

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2016SYW054
DA Number	1325/2016/JP
Local Government Area	THE HILLS SHIRE COUNCIL
Proposed Development	RESIDENTIAL FLAT BUILDING DEVELOPMENT CONTAINING 108 UNITS
Street Address	PROPOSED LOT 105 IN PLAN OF SUBDIVISION OF LOT 2 DP 23258, NO. 17 WITHERS ROAD, KELLYVILLE
Applicant/Owner	YARRAMAN DEVELOPMENTS PTY LTD
Number of Submissions	ONE
Regional Development Criteria (Schedule 4A of the Act)	GENERAL DEVELOPMENT WITH A CIV OF OVER \$20 MILLION
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> - 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. • 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) <ul style="list-style-type: none"> - Nil. • List any relevant development control plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> - North Kellyville DCP 2008. - THDCP 2012 Part C Section 1 – Parking. - THDCP 2012 Part C Section 3 – Landscaping. • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv) <ul style="list-style-type: none"> - Nil. • List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> - Nil. • List any relevant regulations: s79C(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> - Environmental Planning and Assessment Act Regulation 2000.

Does the DA require Special Infrastructure Contributions conditions (s94EF)?	Yes, condition recommended.
List all documents submitted with this report for the panel's consideration	Submission
Recommendation	Approval
Report by	Senior Town Planner Greg Samardzic
Report date	15 September 2016

EXECUTIVE SUMMARY

The Development Application is for the construction of 2 x 5 storey residential flat buildings containing 108 units and basement parking with 150 car parking spaces on proposed Lot 105 in the plan of subdivision of Lot 2 DP 23258. The proposal provides for 26 x 1 bedroom, 62 x 2 bedroom and 20 x 3 bedroom units.

The development is proposed on the portion of the site zoned R3 Medium Density Residential. Under the provisions of the Sydney Region Growth Centres SEPP 2006, residential flat buildings are permissible in the zone. The North Kellyville Development Control Plan sets out a minimum density of 20 dwellings per hectare and no FSR control is applicable to the site.

The subject site has a height limit of 16m and the proposal exceeds the height limit by a maximum of 1.245m or 7.8%. The application is accompanied by a Clause 4.6 variation to the height control. The variation to the height is limited to roof forms and lift overruns at the western ends of the buildings and is due to the slope of the land. The increased height will have no impact upon the solar access on surrounding lots or the amenity of the area.

The development includes encroachments into the 6m front and secondary building setback requirements of the North Kellyville DCP. The design complies with front building setbacks with the exception of several balconies on levels 2-4 having a minimum setback of 4.080m fronting Nightcap Street. There are minor balcony encroachments on Levels 4-5 by 370mm into the Nightcap Street frontage and by 650mm into the secondary Withers Road frontage. The variations only relate to balconies. In conjunction with the landscaping, a reasonable streetscape is provided and the impacts of the built form are minimised. There will be no unreasonable loss of privacy or amenity as a result of the variations. The balconies provide articulation and can be supported in this instance.

In the absence of the JRPP process the matter would be determined under Council's Development Assessment Unit (DAU). The application is recommended for approval subject to conditions.

BACKGROUND**MANDATORY REQUIREMENTS**

Owner:	Mr G Williamson and Mrs R Williamson.	1.	<u>Section 79C (EP&A Act) – Complies.</u>
Zoning:	R2 Low Density Residential. R3 Medium Density. SP2 Infrastructure.	2.	<u>SEPP Sydney Region Growth Centres 2006 – Variation, see report.</u>
Area: Existing Development:	10,120m ² . Existing residence, swimming pool, sheds and dam.	3.	<u>SEPP 65 – Design Quality of Residential Flat Development – Complies.</u>
		4.	<u>SEPP Building Sustainability Index BASIX 2004 – Complies.</u>
		5.	<u>State Environmental Planning Policy No 55—Remediation of Land – Complies.</u>
		6.	<u>North Kellyville DCP – Variations, see report.</u>
		7.	<u>Section 94 Contribution – \$2,268,921.04.</u>
		8.	<u>Capital Investment Value: \$32,500,000.00.</u>

SUBMISSIONS**REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	30 days	1.	Capital Investment Value in Excess of \$20 million (\$32,500,000.00).
2. Notice Adj Owners:	30 days		
3. Number Advised:	Five.		
4. Submissions Received:	One.		

HISTORY

03/07/2015	Pre-lodgement meeting held.
17/03/2016	Subject Development Application lodged.
11/04/2016- 12/05/2016	Subject Development Application advertised and notified to adjoining/surrounding properties.
21/04/2016	JRPP briefing held.
27/05/2016	Subdivision Consent No. 1093/2016/ZB granted for the creation of four residential lots, one residue lot, one road widening lot, new road and demolition.
07/06/2016	Letter sent to the applicant requesting additional information in relation to waste management, engineering and tree management matters.

- 04/07/2016** Letter sent to the applicant requesting the submission of the outstanding information within 14 days.
- 04/07/2016** Additional information lodged.

PROPOSAL

The Development Application is for construction of 2 x 5 storey residential flat buildings containing 108 units and basement parking with 150 car parking spaces on proposed Lot 105 in plan of subdivision of Lot 2 DP 23258. The development is proposed on the portion of the site zoned R3 Medium Density Residential.

The proposal provides for:

- 26 x 1 bedroom units (internal floor areas: 62.2m² - 69.9m²).
- 62 x 2 bedroom units (internal floor areas: 78.2m² - 101.3m²).
- 20 x 3 bedroom units (internal floor areas: 114.9m² - 121.3m²).

Vehicle access is at the north western boundary of the site on Nightcap Street which is a new road to be constructed. All roads approved under the subdivision consent are required to be completed and dedicated prior to the issue of the subdivision certificate. A condition of consent is recommended to ensure that no occupation certificate be issued until the subdivision is registered.

THE SUBJECT SITE AND SURROUNDS

The site is located on the northern side of Withers Road. The site has a single storey dwelling, swimming pool, sheds and dam. The site falls between 3m – 3.5m from east to west.

Adjoining the site to the east (No. 15 Withers Road) exists a two storey dwelling, sheds and a single storey child care centre. A Development Application was recently approved for a medical centre, integrated housing and a four part five storey residential flat building on that property. To the west (no. 19 Withers Road) exists a single storey residence. A Development Application to construct a residential flat building has been lodged over that site. To the south, there is a new residential subdivision and a recently approved residential flat building. A chicken processing plant (Summerland Chicken) is located at No. 23 Withers Rd.

The site is located within the North Kellyville Precinct of the Sydney Region North West Growth Centre where extensive residential redevelopment is currently being undertaken. There will be supporting infrastructure to include open space areas, conservation areas, town centre land, schools, new roads and the upgrade of existing roads.

ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

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

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

The proposed development has a Capital Investment Value of \$32,500,00.00 thereby requiring referral to and determination by a Joint Regional Planning Panel. The application was referred to and listed with the JRPP for determination.

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

(i) Permissibility

The proposal is defined as a residential flat building:

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

Pursuant to the Land Use Table in Appendix 2 North Kellyville Precinct Plan, a residential flat building is permitted with consent within the R3 Medium Density Residential zone.

(ii) Development Standards

The following addresses the relevant principal development standards of the SEPP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1AB Minimum lot sizes for residential development in certain zones	Minimum 2,000m ²	10,120m ² .	Yes.
4.1B Residential density.	Minimum 20 dwg/ha.	149 dwg/ha.	Yes.
4.3 Height of buildings.	16m.	Max. 17.245m.	No – see comments below.
4.6 Exceptions to development standards.	Exceptions will be considered subject to appropriate assessment.	Variations proposed to height are addressed below.	Yes.

(iii) Variation to Height

Clause 4.6 Exceptions to Development Standards states as follows:

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**
- (2) 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) 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) *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) *Consent must not be granted under this clause for a subdivision of land within Zone E4 Environmental Living if:*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow 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 listed in the table to this clause,*
 - (c) *clauses 4.1A, 4.1B, 5.4, 6.2 and 6.4 of this Precinct Plan.*

SEPP Sydney Region Growth Centres 2006 limits the height of development to 16m and the maximum height of the development is 17.245m.

The applicant has submitted a Clause 4.6 Variation (refer to Attachment 15) and is summarised as follows:

The proposed development exceeds the height limit in several areas and the maximum exceedance of the building height is 1.245m at the north western corner of the development. The height exceedance is limited to the western ends of the development and arises primarily due to the sloping nature of the site. The additional height is also in part due to the clearance heights provided on basement level 1 to allow for on-site waste servicing vehicles.

Reducing the overall height of the building will result in more excavation to lower the basement and ground levels. This would result in poorer amenity outcomes for the ground floor and lower level apartments at the eastern end of the building as they would be sunken below ground level. Minimising the extent of excavation is considered to achieve a better overall environmental outcome for the site as there are minimal impacts associated

with the additional building height. It is therefore considered that strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case.

The height objectives of the SEPP are:

- (a) *to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale.*
- (b) *to provide for a range of residential building heights in appropriate locations that provide a high quality urban form.*
- (c) *to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas.*
- (d) *to provide appropriate height controls for commercial development.*
- (e) *to restrict the height of buildings within the curtilage of heritage items.*

The height of the development is satisfactory given that it is appropriately separated from any adjoining development and the shadow impact is reasonable. This separation will reduce the potential for overlooking and any adverse privacy impacts. The proposal responds to the existing topography of the site within its context. The development incorporates a variety of finishes/colours and will result in an appropriate urban outcome. The non-compliances do not result in any adverse amenity impacts and will not result in a detrimental impact on the streetscape. Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

In accordance with the Departments Circular PS 08-003 the 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.

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

The relevant provisions of the Apartment Design Code are addressed below:

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site with 50% of the area to achieve a minimum of 50% direct sunlight for 2 hours at midwinter.	Yes, 25% communal open space provided. However, the communal open space does not receive the required 2 hours to 50% of the area. Approx. 38% at 9am 21 June Approx. 10% at 12 noon 21 June Full shadow at 3pm 21 June
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes, 17%.
Separation	For habitable rooms, 12m up to 4 storeys, 18m for 5-8 storeys.	Yes, 18.3m separation.

Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Yes, provided.
Car Parking	<p>Car parking 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>	Not located within a metropolitan sub-regional centre. The proposed 150 car parking spaces meet the minimum DCP requirement of 140 spaces required.
Designing the Building		
Solar and daylight access	Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	Yes, 79%.
Natural ventilation	At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.	Yes, 61%.
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. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p>	Yes, ceiling heights are 2.7m.
Apartment size	<p>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>Yes, 1 bedroom unit (internal floor area: 62.2 – 69.9m²).</p> <p>2 bedroom units (internal floor areas: 78.2 - 101.3m²).</p> <p>34 x 3 bedroom units (internal floor areas: 114.9 – 121.3m²).</p>
Apartment layout	Habitable rooms are limited to a maximum	Yes, provided.

	depth of 2.5 x the ceiling height. In open plan layouts the maximum habitable room depth is 8m from a window.	
Balcony area	The primary balcony is to be: Studio – 4m ² with no minimum depth 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.	Yes, all balconies provide the required area.
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, provided.
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, 26 x 1 bedroom units. 62 x 2 bedroom units. 20 x 3 bedroom units.

a. Communal Open Space

The ADG requires that 50% of the common open space area is to achieve a minimum of 50% direct sunlight for 2 hours at midwinter.

The applicant has submitted the following justification:

The communal open space does not receive 2 hours of sunlight to 50% of its area due to the orientation of the site and buildings with the central location of the communal space. The buildings have been orientated north to maximise daylight/solar access to units and private open spaces. During mid-winter the eastern end of the communal open space receives sunlight between 9am and 12noon. The facilities have been located to the eastern end of the communal open space to maximise the sunlight received to this space.

The communal open space is functional with open grassed areas for play as well as providing seating and BBQ facilities for residents and guests. The site will be well landscaped with substantial plantings.

Comment:

The relevant ADG objective is:

An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.

The variation is due to the orientation of the site and the need to have a centrally located common open space area. The common open space area at 25% of the site area is well above the minimum 15% required under the North Kellyville DCP. The area encourages passive surveillance and is appropriately embellished containing playground and barbeque facilities. The embellishments are located in areas with the greatest amount of solar access during mid winter. The design of the common open space area will enhance the future resident's amenity and provide satisfactory levels of landscaping and sunlight.

A re-orientation of the development to provide for more sunlight to the common open space areas would lead to lesser amenity for the residential units. The site is located in close proximity to land zoned RE1 Public Recreation at the corner of Hezlett Road and Withers Road. The proposed variation is satisfactory and can be supported.

Design Principles

The required Design Verification Statement was prepared by Rowan Gietz of Leffler Simes Architects, who is a registered architect. The Development Application has been assessed against the relevant design quality principles contained within the SEPP as follows:

(i) Context and Neighbourhood Character

The development responds to the context into which it is placed. The site is located in the North Kellyville Release Area and the development conforms to the future desired character of the area. The site is separated by existing/future roads to the north and south. Across these roads there are sites that are zoned R1 General Residential and R3 Medium Density Residential to the south and R2 to the north. The site adjoins land zoned R3 Medium Density Residential to the east and west. A Development Application was recently approved for a medical centre, integrated housing and a four to five storey residential flat building to the east.

To the west there is a current Development Application under assessment to construct a residential flat building. To the south, there is a new residential subdivision and a recently approved residential flat building. The area is being converted from a rural area into a new urban release area and this context is likely to evolve over time as adjoining sites are to be developed within these new zonings.

(ii) Built Form and Scale

The design of the building elements are of a contemporary style with a number of elements being used. Articulation of the elevations, the selection of colours/materials and the high quality of landscaping are provided. The height of the development is acceptable in terms of solar access and residential amenity. The proposal responds to the topography of the site within its context. The height provided ensures that the development responds to the desired future scale and character of the site as it is not inconsistent with other recently approved developments in the precinct. The setbacks allow for landscape areas, entrances and deep-soil zones.

The setbacks have been developed to provide a satisfactory distance from surrounding boundaries, to form active street frontages and adequate open space areas. The proposed development addresses matters such as privacy and open space matters.

(iii) Density

The proposal provides an appropriate built form outcome which achieves the minimum density requirements of 20 dwg/ha for the site with proposed density of 149 dwg/ha. The proposal is consistent with other similar approved developments and is suitable given the zoning and the location of the subject site close to a town centre.

(iv) Sustainability

The design achieves good natural ventilation which then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs. A BASIX certificate has been lodged. The energy rating of the residential units has been assessed and satisfies the BASIX requirements.

(v) Landscape

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

(vi) Amenity

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

(vii) 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 basement car parks have been appropriately designed and appropriate conditions of consent can be imposed to further assist in the promotion of safety and security.

(viii) Housing Diversity and Social Interaction

The development provides for a diverse range of units. 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 floor areas and mix. These controls aim to provide for an appropriate provision of unit types and sizes in the Shire. Compliance with the above standards is discussed later in this report and it is considered that the applicant has adequately addressed this issue.

(ix) Aesthetics

An appropriate composition of building elements, material textures and colours has been used. 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 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.

4. Compliance with State Environmental Planning Policy No. 55 – Remediation of Land

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

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

DLA Environmental Services has undertaken a preliminary site investigation to assess contamination issues at the site that may have arisen from past or present activities. The site has been previously used as a rural residential property which included uses such as low scale farming. Due to this potential for contamination assessment of the site was undertaken which indicated that there were no visible areas of contamination or potential concern. Surface and sub-surface samples were taken to test for contaminants. There were no pesticides detected. Concentrations of heavy metals and hydrocarbons were found to be below the minimum accepted criteria. DLA concluded that the site can be made suitable for residential development subject to the removal of any asbestos.

The site is referred to in the North Kellyville DCP as a site with areas of environmental concern and the North Kellyville DCP states that subdivision applications within such areas are to be accompanied with a stage 2 contamination assessment. Such a report was provided as part of Subdivision Development Consent No. 1093/2015/ZB for the subject parent site and a condition is recommended (Condition No. 76) that stipulates that no Occupation Certificate is to be issued for this development until the subdivision has been registered.

5. Compliance with the North Kellyville Development Control Plan

The approved subdivision works include the construction of Nightcap Street and Kinglake Street where vehicle access is proposed off Nightcap Street. There is a proposed change to the Indicative Layout Plan (ILP) within the North Kellyville Development Control Plan to delete Littabella Lane. The deletion of the lane will not adversely impact on traffic flow and is consistent with similar developments within the area which have sought to delete such central laneways.

To the east, a Development Application was recently approved for a medical centre, integrated housing and a four part five storey residential flat building to the east that included the deletion of the laneway on that portion of the site. To the west there is a current Development Application to construct a residential flat building which also proposes to delete the same laneway. The adjoining owner to the west raised no objections to the proposed deletion of the laneway on the subject site.

The following table addresses the relevant development controls of the DCP:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED	COMPLIANCE
Section 3.6 – Table 7 Minimum Lot Size by Density Bands.	R1 General Residential (minimum 20 dwg/ha) - 2,000m ²	6,525m ²	Yes
Section 4.3.4 – Table 18 Minimum Frontage.	30m	76m to Nightcap Street.	Yes
Minimum	10%	33%.	Yes

Adaptable Dwellings.			
Minimum Landscape Area	30%	59%.	Yes
Maximum Site Coverage.	50%	41%.	Yes
Minimum Communal Open Space.	15%	25%.	Yes
Minimum Private Open Space.	10m ²	Minimum 10m ²	Yes
Minimum Front Setbacks.	Front setback – 6m. Balconies and other articulation may encroach into the setback to a maximum of 4.5m from the boundary for the first 3 storeys and for a maximum of 50% of the façade length.	Min. 6m building Min. 4.080m balcony on Levels 2-4 to the Nightcap Street frontage. Minor balcony encroachments on Levels 4-5 by 370mm into the Nightcap Street frontage.	No, refer below.
Minimum Corner Lots Secondary Street Setback	6m	Minor balcony encroachments by 650mm into the secondary Withers Road frontage.	No, refer below.
Side/Rear Setback	6m	Min. 6.470m.	Yes
Minimum Habitable Room Separation.	12m	18.3m	Yes
Minimum Car Parking	1 space per dwelling plus 0.5 spaces per 3 or more bedroom dwelling 1 x 1 bedroom unit, 10 x 2 bedroom units and 34 x 3 bedroom units Required: 58 spaces Visitor – 1 per 5 units Required: 9 spaces Total required: 71 spaces	78 spaces provided	Yes

a) Setbacks

The North Kellyville DCP requires that residential flat buildings have a minimum setback of 6m for primary street frontages, secondary street frontages and to side boundaries. A minimum setback of 4.5m is permitted for 50% of the building façade to the primary street frontage to allow for articulation for the first three storeys. The design complies with the recommended front building setbacks with the exception of a balcony on Levels 2-4

having a minimum setback of 4.080m fronting Nightcap Street. There are minor balcony encroachments on Levels 4-5 by 370mm into the front Nightcap Street setback and 650mm into the secondary Withers Road setback on each level.

Comment:

The applicant has justified the setback variations as follows:-

The proposal provides a 6m setback with some balcony encroachments into the 6m setback requirement. The balconies at the northeast corner of Building A (and louvered awning) are setback 4.08m from the street. The length of the balcony is 8m which is 13% of the total façade. The balconies form part of the architectural expression of the corner of the building and provides for a dual aspect private open space at this corner. The encroachment will not result in any adverse amenity impact to surrounding neighbours and the front setback will be well landscaped. The balconies either side of the recessed balconies encroach 370mm into the setback of Levels 2-4 of Building A.

The encroachments are minor and maintain the rhythm of the architectural design of the building and will not result in any adverse amenity impacts to surrounding neighbours. The building setbacks will be well landscaped. Similarly Building B has balconies that encroach into the Withers Road secondary frontage by 650mm. Again the encroachments are minor and do not cause any unreasonable impacts. The development presents as a consistent building form and modulation.

The objectives of this section of the DCP are:

- a) *To establish a high quality residential environment where all dwellings have a good level of amenity.*
- b) *To ensure a variety of housing forms within residential areas.*
- c) *To ensure the provision of the housing that will, in its adaptable features, meet the access and mobility needs of any occupant.*

The variations do not result in any adverse impacts on adjoining properties and the variations add to the articulation of the building façade. The setbacks have been designed to ensure there is an appropriate landscape setting for the development with satisfactory landscaping works proposed within the setbacks. There will be no adverse visual impacts and landscaping with deep soil plantings is provided around the perimeter of the development. The proposed setbacks are satisfactory and can be supported.

6. Development Control Plan 2012 - Part B Section 5 Residential Flat Buildings

Under Part 1.3 of the North Kellyville Development Control Plan, Development Control Plan 2012 Part B Section 5 Residential Flat Buildings does not apply to the subject site. Nevertheless the proposal has been reviewed against Section 3.11 Unit Layout and Design as follows:

Unit Mix

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

Residential Flat Development (30 or more units)

- (d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following:

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

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

The following is proposed:

Apartment Mix:

- (a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments – there are 26 x 1 bedroom units (24.1% of the total).
- (b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms – there are 20 x 3 bedroom units (18.6% of the total).

Proposed unit sizes are:

Unit Type	Size	No. of Units	Type
1 bedroom	62.2m ² - 63.5m ²	18	Type 1
1 bedroom	67.1m ² - 69.9m ²	8	Type 2
2 bedroom	78.2m ² - 86.2m ²	18	Type 1
2 bedroom	92.1m ² - 101.3m ²	44	Type 2
3 bedroom	114.9m ² - 117.4m ²	12	Type 1
3 bedroom	121.3m ² - 121.7m ²	8	Type 2

- (e) Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments – there are 48 x Type 1 apartments (44.4% of the total).
- (f) Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments - there are 60 x Type 2 apartments (55.6% of the total).
- (g) All remaining apartments are to comply with the Type 3 apartment sizes – no Type 3 apartments are proposed.

Whilst the development does not conform to the unit size typology requirement in The Hills DCP, the proposal complies with Clause 30(1)(b) of SEPP 65 in terms of minimum internal apartment areas. A development cannot be refused on apartment sizes if compliance is achieved. The development does provide for a satisfactory mix of one, two and three bedroom units.

7. Issues Raised in Submission

The Development Application was advertised and notified for 30 days and one submission was received. All relevant adjoining and surrounding properties were notified. Notified parent properties to the north and south have been re-subdivided and registered since the lodgement of the application. The concerns raised in the submission are addressed as follows:

ISSUE/OBJECTION	COMMENT	OUTCOME
The subject Development Application should not be approved as it goes against the requirements set out by Council. The area cannot have buildings of this height in what is supposed to be a low density suburb. If all applications such as this are approved then it will affect the quality of North Kellyville and all for the sake of making profit.	Approval of the proposed development will not be contrary to what was envisaged. The majority of the development complies with the maximum height standard of the SEPP and the development will assist in providing for a range of housing types within the locality.	Issue addressed.

SUBDIVISION ENGINEERING COMMENTS

Council's Development Engineer has assessed the proposal and raised no objections subject to conditions.

TRAFFIC MANAGEMENT COMMENTS

There are no objections to the proposed vehicular access via the proposed new road. Traffic generation was considered by the Growth Centres Commission as part of the planning process of the North Kellyville precinct and Section 94 contributions payable for road network improvements in the area.

TREE MANAGEMENT COMMENTS

Council's Landscape Assessment Officer has assessed the proposal and raised no objections subject to conditions.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

Contamination

The preliminary site investigation report by DLA Environmental Services P/L submitted has been reviewed and this report is identical to the report submitted for the subdivision of the lot in DA 1093/2016/ZB where a further assessment was required. A phase two report was submitted and dealt with as part of Subdivision Consent No. 1093/2016/ZD which precedes the subject Development Application.

Wastewater

Standard conditions are provided to remove any onsite sewage management system and associated infrastructure on the property.

Odour

A chicken processing plant (Summerland Chicken) is located at No. 23 Withers Rd. Given the distance and the lack of recent complaints regarding odour from the plant, odour is not considered to be of concern in this instance.

Salinity

The submitted geotechnical and salinity report has deemed that the site is non-saline however the soil is considered to be mildly aggressive to buried concrete structures and non-aggressive to buried steel structures. The report makes recommendations for salinity management and that excavation works to be monitored by a geotechnical consultant. A condition has been imposed to comply with the recommendations.

Noise

The acoustic reports submitted have been reviewed and they address mechanical plant, road traffic noise and BCA requirements. With regard to road traffic noise, there are recommendations to ensure that the internal construction options comply with the internal noise goals established in State Environmental Planning Policy (Infrastructure) 2007 and Development near Rail Corridors and Busy Roads – Interim Guideline.

The noise assessment for mechanical plant is based on preliminary conceptual detail only and makes recommendations for conceptual noise controls to be incorporated into the mechanical plant design stage. The assessment deems that noise goals can be satisfied for the closest residential boundaries and at courtyards/balconies or apartments within the subject development. Standard conditions have been applied.

WASTE MANAGEMENT COMMENTS

Council's Resource Recovery Project Officer has assessed the proposal and made the following comments:

An onsite waste collection positive covenant must be applied. The garbage truck loading bay and manoeuvring areas are to be kept free and unobstructed at all times.

A positive covenant condition will be imposed and there are no concerns with the loading design.

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. These have been incorporated, where appropriate, into a recommended condition of consent.

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy (Sydney Region Growth Centres) 2006, State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy No. 55 – Remediation of Land and the North Kellyville Development Control Plan and is considered satisfactory.

The variations to the height and setback controls have been addressed and it is considered that the application is worthy of support. The issues raised within the submission have

been considered and do not warrant further amendment or refusal of the application. The proposal is recommended for approval subject to conditions.

IMPACTS:

Financial

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

The Hills Future Community Strategic Plan

The Hills Future Community Strategic Plan outlines the aspirations of community residents for The Hills Shire region. Desired community outcomes include balanced urban growth, vibrant communities and a protected environment. The social and environmental impacts have been identified and addressed in the report.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA020	Site Plan	B	27-06-16
DA100	Basement 2 Plan	B	27-06-16
DA101	Basement 1 Plan	B	27-06-16
DA102	Ground Floor Plan	B	27-06-16
DA103	First Floor Plan	A	11-03-16
DA104	Second Floor Plan	A	11-03-16
DA105	Third Floor Plan	A	11-03-16
DA106	Fourth Floor Plan	A	11-03-16
DA150	Elevations Sheet 1	B	27-06-16
DA151	Elevations Sheet 2	B	27-06-16
DA160	Sections Sheet 1	B	27-06-16
LA01	Landscape Plan	C	29/6/16
LA02	Planting Schedule	C	29/6/16
LA03	Landscape Details 1	C	29/6/16
LA04	Landscape Details 2	C	29/6/16
-	Numbering Plan	-	-

2. Construction Certificate

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

3. Building Work to be in Accordance with BCA

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

4. External Finishes

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

5. Provision of Parking Spaces

The development is required to be provided with a total 150 off-street car parking spaces comprising 128 resident and 22 visitor spaces. These spaces shall be available for off street parking at all times.

6. Accessibility and Adaptability

The access review report dated 17th March 2016 must be adhered to at all stages.

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.

8. Property Numbering

The responsibility for property numbering is vested solely in Council. Refer to the approved numbering plan and plans relating to this development must be renumbered by the applicant so that any reference to a particular unit for any purpose including marketing will reflect the approved numbering. **Note:** Unit numbers cannot be repeated anywhere throughout the site regardless of building name, number or street frontage. The applicant is to contact Land Information prior to issue of Construction Certificate to obtain street numbering. No. 17 Withers Road must not be used as this road is subject to re-numbering.

Block A will be addressed to Nightcap Street and Block B will be addressed to Withers Road.

Unit Numbering

Levels	Building A	Building B
Ground	G01-G11	G12-G22
1 st	101-111	112-122
2 nd	201-211	212-222
3 rd	301-311	312-322
4 th	401-410	411-420

The above numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances. Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lift/lobby entry doors. It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and speed.

9. Acoustic Requirements

The recommendation of the following Acoustic Assessment reports submitted as part of the Development Application, are to be implemented as part of this approval:

- BCA Assessment Report; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.
- Acoustic Assessment – Mechanical Plant; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.
- Road Traffic Noise Assessment; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.

10. Salinity Requirements

The recommendations of the Salinity Assessment and Report *Geotechnical and Salinity Investigation for the Proposed Residential Unit Development* prepared by GeoEnviro Consultancy Pty Ltd referenced as JC15245A and dated November 2015 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- ❖ Salinity management measures to protect future structures as outlined in the report:
 - A high impact water membrane
 - A damp proof course consisting of poly-ethylene or poly-ethylene coated metal;
 - Use of native and deep rooted vegetation to minimise soil erosion and limit the rising of the water table;

- Concrete piers and footings to be constructed of sulphur resisting concrete;
 - Re-enforced concrete footings; and
 - Use of copper or non-metallic pipes instead of galvanised iron.
- ❖ The excavation shall be monitored by a geotechnical consultant, and the construction design of the basement and building platform to be determined with regard to the geotechnical investigations.

11. Management of Construction Waste

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

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

12. Disposal of Surplus Excavated Material

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

13. Commencement of Domestic Waste Service

The property owner or agent acting for the owner must arrange the commencement of a domestic waste service with Council. The service must be arranged prior to occupancy of the development and no sooner than two weeks before this time. All requirements of Council's domestic waste collection service must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

14. Construction of Garbage Room

The garbage room must be designed and constructed in accordance with the following minimum requirements:

- The garbage room must be of adequate size to comfortably store and manoeuvre a minimum of 12 x 1100 litre garbage bins and 10 x 660 litre recycling bins. Extra space for 2 x 240L garden organics bins should also be provided.
- The garbage room must contain a caged area for the interim storage and management of unwanted bulky goods. The minimum floor area required is 8 square metres.
- The layout of the garbage room must ensure that each bin is easily accessible and manoeuvrable in and out of the garbage room with minimal or no manual handling of other bins.
- The walls of the garbage room must be constructed of brickwork.

- The floor of the garbage room must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
- The garbage room must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. The waste servicing door must be a roller shutter door.
- The garbage room must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. Resident access doors should be located clear of the areas allocated for garbage truck manoeuvring and loading. There may be more than one resident access door.
- All doors of the garbage room, when fully opened, must be flush with the **outside wall** and must not block or obstruct the driveway or footway. All doors must be able to be fixed in position when fully opened.
- The garbage room must be adequately ventilated (mechanically). Ventilated garbage rooms should not be connected to the same ventilation system supplying air to the units.
- The garbage room must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the garbage room, it is not to conflict with the space designated for the placement of bins.
- The garbage room must be provided with an internal light (artificial).
- The garbage room must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Body Corporate.
- Finishes and colours of the garbage room are to complement the design of the development.

15. Access and Loading for Waste Collection

Minimum vehicle access and loading must be designed and constructed in accordance with AS2890.2-2002 for the standard 8.8m long MRV. An exception is given to the minimum clear vertical clearance which may be reduced to no lower than 3.5m. Extra headroom should be provided if practicable. The loading bay must provide extra space for access and loading (rear of vehicle). The loading bay and truck reversing areas must be clearly line marked including safe routes around these areas for pedestrian traffic.

Additionally, appropriate measures must be provided to ensure that there is sufficient signage (safety and directional), convex safety mirrors (or similar), line marking (vehicular and pedestrian) and lighting. Note that the loading bay and garbage truck manoeuvring areas must be kept clear and unobstructed at all times.

16. Street Trees

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

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

17. 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.

18. 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.

19. 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.

20. 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.
- The changes in ramp grades for a MRV are not to exceed 6.25% in 7m of travel. The grade of the ramp between the first 6m after the boundary and the max 1:8 gradient shown on the ground floor plan must comply with the requirements of AS 2890.2 for an MRV.

21. Gutter and Footpath Crossing Application

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

22. Minor Engineering Works

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.

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

a) Driveway Requirements

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's Driveway Specifications. The proposed driveway must be built to Council's heavy duty standard.

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

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

b) Disused Layback/ Driveway Removal

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

c) Site Stormwater Drainage

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge. Surface runoff from the landscaped area along the western boundary is to be directed to a legal point of stormwater discharge. Surface runoff along the western boundary is not to affect the adjoining neighbour to the west.

The section of access driveway/ramp where stormwater runoff is able to drain under gravity to the outlet pit must be directed to the outlet pit.

d) 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.

e) 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.

f) Water Sensitive Urban Design Elements

Water sensitive urban design elements, consisting of 2 x 25kL rainwater tanks, 250m² of raingardens, 20 storm filter cartridges within the two below ground OSD tanks, litter baskets within all surface inlet pits and a gross pollutant trap are to be located generally in accordance with the MUSIC mode, Engineering Plans prepared by Civil Certification Pty Ltd dated 23 June 2016 Revision E and the Stormwater Management Report dated 4 March 2016 by Civil Certification Pty Ltd.

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/>

g) Onsite Stormwater Detention – Hawkesbury River Catchment Area

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters for the site storage requirement and permissible site discharge.

The stormwater concept plan by Civil Certification Pty Ltd dated 23 June 2016 Revision E is for development application purposes only and is not to be used for construction.

The design and construction of the OSD system must be approved by either Council or an accredited certifier. A Design Compliance Certificate (DCC) certifying the detailed design of the OSD system can be issued by Council. The following must be included with the documentation approved as part of any Construction Certificate:

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

23. Tree Removal

Approval is granted for the removal of all trees within the area of this development 1325/2016/JP. All other trees on adjacent sites are to remain and are to be protected during all works.

24. 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.

All grasses and groundcovers planted as part of the approved landscape plan are to be minimum 140mm pot size.

25. Mass Planted Slopes and Erosion Control Matting

All mass planted landscape banks are to have a maximum slope of 1:3, no steeper. All banks that are at a 1:3 slope shall be reinforced using erosion control matting.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

26. Section 94 Contribution – North Kellyville

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

Payments comprise of the following:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 26	No. of 2 Bedroom Units: 62	No. of 3 Bedroom Units: 20	Sum of Units	No. of Credits: 1	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 152,228.96	\$ 635,412.58	\$ 278,167.60	\$ 1,065,809.14	\$ 13,908.38	\$ 1,051,900.76
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 23,781.68	\$ 99,266.34	\$ 43,456.20	\$ 166,504.22	\$ 2,172.81	\$ 164,331.41
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 12,032.02	\$ 50,221.86	\$ 21,986.00	\$ 84,239.88	\$ 1,099.30	\$ 83,140.58
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 89,571.30	\$ 373,875.50	\$ 163,673.40	\$ 627,120.20	\$ 8,183.67	\$ 618,936.53
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 22,281.74	\$ 93,004.96	\$ 40,715.20	\$ 156,001.90	\$ 2,035.76	\$ 153,966.14
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 9,793.16	\$ 40,877.22	\$ 17,895.00	\$ 68,565.38	\$ 894.75	\$ 67,670.63
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 5,082.74	\$ 21,215.16	\$ 9,287.60	\$ 35,585.50	\$ 464.38	\$ 35,121.12
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 12,382.50	\$ 51,685.06	\$ 22,626.60	\$ 86,694.16	\$ 1,131.33	\$ 85,562.83
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 1,199.90	\$ 5,008.36	\$ 2,192.40	\$ 8,400.66	\$ 109.62	\$ 8,291.04
Total	\$ 12,629.00	\$ 22,105.92	\$ 30,000.00	\$ 30,000.00	\$ 328,354.00	\$ 1,370,567.04	\$ 600,000.00	\$ 2,298,921.04	\$ 30,000.00	\$ 2,268,921.04

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.13.

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.

27. 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

28. Sydney Water Building Plan Approval

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

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

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

29. 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.

30. Protection of Internal Noise Levels (Residential Unit Development)

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

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

The acoustic statement shall detail that all recommendations contained within the following reports have been included in the construction plans of the development:

- BCA Assessment Report; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.
- Acoustic Assessment – Mechanical Plant; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.
- Road Traffic Noise Assessment; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.

31. Erosion & Sediment Control Plan

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

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

32. 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 garbage truck (i.e. 28 tonne gross vehicle mass) from the boundary to the waste collection point including any manoeuvring areas.

33. 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.

34. Stormwater Pump/Basement Car Park Requirements

The stormwater pump-out system must be designed and constructed in accordance with AS/ NZS 3500.3:2015 - Plumbing and Drainage - Stormwater drainage. The system must be connected to the Onsite Stormwater Detention system before runoff is discharged to the street (or other point of legal discharge) along with the remaining site runoff, under gravity. All plans, calculations, hydraulic details and manufacturer specifications for the pump must be submitted with certification from the designer confirming compliance with the above requirements.

35. 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 \$90,000.00 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 50m on either side (177m) multiplied by the width of the road (6m).

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.

36. Water Sensitive Urban Design Elements - Rain Garden and Rainwater Reuse Tank (North Kellyville)

The construction certificate issued for this dwelling must include the rain garden and rainwater reuse tank conditioned earlier in this consent.

PRIOR TO WORK COMMENCING ON THE SITE

37. Principal Certifying Authority

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

38. 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.

39. 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.

40. 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.

41. 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).

42. Erosion and Sedimentation Controls

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

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

43. 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.

44. Discontinuation of Domestic Waste Service

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

45. Construction and Demolition Waste Management Plan Required

Prior to the commencement of works, a Waste Management Plan for the construction phase of the development must be submitted to and approved by Council. The plan should be prepared in accordance with The Hills Development Control Plan 2012 Appendix A. The plan must comply with the waste minimisation requirements in the relevant Development Control Plan. All requirements of the approved plan must be implemented during the construction and demolition phases of the development, except where contrary to other conditions of consent.

46. Traffic Control Plan

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

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

47. Separate OSD Detailed Design Approval

No work is to commence until a detailed design for the OSD system has been approved by either Council or an accredited certifier.

48. 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

49. 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. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to

emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

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

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

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

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

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

51. Survey Report

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

52. Rock Breaking Noise

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

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

53. 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)*.

54. Removal of Septic Tank and Effluent Disposal Area

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

Any septic tank collection well or aerated waste water treatment system is to be removed or reused in accordance with *NSW Advisory Note 3 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems (AWTS)* available from the NSW Health website (www.health.nsw.gov.au).

Note: Methods 1 & 5 (Demolition) are not permitted.

55. Contamination

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

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

56. 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.

57. Stockpiles

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

58. 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:

- 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.
- All stockpiles of materials that are likely to generate dust must be kept damp or covered.

59. Aboriginal Archaeological Sites or Relics

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

60. National Parks and Wildlife Act 1974

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

61. European Sites or Relics

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

62. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all commitments listed in BASIX Certificate be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

63. Section 73 Compliance Certificate

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

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

64. Provision of Electrical Services

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

65. Provision of Telecommunication Services

Submission of a telecommunications infrastructure provisioning confirmation certificate issued by the relevant telecommunications provider authorised under the Telecommunications Act, or a design compliance certificate and an as-built compliance certificate from the company engaged to design and construct the pit and pipe infrastructure, confirming satisfactory arrangements have been made for the provision, or relocation, of telecommunication services including telecommunications cables and associated infrastructure. This must include the under-grounding of the existing telecommunication services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.

66. 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.

67. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in the following acoustic reports:

- BCA Assessment Report; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.
- Acoustic Assessment – Mechanical Plant; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.
- Road Traffic Noise Assessment; Development Application Residential Apartment Development 17 Withers Road Kellyville by Atkins Acoustics and Associates Pty Ltd referenced as 46.7010.RI.GA/DT/2016 and dated 3 February 2016.

Certification is to be provided.

68. 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 waste collection vehicle.

69. Final Inspection of Garbage Room

Prior to an Occupation Certificate being issued, a final inspection of the garbage room and garbage loading area must be undertaken by Council. This is to ensure compliance with design specifications as contained in other conditions of this consent and that necessary arrangements are in place for domestic waste collection by Council.

70. 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.

71. 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.

72. 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.

73. OSD System Certification

The Onsite Stormwater Detention (OSD) system must be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issuing of an Occupation Certificate. The following documentation is required to be submitted upon completion of the OSD system and prior to a final inspection:

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

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

74. Creation of Restrictions / Positive Covenants

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

a) Restriction – Restricted Access

The subject site must be burdened with a restriction precluding access to Withers Road using the "restricted access" terms included in the standard recitals.

b) Restriction – Bedroom Numbers

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

c) Restriction/ Positive Covenant – Onsite Stormwater Detention

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

d) Restriction/ Positive Covenant – Water Sensitive Urban Design

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

e) Positive Covenant – Stormwater Pump

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

f) Positive Covenant – Onsite Waste Collection

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

75. 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.

76. Registration of Subdivision

The registration of the preceding Subdivision Development Consent No. 1093/2016/ZB by the applicant must occur, prior to an Occupation Certificate being issued.

77. 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.

THE USE OF THE SITE

78. Lighting

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

79. Offensive Noise - Acoustic Report

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

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

80. Waste and Recycling Management and Collection

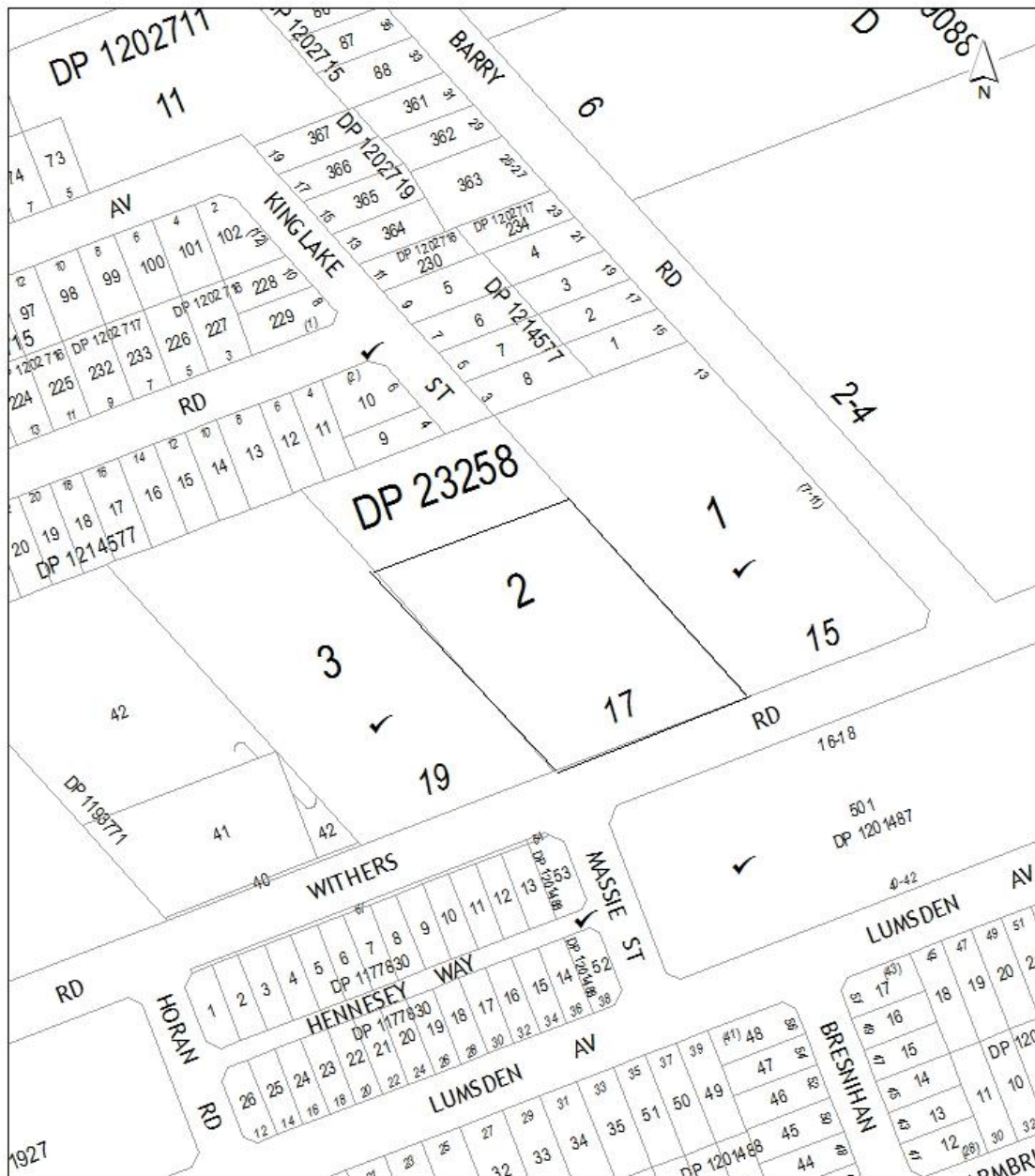
A caretaker must be engaged or nominated by the Owners Corporation to monitor the garbage room and manage all duties associated with any waste servicing instructions given by Council. The garbage room must be kept clean, tidy and free from litter and clutter at all times.

Additionally, the loading bay and garbage truck manoeuvring areas must be kept free and unobstructed at all times. This must form part of the Strata Management Statement and shall be heavily monitored and enforced by the site.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. SEPP Zoning and DCP Road Layout Map
4. SEPP Height Limit Map
5. Approved Subdivision Plan
6. Site/Ground Floor Plan
7. First Floor Plan
8. Second Floor Plan
9. Third Floor Plan
10. Fourth Floor Plan
11. Proposed Variations to Setbacks (Building A)
12. Proposed Variations to Setback (Building B)
13. Elevations
14. Landscape Plan
15. Clause 4.6 Variation
16. Analysis of Height Diagram

ATTACHMENT 1 – LOCALITY PLAN



SUBJECT SITE

**NOTE: ONE SUBMISSION RECEIVED
OUTSIDE THE SCOPE OF MAP**

✓ **PROPERTIES NOTIFIED**
(INCLUDING PARENT PROPERTY TO THE
NORTH - LOT 21 DP 1202714 BARRY ROAD AND
PROPERTIES TO THE SOUTH 16-18 & 20
WITHERS ROAD KELLYVILLE)

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

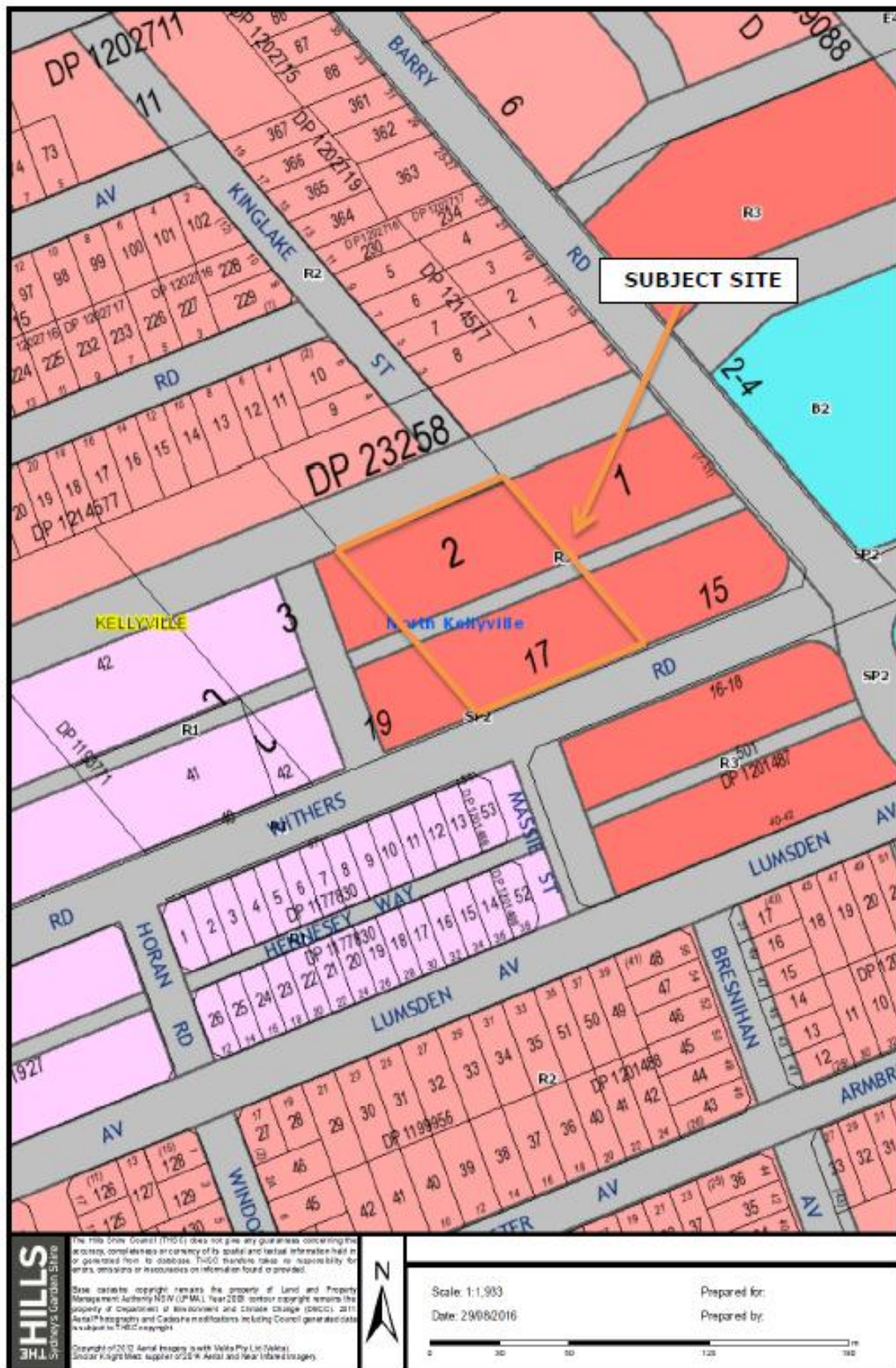
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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

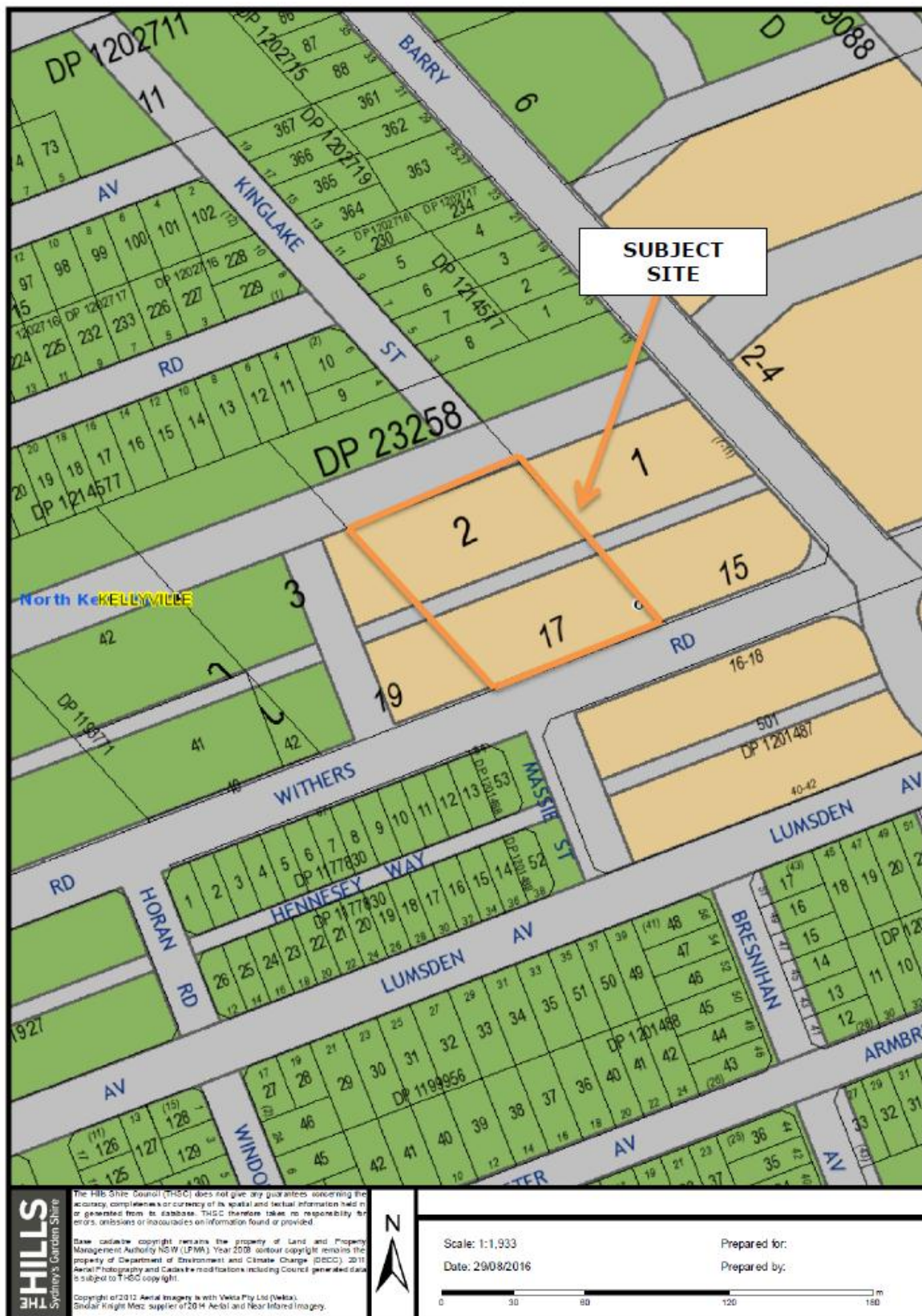
ATTACHMENT 2 – AERIAL PHOTOGRAPH



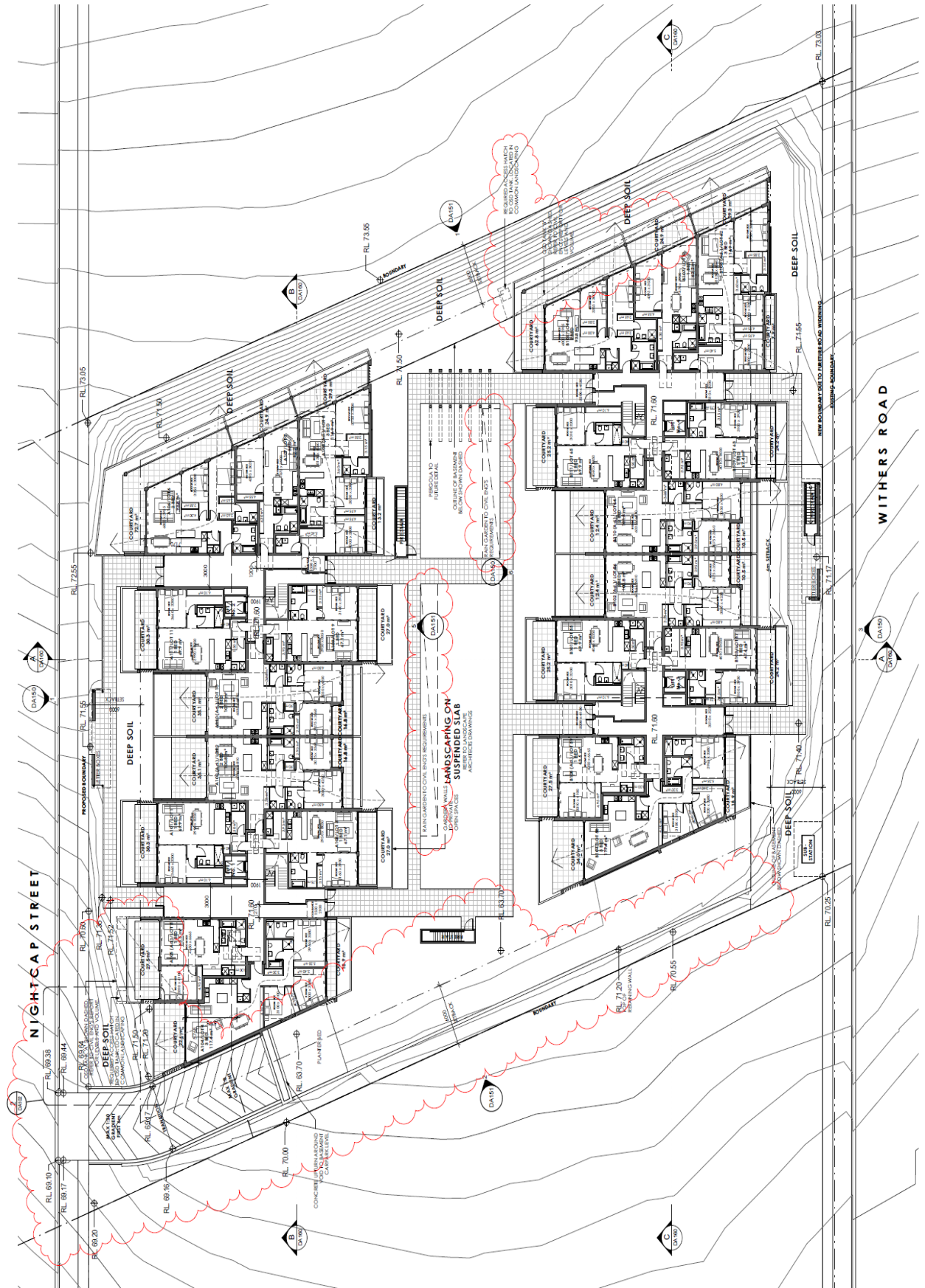
ATTACHMENT 3 – SEPP ZONING AND DCP ROAD LAYOUT MAP



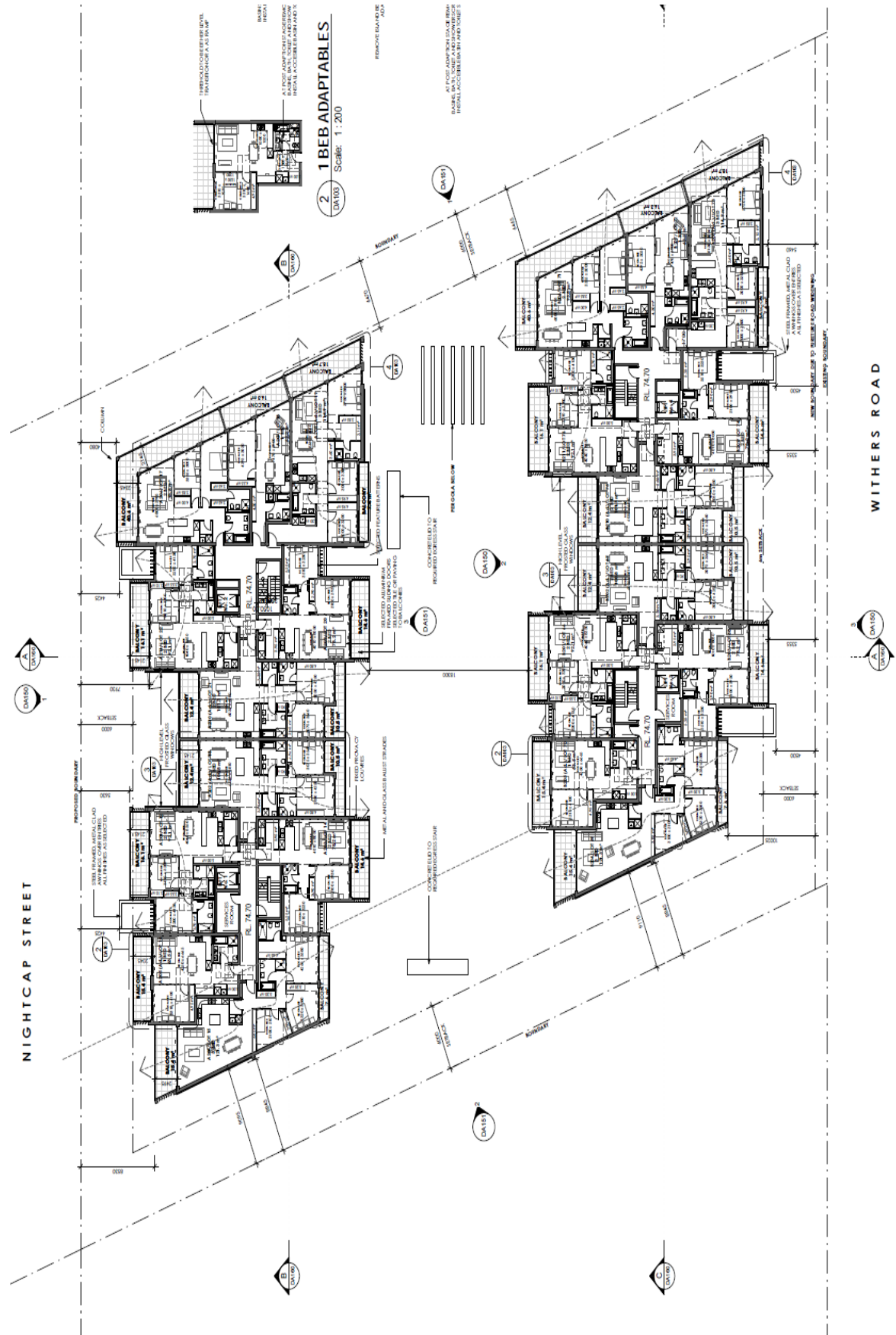
ATTACHMENT 4 – SEPP HEIGHT LIMIT MAP



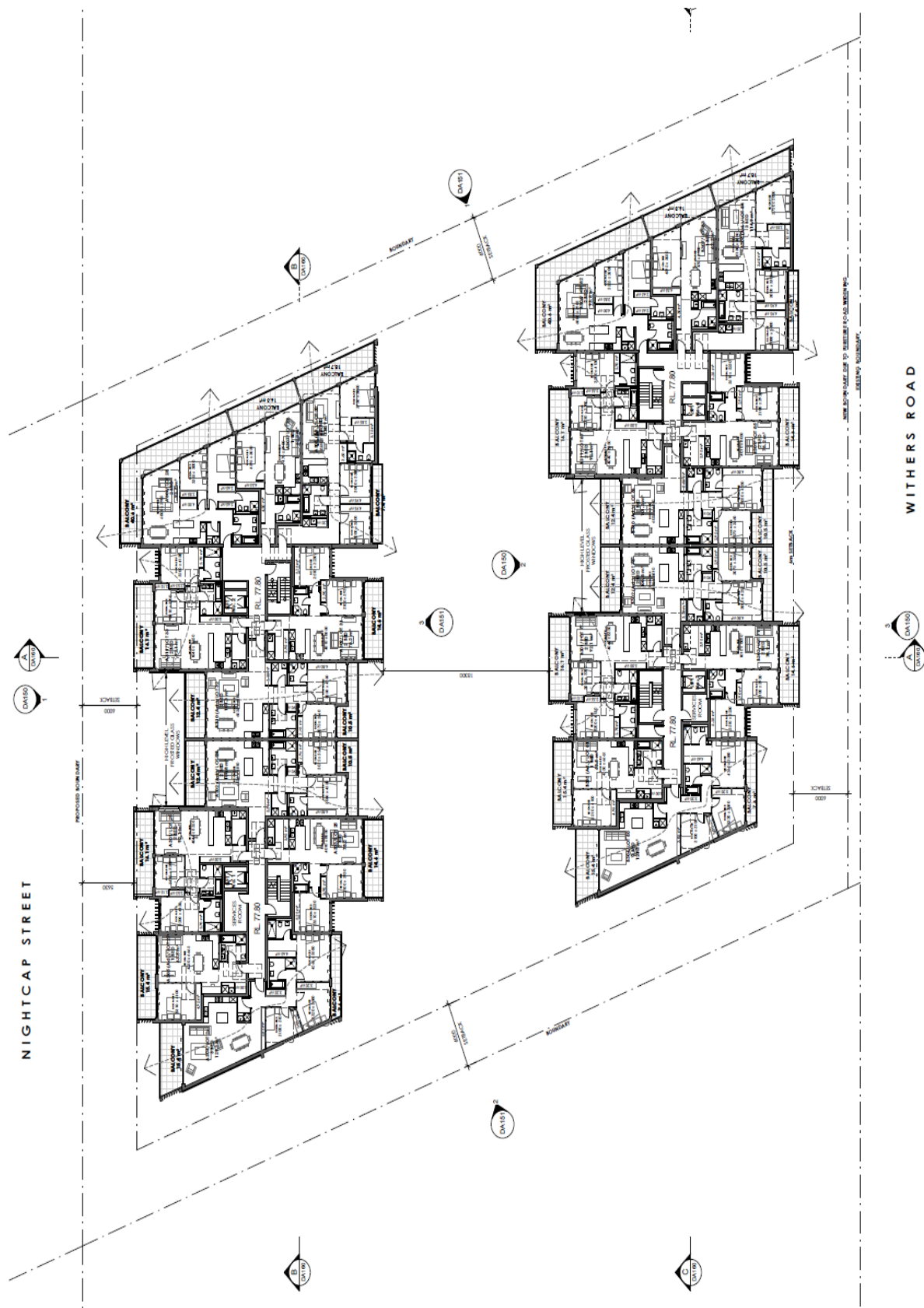
ATTACHMENT 6 – SITE/GROUND FLOOR PLAN



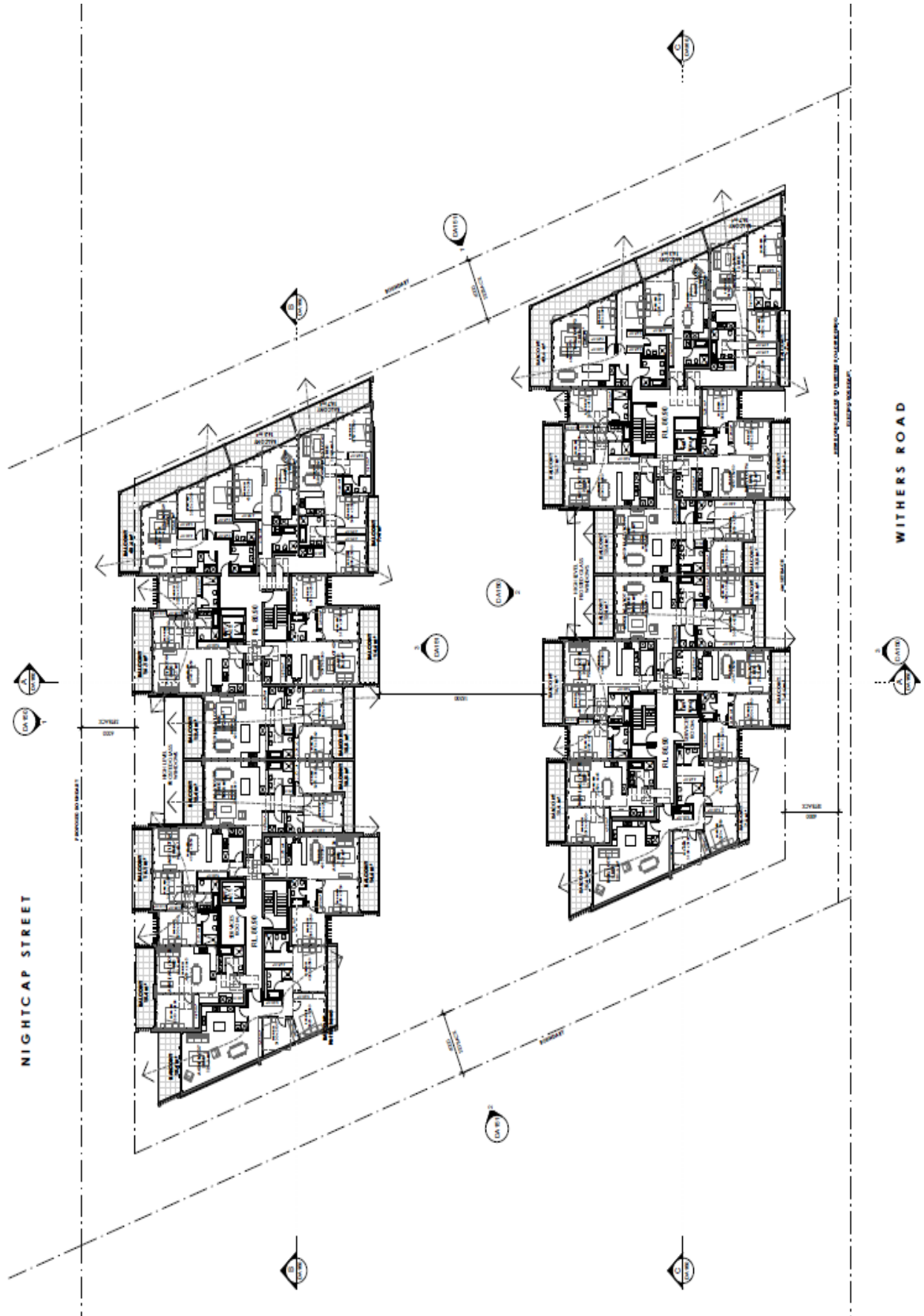
ATTACHMENT 7 – FIRST FLOOR PLAN



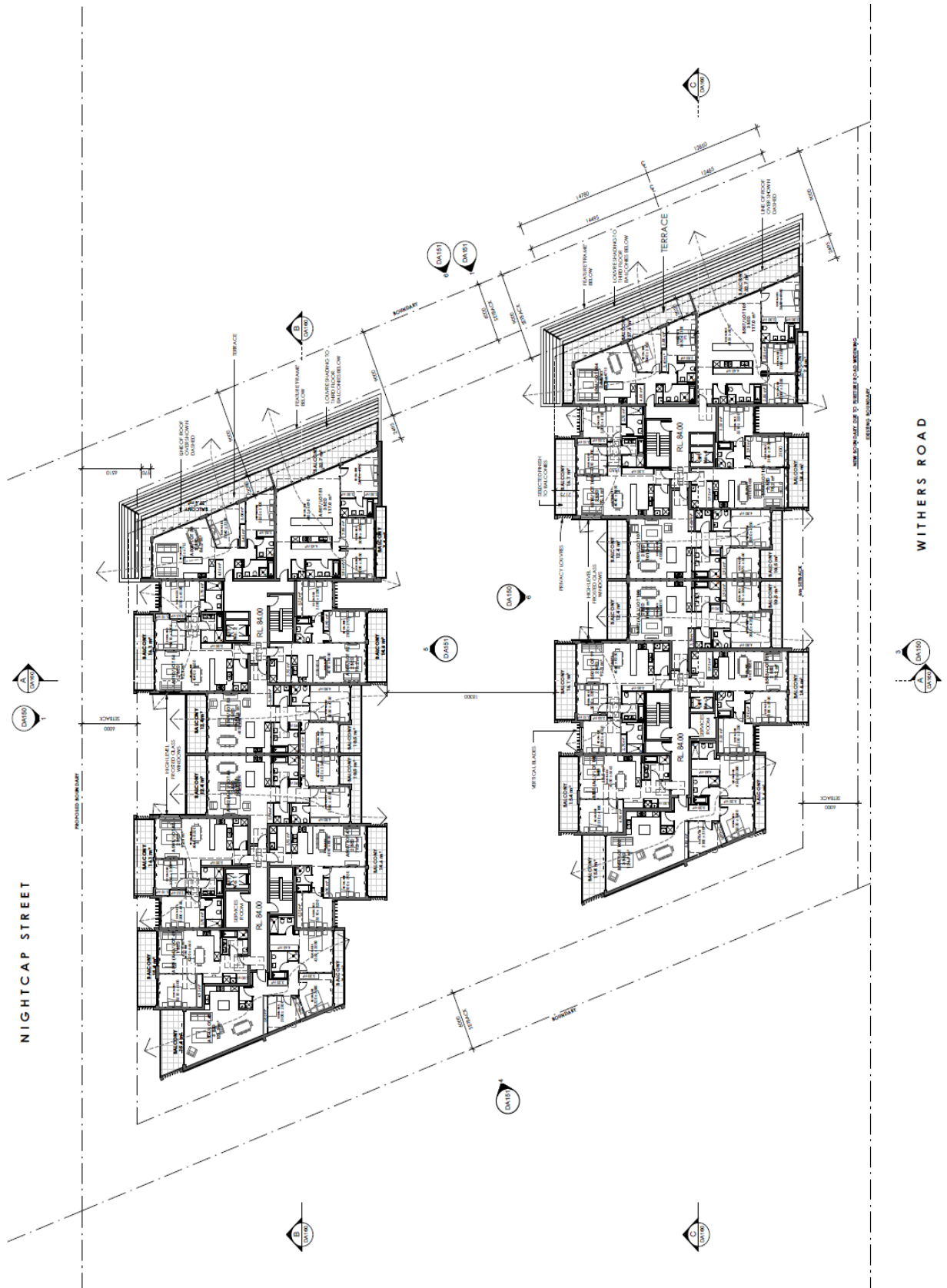
ATTACHMENT 8 – SECOND FLOOR PLAN



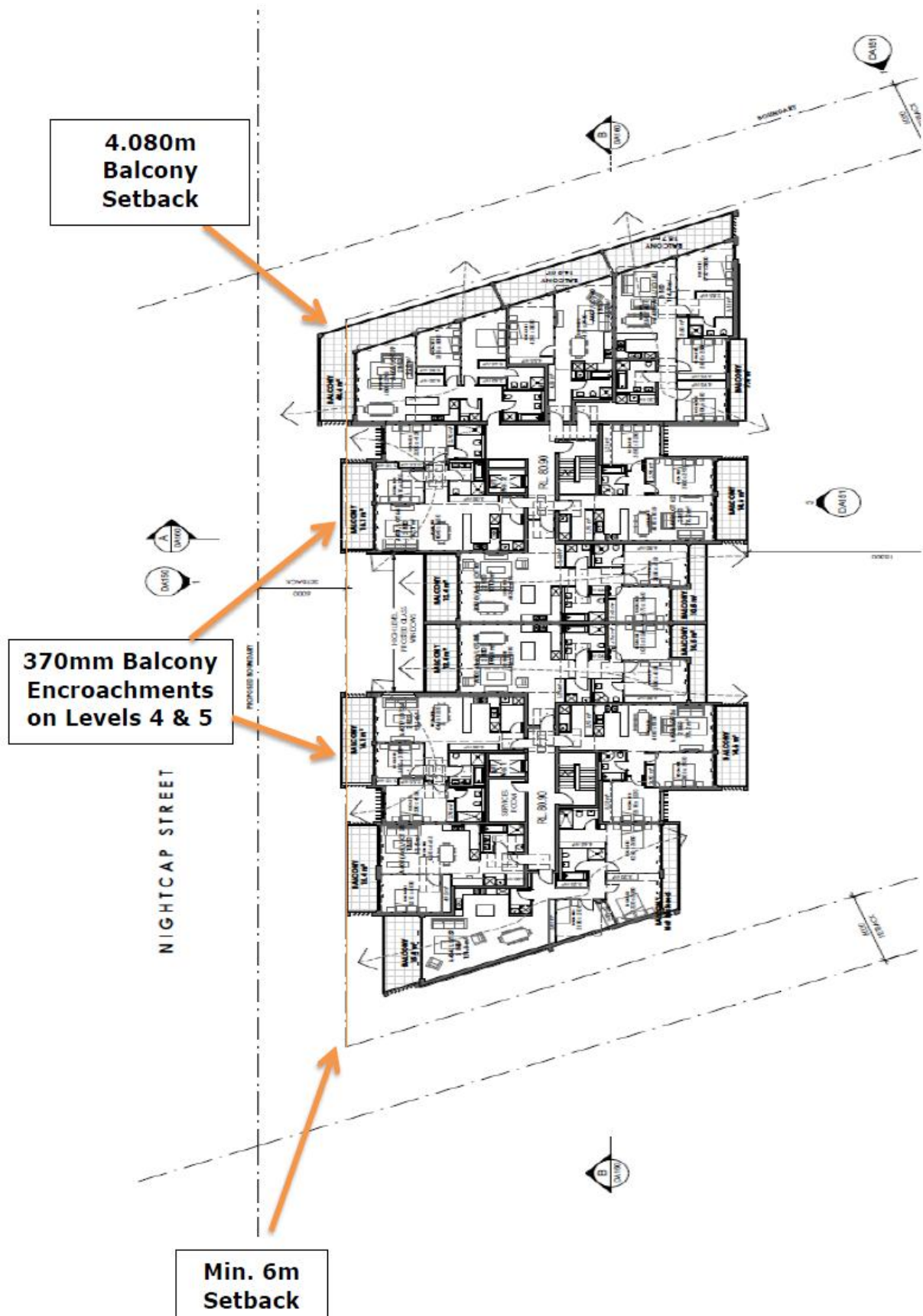
ATTACHMENT 9 – THIRD FLOOR PLAN



ATTACHMENT 10 – FOURTH FLOOR PLAN

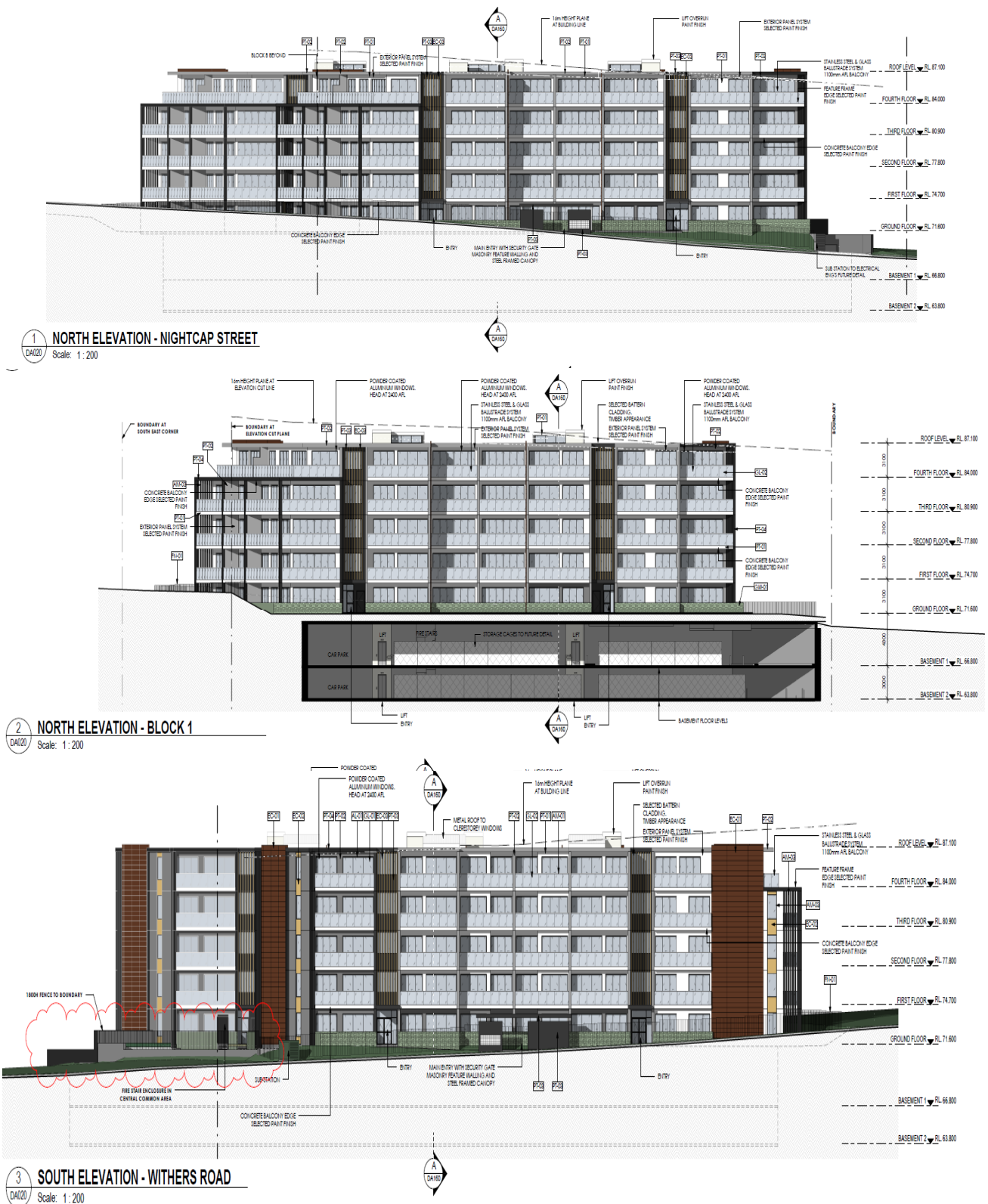


ATTACHMENT 11 – PROPOSED VARIATIONS TO SETBACKS (BUILDING A)



The image is a detailed architectural floor plan of a multi-story building, oriented vertically. The plan shows various rooms, including bedrooms, bathrooms, a kitchen, a living area, and a service room. Balconies are located on each level, and orange arrows point to them with a text box stating "650mm Balcony Encroachments on Each Level". The building is situated on a plot with a "Min. 6m Setback" indicated by a dashed line and an arrow. The street name "WITHERS ROAD" is written vertically on the right side. The plan also includes a north arrow, a scale bar (0 to 5 meters), and a title block in the top right corner.

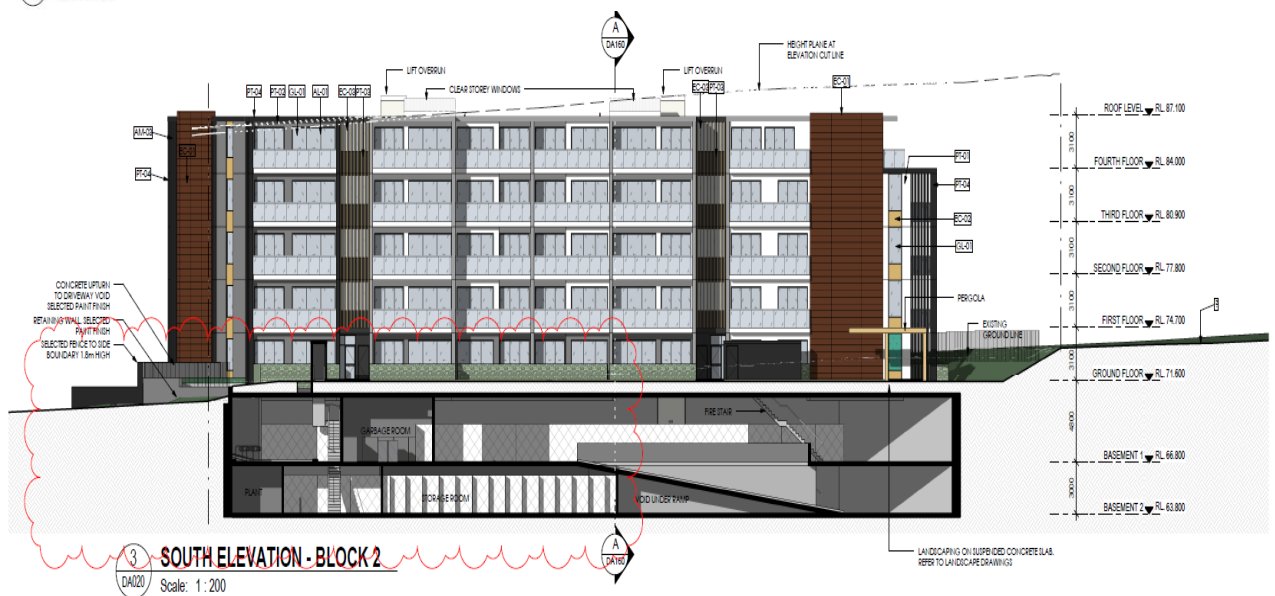
ATTACHMENT 13 – ELEVATIONS



ATTACHMENT 13 – ELEVATIONS



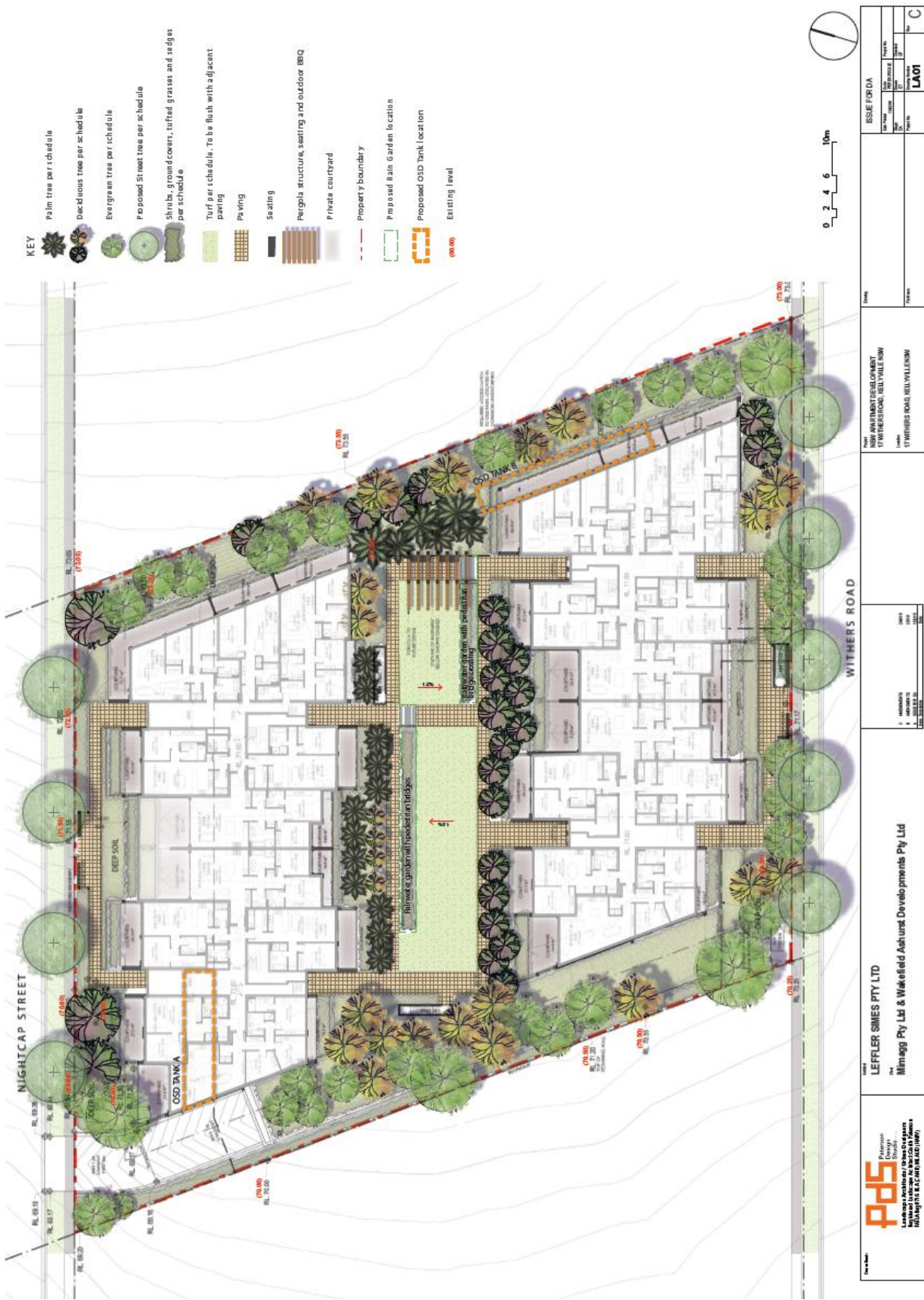
1 EAST ELEVATION
DA020 Scale: 1:200



3 SOUTH ELEVATION - BLOCK 2
DA020 Scale: 1:200



2 WEST ELEVATION
DA/20 Scale: 1:200





planning consultants

14 March 2016

Our Ref: Appendix 7 - Clause 4.6 Request to Vary Development Standard

Proposed Residential Apartment Buildings at 17 Withers Road, Kellyville

Written request for exception to a Development Standard

Clause 4.3 Height of Buildings Development Standard

North Kellyville Precinct Plan

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

1.0 Introduction

DFP has been commissioned by Mimagg Pty Ltd Wakefield Ashurst Developments Pty Ltd to prepare a Statement of Environmental Effects (SEE) for two proposed residential apartment buildings at 17 Withers Road, Kellyville.

The proposal breaches the building height limit specified at Clause 4.3 of the North Kellyville Precinct Plan (NKPP) in State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP SRGC 2006) and accordingly this is a request to vary the development standard pursuant to Clause 4.6 of the SEPP SRGC 2006. The maximum height of the proposed development exceeds the 16m building height limit by up to 1.245m.

This Clause 4.6 Variation request prepared by DFP should be read in conjunction with the SEE for the proposed residential development.

2.0 Proposed Development

The proposed development consists of two five storey residential apartment buildings consisting of 108 residential units and 150 car parking spaces in two basement levels.

3.0 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

3.1 Clause 4.3 Height of Buildings

Clause 4.3 Height of Buildings states:

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

(a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,

(b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,

(c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,

(d) to provide appropriate height controls for commercial development,

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Thornleigh NSW 2120

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Pennant Hills NSW 1715

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ACN 002 263 988
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(e) to restrict the height of buildings within the curtilage of heritage items.

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

The Height of Buildings Map indicates that the maximum height limit is 16 metres for land on the site zoned R3 Medium Density Residential. Building Height is defined in the dictionary of the SEPP (Sydney Region Growth Centres) 2006 as follows:

"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, flag poles, chimneys, flues and the like."

3.2 Height of the Proposed Development

Buildings A and B are both 5 storeys in height and present a consistent building height to Withers Road and Nightcap Street. The majority of the buildings are within the 16m height limit, however due to the slope of the site, the western parts of the building exceed the building height limit by up to 1.245m for Building A and by up to 1.015m for Building B. The part of Building B that exceeds the height limit is restricted to the roof, lift overrun and clerestory windows.

The height plane drawing at **Figure 1** illustrates the variations to building heights.

3.3 Clause 4.6 Exceptions to Development Standards

Sub-clause 1 and 2 state the following:

- (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.*

Variation to the building height limit is not expressly excluded from the operation of this Clause and accordingly Council has the power to vary the standard.

ATTACHMENT 15 – CLAUSE 4.6 VARIATION



Figure 1: Building Height Plane Analysis

3.4 Sub-Clause 4.6(3) – Written Request

“Sub-Clause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:

(3) 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) The 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.

As noted above the proposed development does not comply with the Height of Buildings Development Standard pursuant to Clause 4.3 of the SEPP SRGC 2006 as the proposed development exceeds the maximum height limit by up to 1.245m at the highest point of Building A. Strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as discussed below.

With respect to Clause 4.6(3) this request has also had regard to the principles identified in *Four2Five Pty Ltd v Ashfield Council*, being whether there is sufficient environmental planning grounds particular to the site to justify contravening the development standard. The environmental planning grounds particular to the site and proposed development are outlined below:

- It is predominantly the sloping topography of the site that generates the non-compliance with the 16m height limit. The majority of the buildings are within the 16m height plane as shown in Figure 1 above.
- Minimising the extent of excavation and the amount of excavated material to be removed off-site is considered to achieve a better overall environmental outcome for the site as there are minimal environmental impacts associated with the additional building height.
- Reducing the overall height of the building by lowering the basement and ground levels would result in poorer amenity outcomes for the ground floor and lower level apartments at the eastern end of the building as they would effectively be sunken below ground level.
- The basement height of the proposed development also influences ground levels. The height of Basement 1 is 4.8m to allow for a 3.7m height at the driveway entry to provide clearance levels for waste collection vehicles. The basement heights in turn influence ground floor levels of the proposed residential buildings above and result in approximately 1m additional height due to the size of the waste collection vehicles allowed for to service the development.
- The building design has sought to avoid variations in floor level (i.e. off-set floor levels), off-set basement levels or sloping basement levels as this would require deeper excavation to accommodate basement levels.
- Non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss, nor does it generate any adverse amenity impacts on the future residents of the development or future adjoining development.



- The exceedance of the height limit will not affect the way in which the building is perceived from public places and it is considered that the proposed residential buildings are consistent with the desired future character of the locality.
- The proposed bulk and scale of the development is also considered appropriate for an emerging town centre.
- The proposal satisfies the R3 zone objectives and the objectives of the building height standards.
- A 16m height limit allows 5 storey buildings with floor to floor levels of 3m. The proposal is for 2 x 5 storey apartment buildings which is consistent with the desired future character. Strict compliance would result in either additional excavation, split floor levels or construction of a part 4 storey building where 5 storey buildings are encouraged.

3.5 Sub-Clause 4.6(4) – Justification

Clause 4.6(4) provides that 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 Sub-Clause (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.*

Furthermore, Sub-Clause 4.6(5) provides that 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 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.*

These matters are discussed in Section 4.

4.0 Justification for the exceedance of the 16 metre Building Height Development Standard

The Department of Planning and Environment guidelines on varying development standards recommend consideration of the provisions of Clause 4.6 and the five part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 as follows:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;



3. the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Test 1 and 3 are particularly relevant to the proposed development. Tests 2, 4 and 5 are not directly relevant to the proposed development as it is our opinion that the height standard is relevant and that the R3 zone is appropriate for the site. It is noted that Council and the JRPP recently supported height variations up to 6m on a nearby site at 2-4 Barry Road, however it is not considered that Council has abandoned the development standard, but rather in that instance it considered compliance unnecessary and unreasonable.

Clause 4.6(4)(a)(ii) matters being the objectives of the height development standard and zone and the relevant Wehbe tests are discussed below.

4.1 Objectives of the Height Development Standard

The objectives of the Height Clause are detailed below.

1) The objectives of this clause are as follows:

- (a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*
- (b) to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,*
- (c) to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,*
- (d) to provide appropriate height controls for commercial development,*
- (e) to restrict the height of buildings within the curtilage of heritage items.*

The proposed development is considered to be consistent with the objectives of the building height standard as:

- The front and side setbacks and the roads to the north and south provide a physical separation between the proposed residential apartment buildings and the adjoining future residential development to the east, west and north of the site. The solar access drawings included with the architectural plans (refer to **Appendix 4**) show that adjoining properties will all receive at least three hours of sunlight during mid-winter. Therefore non-compliance with the height limit still affords satisfactory solar access to adjoining properties.
- The proposed residential buildings are all set back a minimum of 6m (excluding balconies) from the property boundaries generally in compliance with the DCP and therefore there will be appropriate building separation distances to neighbouring buildings to the west and there will not be any adverse amenity impacts in terms of privacy and other amenity values as a result of the additional height. The side and



upper level (5th storey) setbacks also comply with the requirements of the Apartment Design Guide.

- The bulk and scale of the proposed development is consistent with that for a town centre and is also consistent with the recently approved mixed use development at 15 Withers Road. The approved development at 15 Withers Road also included buildings that had a minor variation to the building height limit. Similar encroachments on the height limit were approved across the road at 16-20 Withers Road.
- The greatest extent of the building height variations are towards the north western end of the site due to the sloping nature of the site. The variation to the height limit recedes towards the southwest. When viewed from the Withers Road and Nightcap Street frontages the buildings will appear visually as consistent five storey building as the additional height does not result in an additional storey.

The additional building height at the western end of the buildings is not inappropriate in terms of bulk or scale and is consistent with the scale and height of development approved at 15 Withers Road and 2-4 Barry Road and emerging in the locality.

4.2 Zone Objectives

The subject site is zoned R3 Medium Density Residential and contains the following zone objectives:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage medium density housing adjoining the North Kellyville Local Centre.*
- *To support the well-being of the community, including educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.*
- *To allow for low density tourist and visitor accommodation that does not interfere with residential amenity.*

The proposed development is considered to be consistent with relevant R3 zone objectives as:

- 108 apartments will be provided in a medium density built form to meet current and future housing demand. A 16m height limit encourages 5 storey residential apartment buildings. The proposal for 2 x 5 storey residential apartment buildings is consistent with this objective.
- The site is in close proximity to the proposed North Kellyville Local Centre which will provide facilities and services for the future residents of the development.
- Non-residential uses are not proposed, and it is not appropriate to provide non-residential uses on the site given the close proximity to the retail and commercial area of the town centre.
- The proposed development will provide a mix of dwelling types, which provides diversity of dwelling types.
- The proposed development provides two residential apartment buildings in an integrated medium density residential scheme for the site and near other allotments



which will provide a range of housing types including low density and medium housing. Accordingly, the proposal will provide a variety of housing type within the locality.

- The proposed development will assist in providing housing for the growing community of The Hills Shire.

It is therefore considered that the development proposal is consistent with the objectives of the R3 zone and the exceedance of the building height standard does not affect the proposal's consistency with the zone objectives.

4.3 The Grounds of the Objection to the Building Height Limit

The proposed variation to the Height of Buildings Development Standard has been considered in light of the abovementioned objectives and potential environmental impacts and strict compliance is considered to be unreasonable and unnecessary for the reasons discussed below.

Alternative building layouts were considered providing a similar 5 storey form. The proposed design provides a minimal variation to the height limit and more generous open space within the site than other alternatives considered.

Whilst parts of the buildings are greater than 16m in the height, minimising the extent of excavation and removal of excavated material off-site is considered to achieve better overall environmental outcome for the site as there are minimal environmental impacts associated with the additional building height. The site area is large and can absorb the additional building height proposed.

As discussed previously, the basement height of the proposed development also influences ground levels. The height of Basement 1 is 4.8m to allow for a 3.7m height at the western driveway entry to provide clearance levels for waste collection vehicles. This results in approximately 1m of additional height and accounts for the majority of the height exceedance.

The exceedance of the building height limit does not reduce the amount of solar access available to the residential units within the development, nor impact on solar access to the private and communal open space within the development. The proposed development achieves a minimum of 3 hours of solar access to 79% of apartments and cross ventilation to 61% of apartments.

The exceedance of the building height limit will also not result in a loss of solar access to adjoining properties. Nor will exceedance of the building height limit reduce views from adjoining properties.

The proposal is considered to demonstrate good urban design, is not excessive in terms of height, bulk and scale and will provide a positive contribution to the streetscape. The proposed development also achieves the desired urban character for the site and locality and as discussed above the proposal satisfies the planning objectives for the R3 zone and building height control under the LEP. Exceedance of the building height limit will not be discernible when viewed from the street.

The exceedance of the building height limit does not generate any adverse amenity impacts on the future residents of the proposed development or future adjoining residential development and the building height is appropriate for a site that is in close proximity to the North Kellyville Local Centre. Accordingly, as demonstrated above, strict compliance with the height standard is both unreasonable and unnecessary in this instance.



4.4 Director-General's Consideration

As indicated above, Sub-Clause 4.6(5) of the SEPP (Growth Centres) 2006 also requires the Director-General, in deciding whether to grant concurrence, to consider the following:

- “(a) Whether contravention of the Development Standard raises any matters of significance for State Environmental Planning”*

The breach of the building height limit is not of state or regional significance.

- “(b) The public benefit of maintaining the development standard”*

There is a public benefit in allowing the proposed development to proceed as the additional building height does not result on adverse environmental impacts on surrounding sites or on the locality and the objectives of the development standard and R3 zone can be satisfied. Strict compliance with the height limit is not in the public interest as in order to comply it would be necessary for a part 4 storey building to be located in an area where the desired future character is 5 storeys.

It is not in the public interest to reduce the potential housing stock in a growth centre when there is substantial demand for housing in Sydney.

- “(c) Any other matters required to be taken into consideration by the Director-General before granting concurrence.”*

Reducing the height of the buildings would result in a reduction in the number of residential apartments and would not assist in providing residential units in a locality close to future public transport options and service in the new town centre development and would not be in the interest of housing affordability.

5.0 Conclusion and Recommendation

DFP has assessed the proposed residential flat building development against the relevant statutory provisions of Clause 4.6 of the SEPP SRGC 2006 and prepared this written request which provides written justification that compliance with the 16 metre height of building development standards is unreasonable and unnecessary in this circumstance.

The non-compliance with the building height limit is generated by both the slope of the land, the clearance height for the basement for service vehicles and the desire to minimise the extent of basement excavation.

The proposed development is consistent with the objectives of the R3 zone and the exceedance of the building height limit does not affect the proposal's consistency with the zone objectives. Similarly, the proposed development satisfies the objectives of the building height development standard under the LEP.

The exceedance of the building height limit by a maximum of 1.245m does not generate any adverse amenity impacts on the future residents of the proposed development or future adjoining development and accordingly it is considered that the proposal is in the public interest. Furthermore, compliance with the development standard would reduce the number of homes that would be provided within close proximity to the proposed North Kellyville Local Centre.

The justification within this written request is considered to be well founded and the proposed development worthy of approval.

ATTACHMENT 16 – ANALYSIS OF HEIGHT DIAGRAM

