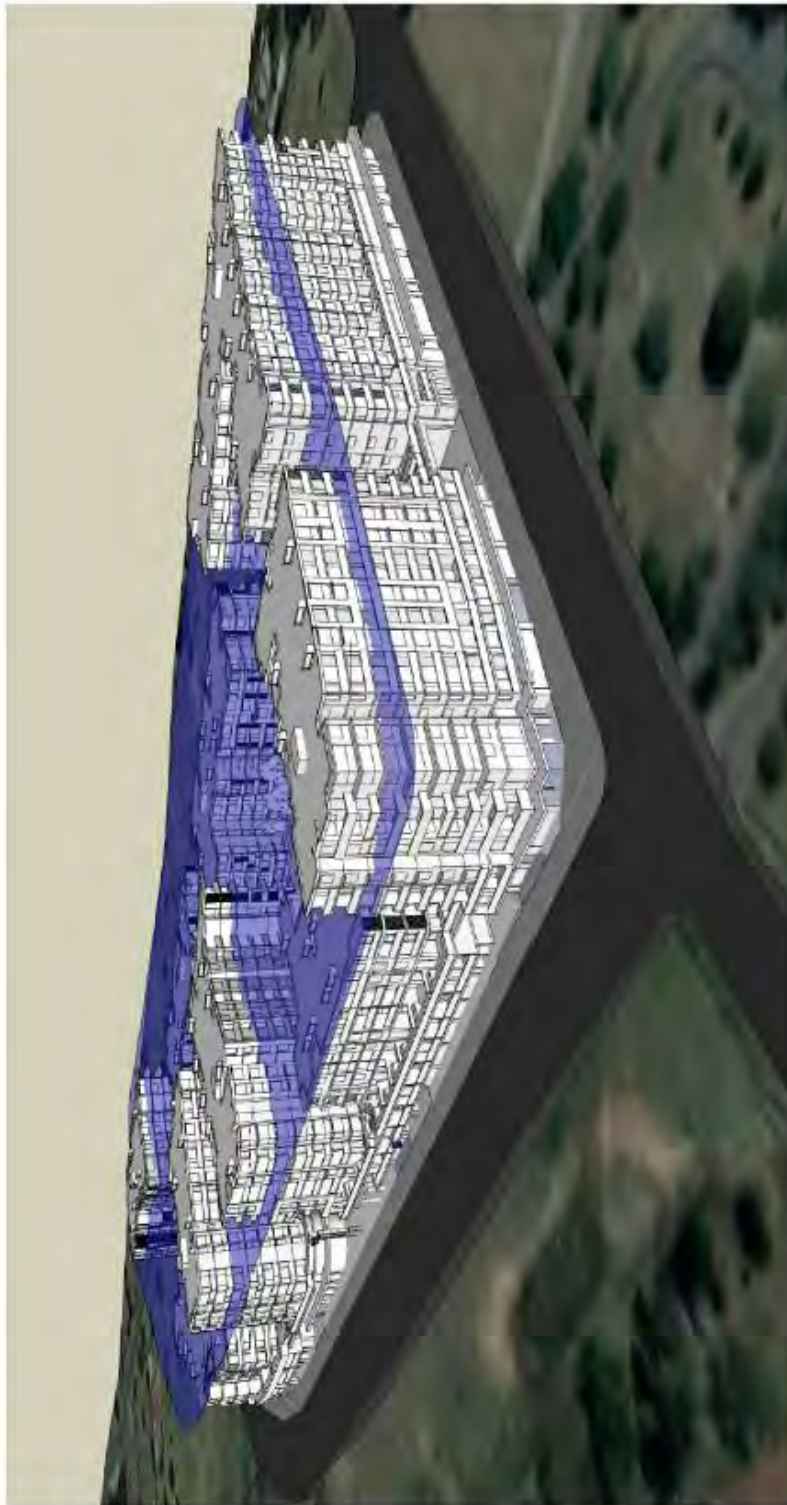
The Planning Group (AWH) Ltd

ABN 60 00209240



ATTACHMENT 21 – ISOMETRIC WITH HEIGHT PLANE





SK161130_02
 HEIGHT PLANE DIAGRAMS
 DATE 30 NOV 2016
 BOX HILL TOWN CENTRE
 PROPOSED MIXED USED DEVELOPMENT
 AT MASON RD AND TERRY RD, BOX HILL 2765

VIEW 2 - EXISTING LEVELS HEIGHT PLANE



VIEW 3 - EXISTING LEVELS HEIGHT PLANE

3K101130_03
 HEIGHT PLANE DIAGRAMS
 DATE 30 NOV 2016
 BOX HILL TOWN CENTRE
 PROPOSED MIXED USED DEVELOPMENT
 AT MASON RD AND TERRY RD, BOX HILL 2765



SK161130_04
 HEIGHT PLANE DIAGRAMS
 DATE 30 NOV 2016
 BOX HILL TOWN CENTRE
 PROPOSED MIXED USED DEVELOPMENT
 AT MASON RD AND TERRY RD, BOX HILL 2765

VIEW 4 - EXISTING LEVELS HEIGHT PLANE



SK101130_05
 HEIGHT PLANE DIAGRAMS
 DATE : 30 NOV 2016
 BOX HILL TOWN CENTRE
 PROPOSED MIXED USED DEVELOPMENT
 AT MASON RD AND TERRY RD, BOX HILL 2765

VIEW 1 - NEW ROAD LEVELS HEIGHT PLANE



3K161130_00
 HEIGHT PLANE DIAGRAMS
 DATE 30 NOV 2016
 BOX HILL TOWN CENTRE
 PROPOSED MIXED USED DEVELOPMENT
 AT MASON RD AND TERRY RD, BOX HILL 2765

VIEW 2 - NEW ROAD LEVELS HEIGHT PLANE



SK101130_07
 HEIGHT PLANE DIAGRAMS
 DATE : 30 NOV 2016
 BOX HILL TOWN CENTRE
 PROPOSED MIXED USED DEVELOPMENT
 AT MASON RD AND TERRY RD, BOX HILL 2765

VIEW 3 - NEW ROAD LEVELS HEIGHT PLANE



5K161130_08
 HEIGHT PLANE DIAGRAMS
 DATE : 30 NOV 2016
 BOX HILL TOWN CENTRE
 PROPOSED MIXED USED DEVELOPMENT
 AT MASON RD AND TERRY RD, BOX HILL 2765

VIEW 4 - NEW ROAD LEVELS HEIGHT PLANE

ATTACHMENT 22 – DPI WATER GENERAL TERMS OF APPROVAL



Department of
Primary Industries
Water

Contact: Gina Potter
Phone: 02 8838 7566
Fax: 02 8838 7554
Email: Gina.Potter@dpi.nsw.gov.au
Our ref: 10 ERM2016/0016
Our file:
Your ref: DA2016/*45/JP

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

Attention: Robert Buckham

14 March 2016

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA2016/*45/JP
Description of proposed activity: A mixed use comprising box hill town centre precinct northern side 9 storey building 2 levels of basement parking
Site location: 29-31 Terry Road Box Hill

I refer to your recent letter regarding an Integrated Development Application (DA) proposed for the subject property. Attached, please find DPI Water's (formerly the NSW Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works 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).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

www.water.nsw.gov.au

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Template Ref: CAA04, Version 1.2 – July 2015

- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council"

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

www.water.nsw.gov.au [Water licensing](#) > [Approvals](#) > [Controlled activities](#)

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



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

General Terms of Approval

for work requiring a controlled activity approval
under s91 of the *Water Management Act 2000*

Number	Condition	File No:
Site Address:	29-31 Terry Road Box Hill	
DA Number:	DA2016/*45/JP	
LGA:	The Hills Shire Council	
Plans, standards and guidelines		
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2016/*45/JP and provided by Council:</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.</p>	
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>	
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Vegetation Management Plan</p> <p>(ii) Erosion and Sediment Control Plan</p> <p>(iii) Soil and Water Management Plan</p> <p>(iv) Amendments to Plans – Water detention/raingardens are to be situated outside the 50% core riparian area for this site.</p>	
4	<p>All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals.</p> <p>(i) Vegetation Management Plans</p> <p>(ii) Riparian Corridors</p> <p>(iii) In-stream works</p> <p>(iv) Outlet structures</p>	
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.</p>	
Rehabilitation and maintenance		
6	<p>The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.</p>	
7	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity.</p>	

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water.enquiries@dpi.nsw.gov.au

Template Ref: CAA01 Version 1.1 – June 2015

Number	Condition	File No:
	in accordance with a plan or design approved by the DPI Water.	
Reporting requirements		
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.	
Security deposits		
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.	
Access-ways		
10	N/A	
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.	
Bridge, causeway, culverts, and crossing		
12-13	N/A	
Disposal		
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.	
Drainage and Stormwater		
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.	
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.	
Erosion control		
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
Excavation		
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
19	N/A	
Maintaining river		
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by DPI Water.	
21	The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by DPI Water.	

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Template Ref: CA004 Version 1.1 - June 2015

Number	Condition	File No:
River bed and bank protection		
22	N/A	
23	The consent holder must establish a riparian corridor along the watercourse in accordance with a plan approved by DPI Water.	
24-27	N/A	
Groundwater		
28	The consent holder must ensure that any construction below ground level does not result in the need for permanent dewatering, other than in accordance with licence conditions approved by DPI Water. Groundwater GTA are attached.	
END OF CONDITIONS		

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Template Ref: CAA04 Version 1.1 – June 2015