

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2016SYW123
DA Number	1887/2016/JP
Local Government Area	THE HILLS SHIRE COUNCIL
Proposed Development	RESIDENTIAL FLAT BUILDING DEVELOPMENT CONTAINING 92 UNITS
Street Address	PROPOSED LOT 12 IN PLAN OF SUBDIVISION OF LOT A DP 343259, NOS. 178-180 HEZLETT ROAD, KELLYVILLE
Applicant/Owner	THINK PLANNERS/FOXALL LAND P/L
Number of Submissions	NIL
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	• List all of the relevant environmental planning instruments: s79C(1)(a)(i) - State Environmental Planning Policy (Sydney Region Growth Centres) 2006. - State Environmental Planning Policy (State and Regional Development) 2011. - State Environmental Planning Policy No 55 — Remediation of Land. - State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development. • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) - Nil. • List any relevant development control plan: s79C(1)(a)(iii) - 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) - Nil. • List any coastal zone management plan: s79C(1)(a)(v) - Nil. • List any relevant regulations: s79C(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288 - 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	None
Recommendation	Approval
Report by	Senior Town Planner – Special Projects Greg Samardzic
Report date	E-determination

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

EXECUTIVE SUMMARY

The Development Application is for the construction of a part three and part four storey residential flat building development containing 92 units on proposed Lot 12 in Plan of Subdivision of Lot A DP 343259 approved under Subdivision Consent No. 982/2016/ZA. The proposal provides for 24 x 1 bedroom, 66 x 2 bedroom and 2 x 3 bedroom units.

The development is proposed on the portion of the site zoned R1 General Residential under Sydney Region Growth Centres SEPP 2006 and residential flat buildings are permissible in the zone. The North Kellyville Development Control Plan sets out a minimum density of 12.5 dwellings per hectare and no FSR control is applicable to the site.

The subject site has a height limit of 9m and the proposal exceeds the height limit by a maximum of 3.3m (36.6%). The height departure of the upper level is up to 2.7m with the lift overrun exceeding the control between 1m and 3.3m. The application is accompanied by a Clause 4.6 variation to the height control. The height variation is due to

the slope of the land primarily relating to the two lift cores, fire staircases and hallways that provide direct access to the roof top common open space areas (see Attachments 10 and 13). It is considered that this design arrangement provides for an improved outcome having regard to the topography of the site and the extent of the height encroachment which is in part resultant from the provision of roof top common open space and the associated access. The total common open space areas provided on the subject site at 27.1% exceeds the minimum 15% required under the North Kellyville DCP. The increased height will have no impact upon the solar access on surrounding lots or the amenity of the area. The proposal attempts to respond to the existing topography of the site within its context and the applicant has provided a revised scheme by deleting two upper floor units to reduce the bulk of the development (see Attachment 10).

The development includes encroachments into the minimum 6m front, secondary and rear building setback requirements of the North Kellyville DCP. A minimum 4.5m articulation setback is permitted for the front setback to Thorogood Boulevard which is restricted to 50% of the façade. A minimum 4.5m front setback is proposed for 56% of the facade. There are minor building encroachments (100mm) to the splay corners and to secondary/rear boundaries. Further, balcony encroachments by 1m into the secondary street/rear boundaries are also proposed. 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 design of the development provides articulation and can be supported in this instance.

The development also includes encroachments into the minimum 12m building separation requirement to include a minimum 5.9m building separation. The proposed variation is supported as a satisfactory privacy outcome is achieved.

The approved subdivision works include the construction of Thorogood Boulevard and half road construction of Sayers Avenue where vehicle access is proposed off Thorogood Boulevard. There is a proposed change to the Indicative Layout Plan (ILP) within the North Kellyville Development Control Plan to delete Mossop Lane. The deletion of the lane will not adversely impact on traffic flow and is consistent with approved development to the north which sought to delete this laneway.

In the absence of the JRPP process the subject Development Application would be determined by Council due to the extent of the proposed height variation. The application is recommended for approval subject to conditions.

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Foxall Land P/L	1.	<u>Section 79C (EP&A Act) – Complies.</u>
Zoning:	R1 General Residential.	2.	<u>SEPP Sydney Region Growth Centres 2006 – Variation, see report.</u>
Area:	6,107m ² .	3.	<u>SEPP 65 – Design Quality of Residential Flat Development – Complies.</u>
Existing Development:	Existing residence and outbuildings.	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 – \$1,792,086.72.</u>
		8.	<u>Capital Investment Value: \$24,560,647.00.</u>

SUBMISSIONS**REASON FOR REFERRAL TO JRPP**

1. Exhibition:	Not required.	1.	Capital Investment Value in Excess of \$20 million.
2. Notice Adj Owners:	14 days.		
3. Number Advised:	75.		
4. Submissions Received:	None.		

HISTORY

15/04/2016	Subdivision Consent No. 982/2016/ZA granted for the creation of 11 residential lots, one residue lot, one road widening lot, new road and demolition.
16/06/2016	Subject Development Application lodged.
07/07/2016- 22/07/2016	Subject Development Application notified to adjoining/surrounding properties.
14/07/2016	Letter sent to the applicant requesting additional information in relation to engineering, waste management, tree management and house numbering matters.
20/07/2016	JRPP briefing held.
22/07/2016	Letter sent to the applicant requesting a reduction in building height.
17/08/2016	Additional information lodged to include deletion of two units to reduce the perceived bulk of the development.
06/09/2016	Letter sent to the applicant requesting additional engineering information.
12/09/2016	Additional information lodged.

PROPOSAL

The Development Application is for the construction of a part three and part four storey residential flat building development containing 92 units on proposed Lot 12 in Plan of Subdivision of Lot A DP 343259 approved under Subdivision Consent No. 982/2016/ZA.

The proposal provides for:

- 24 x 1 bedroom units (internal floor areas: 52m² - 64m²).
- 66 x 2 bedroom (internal floor areas: 74m² - 91m²).
- 2 x 3 bedroom units (internal floor areas of both units: 101m²).

The development is proposed on the portion of the site zoned R1 General Residential. Vehicle access is off Thorogood Boulevard which is a new road to be constructed as part of the subdivision consent. The approved subdivision works also include the half road construction of Sayers Avenue. There is a proposed change to the Indicative Layout Plan (ILP) within the North Kellyville Development Control Plan to delete Mossop Lane. The deletion of the lane will not adversely impact on traffic flow and is consistent with approved development to the north which sought to delete this laneway. All roads approved under the subdivision 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.

A landscape plan has been prepared which provides for a variety of species, ground covers, fencing and common open space embellishment where part of the common open space area will be provided on the roof top.

THE SUBJECT SITE AND SURROUNDS

The subject site is known as Nos. 178-180 Hezlett Road, Kellyville being Lot A DP 343259 and has an area of 14,710m². The site is located on the western side of Hezlett Road and the site contains a cross-fall from the eastern boundary fronting Hezlett Road to its western boundary. The site has a single storey dwelling and outbuildings.

The site is located within the North Kellyville Precinct of the Sydney Region North West Growth Centre where extensive residential development is currently being undertaken. Supporting infrastructure which includes open space areas, conservation areas, town centre land, schools, new roads and the upgrade of existing roads is currently either planned or under construction.

The surrounding properties are zoned R1 General Residential to the north, south and east. To the west, northwest and southwest, properties are zoned R2 Low Density Residential. There are two recent approvals for residential flat building developments to the north at Nos. 182-186 Hezlett Road and there are currently two separate Development Applications under assessment for a residential flat building development to the east at Nos. 227-241 Hezlett Road.

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 \$24,560,647.00 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 R1 General 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 4,000m ²	6,107m ² .	Yes.
4.1B Residential density.	Minimum 12.5 dwg/ha.	115 dwg/ha.	Yes.
4.3 Height of buildings.	9m.	Max. 12.3m.	No – see comments below.
4.4 Floor space ratio	N/A	N/A	N/A
4.6 Exceptions to development standards.	Exceptions will be considered subject to appropriate assessment.	Variation proposed to height is 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 has a 9m height limit and the maximum height of the development is 12.3m. The height departure of the upper level is up to 2.7m with the lift overruns exceeding the height control between 1m and 3.3m (see Attachment 16).

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

The majority of the residential flat building complies with the maximum building height control with the upper portions and the lift overruns of the building exceeding the 9m height control as demonstrated by the submitted height diagram analysis. The non-compliances are a result of the topography of the site and the residential flat buildings have been carefully designed taking into account the attributes of the site. The desire to provide lift cores in appropriate locations contributes to the maximum extent of the variation and the topography of the site lends itself to a partial fourth level. The encroachments to the building height control have no significant adverse impact on neighbouring properties.

The proposal is in close proximity to the future North Kellyville Local Centre and the extent of non-compliance represents an appropriate higher density on the site which is a low rise residential flat building. The impacts from overshadowing, visual impact and loss of privacy are manageable. The proposal provides for an appropriate building form that is consistent with the objectives of the zone and other recent residential flat building development approvals. The development provides an appropriate transition to the surrounding R2 Low Density Residential zoned allotments with the building presenting to Thorogood Boulevard as a three storey building. The proposal provides for an appropriate height on the site that provides for a high quality urban form to contribute to building diversity across the precinct.

Strict compliance with the prescriptive height requirement is unreasonable and unnecessary in this instance. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable amenity impacts on the surrounding locality.

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 as 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 height variation is due to the slope of the land which is primarily related to the two lift cores, fire staircases and hallways that provide access to the roof top common open space areas (see Attachments 10 and 13). It is considered that this design arrangement provides for an improved outcome as opposed to providing a fully complying development in relation to building height. The total common open space areas provided on the subject site at 27.1% exceeds the minimum 15% required under the North Kellyville DCP. The proposal attempts to respond to the existing topography of the site within its context and the applicant has provided a revised scheme by deleting two upper floor units to reduce the bulk of the development (see Attachment 10).

The scheme results in a three storey presentation to Thorogood Boulevard with only a small portion of the development presenting as a stepped four storey development to Sayers Avenue and to the northern boundary. The development as amended will provide a satisfactory transition to surrounding R2 Low Density Residential zoned areas and is appropriately stepped. The development incorporates a variety of finishes/colours to reduce the perceived bulk of the development and will result in an appropriate urban outcome. The non-compliance does not result in any adverse amenity and streetscape impacts. 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, 27.1% and satisfactory amount of sunlight provided.
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, 17.5%.
Separation	For habitable rooms, 12m up to 4 storeys. For non-habitable rooms, 6m up to 4 storeys.	No, min. 5.9m separation.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements,	Yes, provided.

	screening and similar.	
Car Parking	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: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).	Not located within a metropolitan sub-regional centre. The proposed 112 car parking spaces meet the minimum DCP requirement of 112 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, 71%.
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	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.	Yes, 2.7m.
Apartment size	Apartments are required to have the following internal size: Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.	Yes, 24 x 1 bedroom units (internal floor areas: 52m² - 64m²). 66 x 2 bedroom (internal floor areas: 74m² - 91m²). 2 x 3 bedroom units (internal floor areas of both units: 101m²).
Apartment layout	Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height. In open plan layouts the maximum habitable room depth is 8m from a window.	Yes, provided.

Balcony area	The primary balcony is to be: Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.	Yes, all balconies provide the required area.
Storage	Storage is to be provided as follows: Studio – 4m³ 1 bedroom – 6m³ 2 bedroom – 8m³ 3+ bedrooms – 10m³ 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, 24 x 1 bedroom units. 66 x 2 bedroom units. 2 x 3 bedroom units.

a. Separation

The ADG requires a building separation of 12m up to 4 storeys for habitable rooms and for non-habitable rooms, a minimum 6m separation. A minimum 5.9m separation is proposed.

The applicant has submitted the following justification:

A minimum 5.9m separation is provided and despite the reduced setbacks appropriate privacy is maintained due to the use of offset windows. The majority of rooms with the reduced setbacks proposed are secondary living areas such as bedrooms and bathrooms.

Comment:

The relevant aims are:

- *Ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings.*
- *Assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.*
- *Provide suitable areas for communal open spaces, deep soil zones and landscaping.*

The proposed building separation is due to the shape and design of the building. The extent of the separation varies considerably and the areas of non-compliance (between 5.9m – 11m) occur at the Thorogood Boulevard and Hezlett Road entrances. The 5.9m separation involves bathroom windows facing each other and the 11m separation involves bedroom windows facing each other. An appropriate built form articulation is provided for without unreasonably impacting on the privacy/amenity levels on future residents. The building is appropriately massed in accordance with the desired scale of the precinct.

The variation is further addressed through the introduction of privacy or directional screening to windows and incorporating areas of solid walls between the bedroom habitable rooms. High level bathroom windows are provided and will also incorporate translucent glazing to maintain privacy. The proposal satisfies the above aims and is supported in this instance.

Design Principles

A Design Verification Statement was prepared by Kann Finch Group and the subject Development Application has been assessed against the relevant design quality principles contained within the SEPP as follows:

(i) Context and Neighbourhood Character

The site is located in the North Kellyville Release Area and the development is consistent with the future desired character of the area. The site is separated by existing and future roads on three sides. The surrounding properties are zoned R1 General Residential to the north, east and south. To the west, northwest and southwest, properties are zoned R2 Low Density Residential. There are two recent approvals for residential flat building developments to the north at Nos. 182-186 Hezlett Road and there are currently two separate Development Applications under assessment for a residential flat building development to the east at Nos. 227-241 Hezlett Road.

The area can be described as one which is undergoing significant change. This context is likely to evolve further over time as adjoining and surrounding sites are to be developed.

(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 appropriate materials and high quality landscaping are achieved. The height of the development is acceptable in terms of solar access and amenity impacts. The proposal responds to the existing topography of the site. The height ensures that the development responds to the desired future scale and character of the site where the proposal is consistent with other recent approved developments in the precinct.

The setbacks allow for sufficient landscape areas, entrances and deep-soil zones. The proposed setbacks provide for satisfactory distances to boundaries, to form active street frontages and adequate open space areas for recreation. The proposed development addresses privacy and open space provision.

(iii) Density

The proposal provides an appropriate built form outcome which achieves the minimum density requirements of 12.5 dwg/ha required under the SEPP. The proposed density is 115 dwg/ha and the proposal is consistent with other similar development within the area. The proposed development is suitable given the zoning and location close to a town centre.

(iv) Sustainability

The design achieves good natural ventilation and will contribute significantly to the reduction of energy consumption, use of valuable resources and costs. A BASIX certificate has been lodged and the energy rating of the residential units satisfies the BASIX requirements.

(v) Landscape

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

(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 design incorporates satisfactory access/circulation, apartment layouts, ceiling heights, private open space, common open space, energy efficiency rating, adaptability, safety, security and site facilities.

(vii) Safety

The development has been designed with safety and security concerns in mind. The common open spaces allow for passive surveillance. 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 are imposed to further assist in the promotion of safety/security.

(viii) Housing Diversity and Social Interaction

The development provides for a diverse range of units within a new precinct. 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 into smaller segments. The bulk of the overall building is reduced by the articulation of the facades, creating smaller segments in order to minimise the overall 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.*

A phase 2 contamination assessment of the site has occurred due to potential contaminating activities that may have arisen from past or present activities. The site has

been used as a rural residential property and an earthworks machinery storage area. Contaminants such as heavy metals, hydrocarbons and asbestos were found however there were some inaccessible areas to conduct testing due to the numerous trees on the site. The assessment concluded that the site can be made suitable for residential development subject to the removal of the contaminants/asbestos and to ensure the inaccessible areas are tested for when the trees are removed.

Appropriate conditions are recommended to require further investigation work and that no Construction Certificate be issued until a final validation report is submitted (refer to Condition Nos. 11, 23, 31, 49, 63 and 85).

5. Compliance with the North Kellyville Development Control Plan

The approved subdivision works include the construction of Thorogood Boulevard and half road construction of Sayers Avenue where vehicle access is proposed off Thorogood Boulevard. There is a proposed change to the Indicative Layout Plan (ILP) within the North Kellyville Development Control Plan to delete Mossop Lane. The deletion of the lane will not adversely impact on traffic flow and is consistent with approved development to the north which sought to delete this laneway.

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 12.5 dwg/ha) - 4,000m ² .	6,107m ² .	Yes
Section 4.3.4 – Table 18 Minimum Frontage.	30m.	87.785m to Nightcap Street.	Yes
Minimum Adaptable Dwellings.	10%.	10%.	Yes
Minimum Landscape Area	30%.	31%.	Yes
Maximum Site Coverage.	50%.	44.7%.	Yes
Minimum Communal Open Space.	15%.	27.1%.	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. 4.5m at 56% of the façade.	No, refer below.
Minimum Corner Lots Secondary	6m	Minor balcony encroachments by 1m	No, refer below.

Street Setback		into the secondary road frontages. Min. 5.9m building setback at splay corner and Sayers Avenue.	
Side/Rear Setback	6m	NA	NA
Minimum Habitable Room Separation.	12m	Min. 5.9m.	No, refer below.
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	112 spaces required. 112 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 rear 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 building setbacks with the exception of the proposed minimum 4.5m front setback being at 56% of the total front façade, a minimum 5.9m splay building setback to the secondary Sayers Avenue frontage, a minimum 5.9m building setback to the secondary/rear boundaries and a minimum 5m balcony setback to the secondary street frontages and the rear northern boundary (refer to Attachment 11).

Comment:

The applicant has justified the setback variations as follows:-

The balconies encroach into the 6m zone by up to 1m. The setbacks are appropriate to activate the street noting that the proposal achieves the site coverage and landscape requirements. The balconies provide articulation and a degree of visual interest to the building.

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 significant adverse impacts on adjoining properties and they add to the articulation of the building façade. The setbacks have been designed to ensure that there is an appropriate landscape setting for the development with satisfactory landscaping works proposed within the setback areas. There will be no adverse visual impacts as deep soil plantings are provided for around the perimeter of the development. The proposed setbacks are satisfactory and can be supported.

b) Separation

The North Kellyville DCP requires a minimum 12m separation between habitable rooms. The design complies with the 12m separation requirement with the exception of providing a separation of between 5.9m - 11m at the Thorogood Boulevard and Hezlett Road entrances. For the same reasons discussed under section 3 of this report, the proposed variation to building separation is supported due to the satisfactory internal design of the individual units which address any concerns relating to privacy. The buildings are appropriately massed in accordance with the desired scale of the precinct. The proposal satisfies the above objectives and is supported in this instance.

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 24 x 1 bedroom units (26.1% of the total).
- (b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms – there are 2 x 3 bedroom units (2.2% of the total).

Proposed unit sizes are:

Unit Type	Size	No. of Units	Type
1 bedroom	52m ² - 64m ²	24	Type 1
2 bedroom	74m ² - 81m ²	54	Type 1
2 bedroom	91m ²	12	Type 2
3 bedroom	101m ²	2	Type 1

- (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 (87% 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 (13% 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 mix and 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 and size of units to meet the future needs of residents.

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 are payable for the 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

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

WASTE MANAGEMENT COMMENTS

Council's Resource Recovery Project Officer has assessed the proposal and raised no objections subject to conditions.

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, separation and setback controls have been addressed and it is considered that the application is worthy of support. No submissions have been received as part of this application and 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
-	Cover Sheet	-	16.08.16

DA1.01	Basement 1	F	16.08.16
DA1.02	Lower Ground	I	09.09.16
DA1.03	Upper Ground	H	16.08.16
DA1.04	Level 1	H	16.08.16
DA1.05	Level 2	H	16.08.16
DA1.06	Roof Plan	D	16.08.16
DA1.07	Building Separation and Visual Privacy	A	16.08.16
DA1.10	Section	F	16.08.16
DA1.11	Section	F	16.08.16
SK 1.02	Sections	-	-
DA1.20	Elevation	F	16.08.16
DA1.21	Elevation	F	16.08.16
DA1.30	Material Board	C	16.08.16
DA1.31	Elevations with Materials	C	16.08.16
DA1.32	Elevations with Materials	C	16.08.16
LS 1.01	Master Plan/Key Plan	A	15.08.2016
LS 1.02	Landscape Plan – Lower Ground	A	15.08.2016
LS 1.03	Landscape Plan – Upper Ground	A	15.08.2016
LS 1.04	Landscape Plan – Level 2 Rooftop Plan	A	15.08.2016
LS 1.05	'Key Area' Detail Plans – Lower Ground Entry Garden and Communal Garden	A	15.08.2016
LS 1.06	'Key Area' Detail Plans – Upper Ground Entry Garden and Level 2 Rooftop Communal Garden	A	15.08.2016
LS 1.07	Plant Schedules & Matrices	A	15.08.2016
LS 1.08	Planting Plan – Lower Ground	A	15.08.2016
LS 1.09	Planting Plan – Upper Ground	A	15.08.2016
LS 1.10	Planting Plan – Level 2 Rooftop	A	15.08.2016
LS 1.11	Sections	A	15.08.2016
-	House Numbering Plans	-	-

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 112 off-street car parking spaces comprising 19 visitor spaces. These spaces shall be available for off street parking at all times.

6. Accessibility and Adaptability

The access for people with a disability report dated 01-06-2016 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.
- Devices are to be fitted to enable windows to be locked at 12.5cm when the devices are engaged

8. Property Numbering for Multi Unit Housing Developments

The responsibility for property numbering is vested solely in Council.

The property and mailing addresses for this development are:

Units 1-12; 101-116; 201-216 / 8 Thorogood Boulevard Kellyville
Units 13-26; 117-132; 217-234 / 180 Hezlett Road Kellyville

Approved unit numbering is as per plans submitted marked DA1.02 - DA1.05 - Revision H. Unit numbering cannot be repeated throughout the development.

These numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door/lift 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. Imported 'Waste Derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); or
- any other waste-derived material the subject of a resource recovery exemption under clause 51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

10. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Rodney Stevens Acoustics, referenced as 150413R1 Revision 0, dated 18 December 2015 and submitted as part of the Development Application are to be implemented as part of this approval. In particular: The noise control recommendations provided within section 5.3.

11. Contamination Assessment and Site Remediation

The recommendations of the *Stage 2 Contamination Assessment at No. 66 Hezlett Road, Kellyville, prepared by Ground Technologies Pty Ltd*, referenced as GTE726, dated 13 December 2015 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

1. Excavation and removal of soils at BH4 with elevated levels of total petroleum hydrocarbons;
2. Further contamination assessment of soils beneath features that were determined to be inaccessible at the time of the report;
3. The development of a 'site management plan' for proposed asbestos removal; and
4. Final validation of the subject site including validation of lot 12.

12. Adherence to Construction and Demolition Waste Management Plan

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

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

13. Management of Construction and Demolition Waste

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

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

14. 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.

15. Commencement of Domestic Waste Service

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

16. Construction of Garbage Holding Area and Garbage Room

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

1. The garbage holding area must be of adequate size to comfortably store and manoeuvre a minimum of 11 x 1100 litre bulk garbage bins and 9 x 660 litre bulk recycling bins.
2. The garbage room must be of adequate size to comfortably store and manoeuvre a minimum of 5 x 1100 litre bulk garbage bins and 4 x 660 litre bulk recycling bins.
3. The layout of both areas must ensure that each bin is easily accessible and manoeuvrable in and out of the area with minimal or no manual handling of other bins.
4. The walls of both areas must be constructed of brickwork.
5. The floor of both areas must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
6. Both areas must have a minimum of one waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors.
7. Both areas must have a minimum of one suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are

single or double swinging doors. The resident access door should be outside of the truck loading bay area.

8. All doors of the areas, when fully opened, must be flush with the outside wall and must not block or obstruct vehicle access or footways. All doors must be able to be fixed in position when fully opened.
9. Both areas must be adequately ventilated (mechanically). Natural ventilation measures should also be taken. Ventilation should not be connected to the same ventilation system supplying air to the units.
10. Both areas must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the areas, it is not to conflict with the space designated for the placement of bins.
11. Both areas must be provided with an internal light (artificial).
12. The maximum grade acceptable for moving bins for collection purposes is 7% (5% for bulk bins). Under no circumstance are these grades to be exceeded. They are to allow safe manoeuvring and servicing of the full bins by waste collection operators.
13. Both areas must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Owners Corporation.
14. Finishes and colours of both areas must complement the design of the development.

Bin measurements (mm): 660 litre: 850 (d) 1370 (w) 1250 (h) 1100 litre: 1245 (d) 1370 (w) 1470 (h)

17. Provision of Bulky Goods Area

A separate room or caged area must be provided adjacent to the loading/ service zone for the interim storage and management of unwanted bulky items. The minimum floor area for this area shall be 8 cubic metres.

18. 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. All manoeuvring areas must have a minimum clear vertical clearance of 3.5m. Waste collection vehicles must be able to enter and exit the site in a forward direction with minimal or no need for reversing to collect waste. Reversing is restricted to a single reverse entry movement into the approved loading/ service zone. The loading/ service zone must provide extra space than that in the standard for access and loading.

NOTE: The loading/ service zone must be clearly line marked including pedestrian paths around areas designated for vehicle access and loading. Sufficient measures must also be taken to ensure safety.

19. Security Shutter – Waste Collection

The selected security shutter must include specifications that enable waste collectors to enter and exit the site without the need to exit their vehicles. A remote key is acceptable.

20. Communal Composting Areas

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

21. Tree Removal

Approval is granted for the removal of all trees within the subject site with the exception of trees 158, 159, 161, 177, 178, 179, 197, 198 which are to be retained, as recommended in the Arboricultural Impact Assessment prepared by Redgum Horticultural, dated 2/12/2015.

Suitable replacement trees are to be planted upon completion of construction.

22. Retention of Trees

Trees numbered 158, 159, 161, 177, 178, 179, 197, 198 are to be retained, as recommended in the Arboricultural Impact Assessment prepared by Redgum Horticultural, dated 2/12/2015. These trees are to be protected in accordance with Hills Shire Council's Protection of Existing Trees condition.

23. Further Contamination Assessment

A contamination assessment of the soils shall be carried out in areas that were inaccessible at the time of the initial contamination assessment. A copy of the assessment shall be submitted to Council's Manager – Environment & Health.

24. Water Sensitive Urban Design

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

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

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

25. 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.

26. 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.

27. 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.

28. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

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

29. Gutter and Footpath Crossing Application

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

30. 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 driveways 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) Footpath Verge Formation

The grading, trimming, topsoiling and turfing of the footpath verge fronting the development site is required to ensure a gradient between 2% and 4% falling from the

boundary to the top of kerb is provided. This work must include the construction of any retaining walls necessary to ensure complying grades within the footpath verge area. All retaining walls and associated footings must be contained wholly within the subject site. Any necessary adjustment or relocation of services is also required, to the requirements of the relevant service authority. All service pits and lids must match the finished surface level.

d) Site Stormwater Drainage

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

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 rainwater tanks and bio retention basins are to be located generally in accordance with the latest revision of Engineering Plans prepared by SGC Consultants Pty Ltd and the WSUD Report Issue B dated 6 September 2016 by SGC Consultants 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 proposed water sensitive urban design strategy 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/>

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

31. Validation Report

Prior to the issue of a Construction Certificate, a final validation report is to be prepared by an EPA accredited site auditor and submitted to Council's Manager – Environment and Health confirming that the soils comply with National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended) and are suitable for residential use. The validation report must include the following:

- The degree of contamination originally present;
- The type of remediation that has been completed; and
- A statement which clearly confirms that the land is suitable for the proposed use.

32. 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: 24	No. of 2 Bedroom Units: 66	No. of 3 Bedroom Units: 2	Sum of Units	No. of Credits: 1	Total \$94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 140,519.04	\$ 676,406.94	\$ 27,816.76	\$ 844,742.74	\$ 13,908.38	\$ 830,834.36
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 21,952.32	\$ 105,670.62	\$ 4,345.62	\$ 131,968.56	\$ 2,172.81	\$ 129,795.75
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 11,106.48	\$ 53,461.98	\$ 2,198.60	\$ 66,767.06	\$ 1,099.30	\$ 65,667.76
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 82,681.20	\$ 397,996.50	\$ 16,367.34	\$ 497,045.04	\$ 8,183.67	\$ 488,861.37
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 20,567.76	\$ 99,005.28	\$ 4,071.52	\$ 123,644.56	\$ 2,035.76	\$ 121,608.80
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 9,039.84	\$ 43,514.46	\$ 1,789.50	\$ 54,343.80	\$ 894.75	\$ 53,449.05
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 4,691.76	\$ 22,583.88	\$ 928.76	\$ 28,204.40	\$ 464.38	\$ 27,740.02
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 11,430.00	\$ 55,019.58	\$ 2,262.66	\$ 68,712.24	\$ 1,131.33	\$ 67,580.91
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 1,107.60	\$ 5,331.48	\$ 219.24	\$ 6,658.32	\$ 109.62	\$ 6,548.70
Total	\$ 12,629.00	\$ 22,105.92	\$ 30,000.00	\$ 30,000.00	\$ 303,096.00	\$ 1,458,990.72	\$ 60,000.00	\$ 1,822,086.72	\$ 30,000.00	\$ 1,792,086.72

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.

33. 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 Growths 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.

34. 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.

35. Design Verification

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

36. Protection of Internal Noise Levels (Residential 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.

In particular the acoustic statement shall detail that all recommendations contained within section 5.3 of the *Development Application Road Traffic Noise Assessment* prepared by *Rodney Stevens Acoustics*, with reference number 150413R1, and dated 18 December 2015, have been included in the construction plans of the development.

37. Acoustic Consultant – Mechanical Ventilation Building Design

An appropriately qualified acoustic consultant shall be engaged to certify that the design of the mechanical ventilation provided to the basement carpark and mechanical ventilation provided to the apartments listed in section 5.3 of the *Development Assessment Road Traffic Noise Assessment* prepared by *Rodney Stevens Acoustics*, referenced as report number 150413R1, Revision 0, dated 18 December 2015, will not create offensive noise and the acoustic amenity of the neighbouring apartments and neighbouring properties will be maintained.

38. Internal Pavement Structural Design Certification

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

39. 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.

40. 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.

41. 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 \$229,000.00 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 (450m) 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.

42. Water Sensitive Urban Design Elements - Bio retention and Rainwater Reuse Tank (North Kellyville)

The construction certificate issued for this development must include the bio retention area and rainwater reuse tank conditioned earlier in this consent.

PRIOR TO WORK COMMENCING ON THE SITE

43. Principal Certifying Authority

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

44. 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.

45. 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.

46. 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.

47. 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).

48. Site Water Management Plan

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

49. Demolition Works and Asbestos Management

The demolition of any structure is to be carried out in accordance with the Work Health and Safety Act 2011. All vehicles transporting demolition materials from the site are to have covered loads and are not to track any soil or waste materials on the road. Should demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoard or fence. All demolition works involving the removal and disposal of asbestos (of an area more than 10 square metres) must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au. Asbestos removal must be carried out in accordance with the WorkCover, Environment

Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

50. Discontinuation of Domestic Waste Services

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

51. Protection of Existing Trees

The trees that are to be retained are to be protected during all works strictly in accordance with AS4970- 2009 Protection of Trees on Development Sites.

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

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

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

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

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

52. Traffic Control Plan

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

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

53. Erection of Signage – Supervision of Work

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

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

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

54. Contractors Details

In accordance with Section 109E(3) of the Environmental Planning and Assessment Act 1979, the contractor carrying out the subdivision works must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. The policy must

indemnify Council from all claims arising from the execution of the works. A copy of this insurance must be submitted to Council prior to works commencing.

55. Sediment and Erosion Control

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

56. 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.

57. 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

58. 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.

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

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

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

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

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

60. 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.

61. Rock Breaking Noise

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

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

62. Construction Noise

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

63. 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.

64. 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.

65. 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.

66. 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.

67. 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.

68. 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.

69. 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.

70. 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

71. 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.

72. 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.

73. 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.

74. 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.

75. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report, Section 5.3, and titled *Development Assessment Road Traffic Noise Assessment at 66 Hezlett Road, Kellyville* prepared by *Rodney Stevens Acoustics*, referenced as report 150413R1, Revision 0, dated 18 December 2015. Certification is to be provided.

76. Internal Pavement Construction

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

77. Final Inspection of Waste Storage Areas

Prior to an Occupation Certificate being issued, a final inspection of the waste storage areas and management facilities must be undertaken by Council. This is to ensure compliance with Council's design specifications as specified in other conditions of this consent and that necessary arrangements are in place for waste collection by Council.

78. Landscaping Prior to Issue of Occupation Certificate

Landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) in accordance with the approved Landscape Plans prepared by KannFinch, dated 15.08.16. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and these approved landscape plans.

79. 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.

80. 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.

81. 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.

82. 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 Hezlett 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 – 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.

d) 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.

e) 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.

83. 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.

84. Bio retention / Rainwater Tanks (North Kellyville)

An Occupation Certificate must not be issued prior to the completion of the bio retention and rainwater reuse tank required by this consent.

85. Registration of Subdivision

The registration of the preceding subdivision Development Consent DA 982/2016/ZA by the applicant must occur, prior to an Occupation Certificate being issued.

THE USE OF THE SITE

86. 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*.

87. Final Acoustic Report

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

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

88. 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.

89. Waste and Recycling Management

A caretaker must be engaged by the Owners Corporation to move bins to and from the garbage room and the garbage holding area for waste collection purposes. All waste servicing instructions from Council must be complied with at all times. The caretaker should also be responsible for keeping the garbage room and garbage holding area clean, tidy and free of litter at all times. Note that kerbside collection of wastes is not permitted without the previous written approval of Council.

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. Basement 1 Plan
7. Lower Ground Floor Plan
8. Upper Ground Floor Plan
9. Level 1 Floor Plan
10. Level 2 Floor Plan
11. Proposed Variations to Setbacks
12. Proposed Variations to Separation
13. Elevations and Sections
14. Landscape Plans
15. Clause 4.6 Variation
16. Analysis of Height Diagram

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

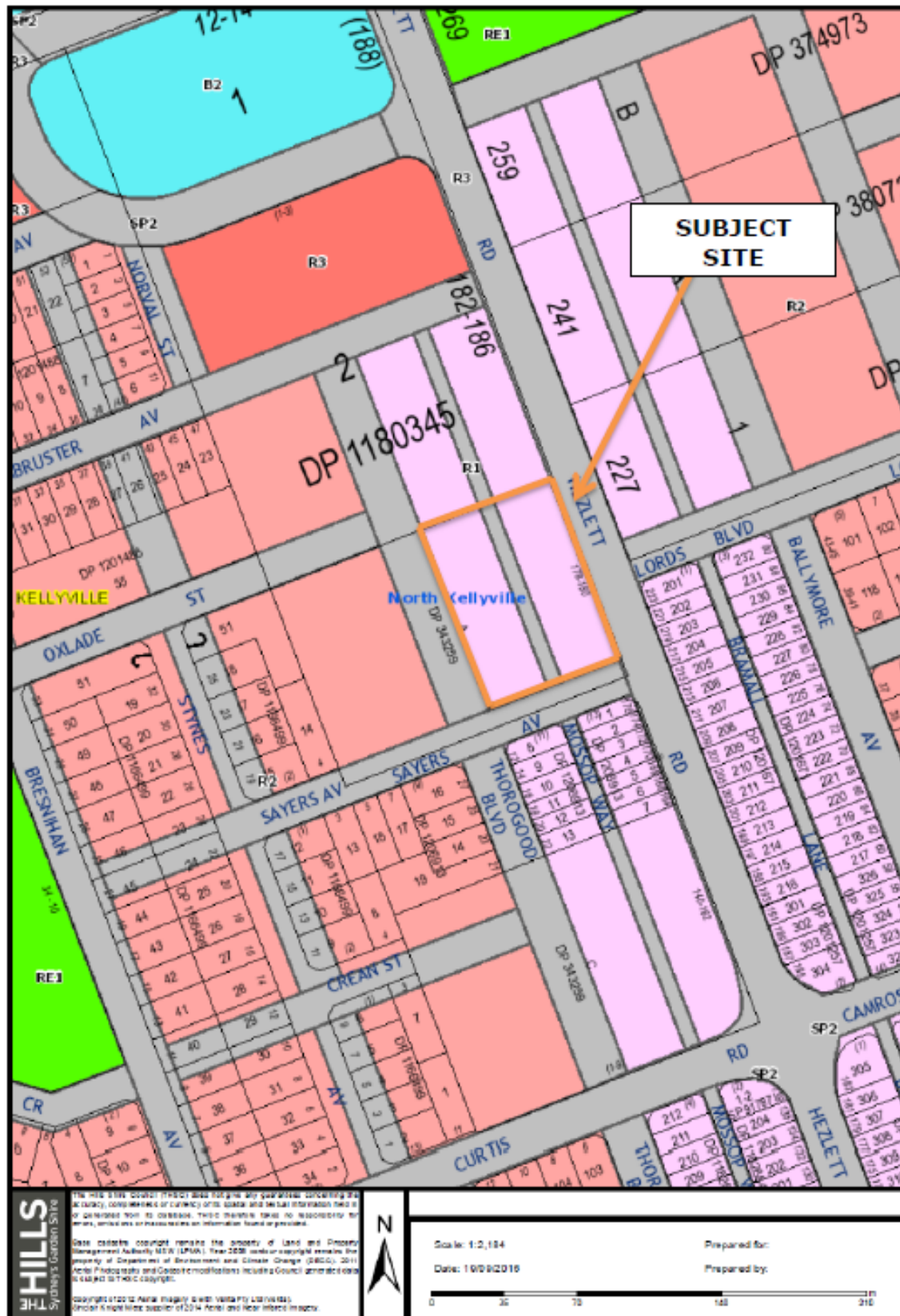
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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

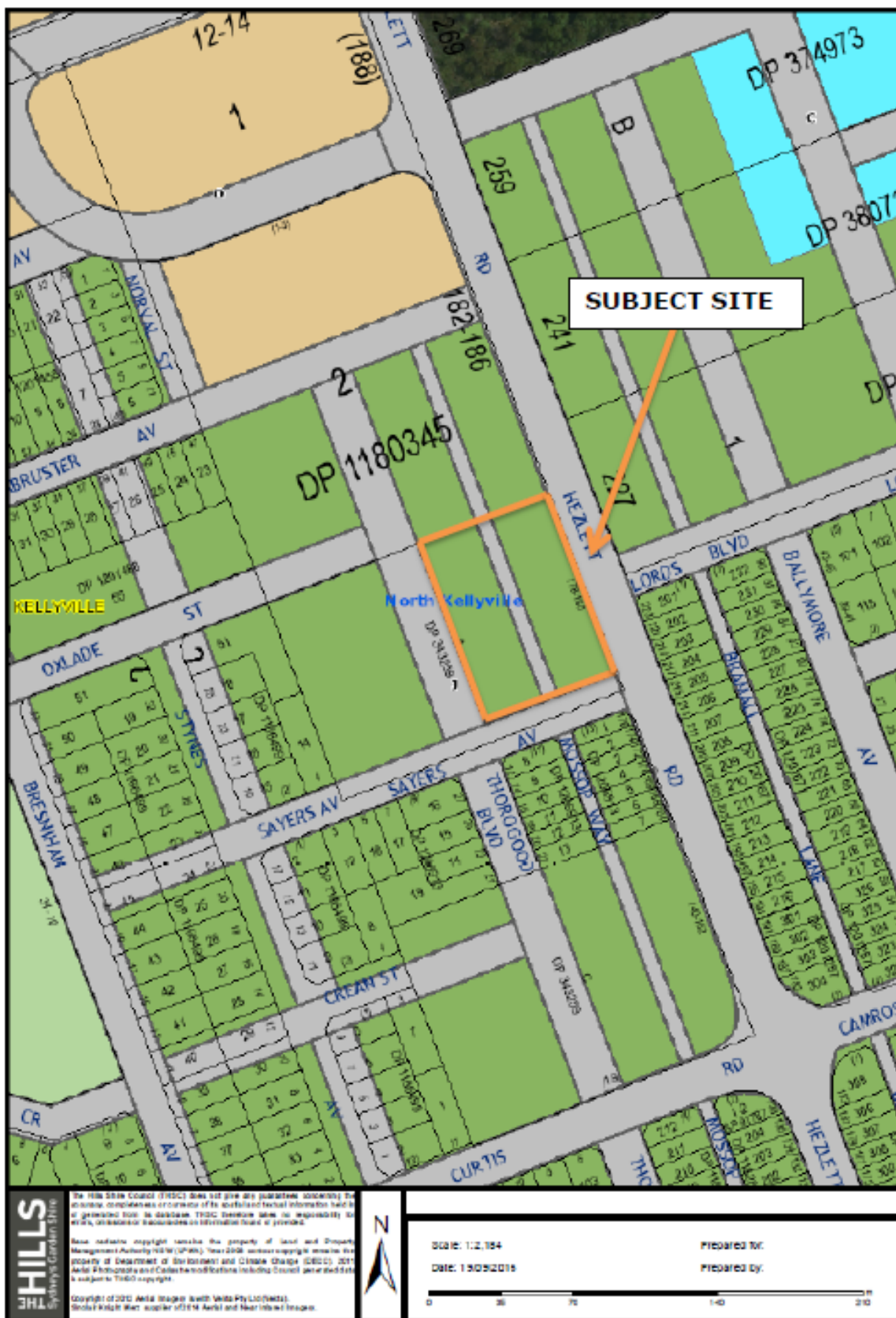
ATTACHMENT 2 – AERIAL PHOTOGRAPH



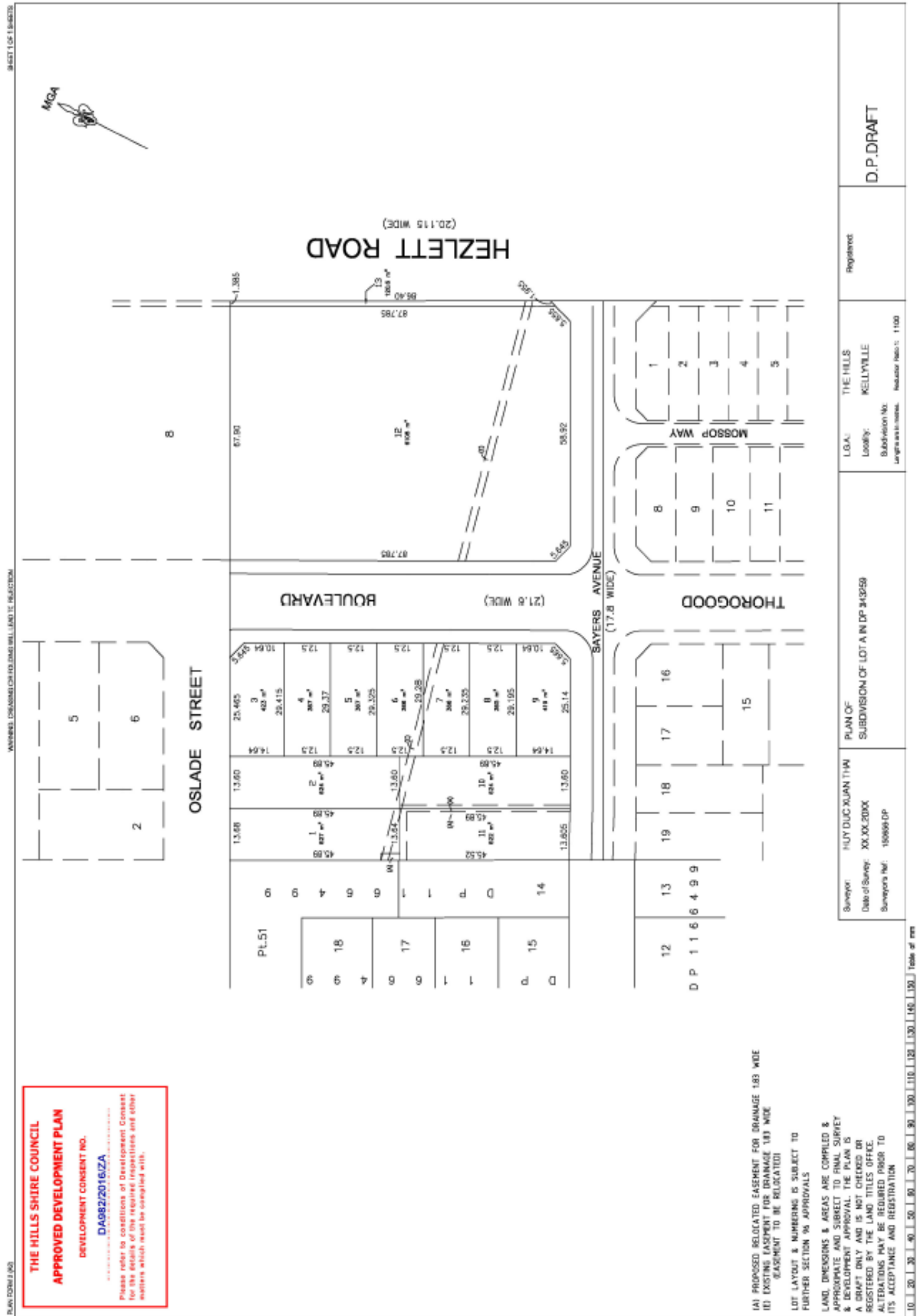
ATTACHMENT 3 – SEPP ZONING AND DCP ROAD LAYOUT MAP



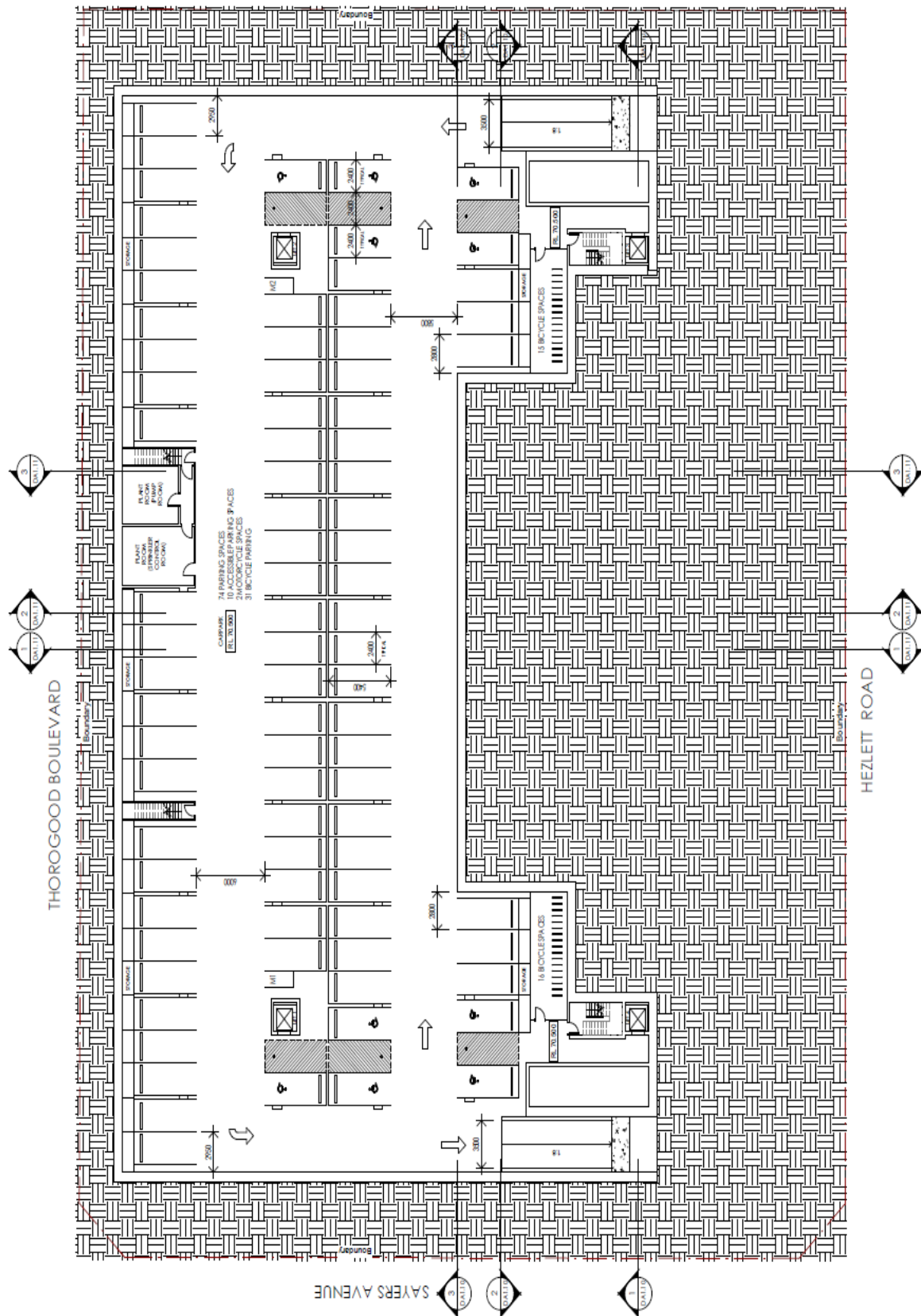
ATTACHMENT 4 – SEPP HEIGHT LIMIT MAP



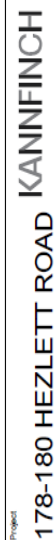
ATTACHMENT 5 – APPROVED SUBDIVISION PLAN



ATTACHMENT 6 – BASEMENT 1 PLAN



Drawing
Lower Ground



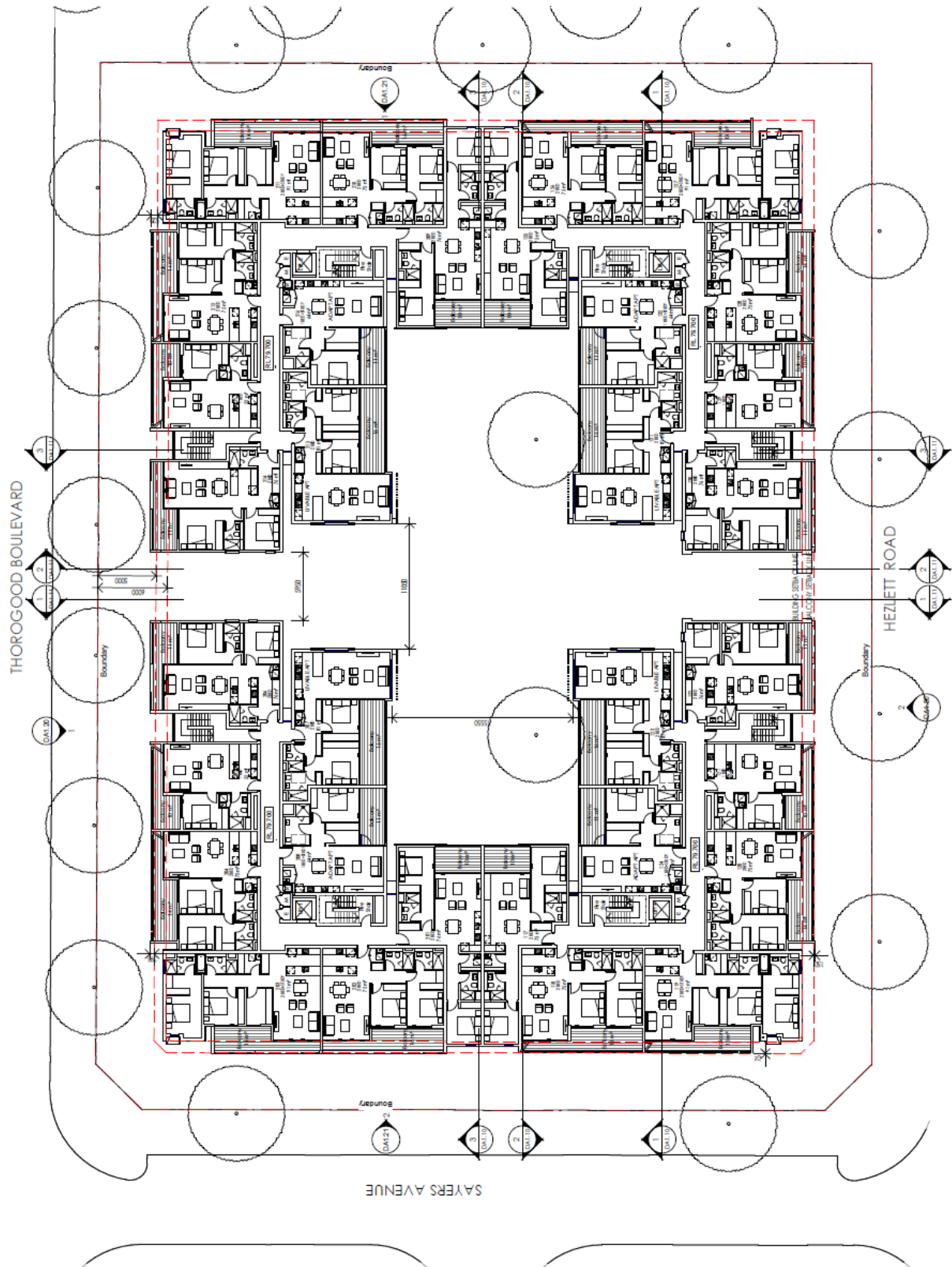
Kenn Findh Group Pty Ltd 50 Carrington St Sydney NSW 2000
ACN 139 614 798 Tel +61 2 929 94111 www.kennfindh.com
Nominated Architect: Stephen Jamison NSW ARES Reg No 5108

Kellyville NSW 2155

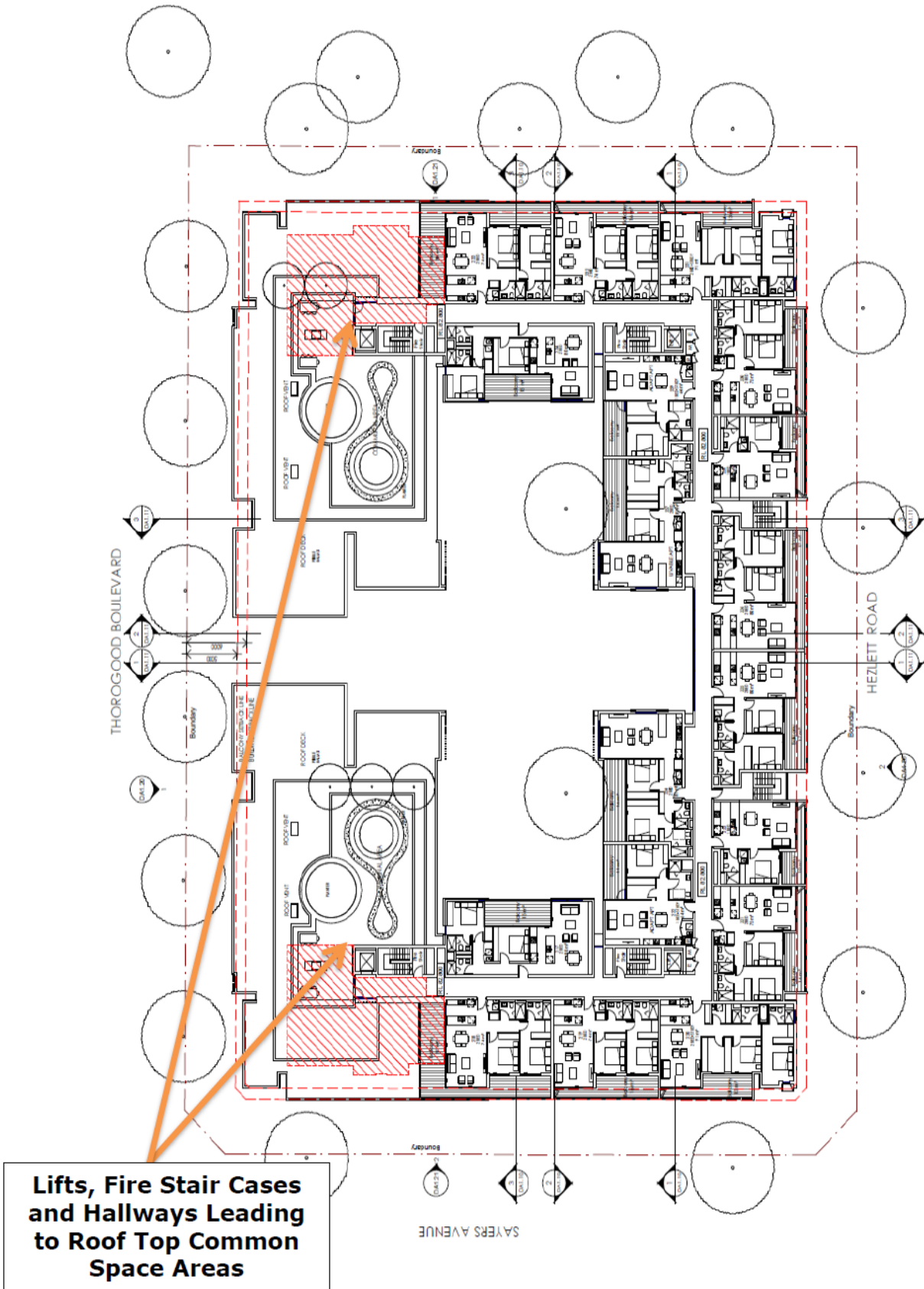
Scenes	Drawn ME
As indicated @ A1	

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ATTACHMENT 9 – LEVEL 1 FLOOR PLAN



ATTACHMENT 10 – LEVEL 2 FLOOR PLAN



The site plan shows a large, rectangular building complex with a central courtyard. The building is divided into several wings, each containing multiple residential units. The plan includes setbacks from the surrounding streets: Thorogood Boulevard to the north, Sayers Avenue to the south, and Hazlett Road to the east. A red dashed line indicates the building's footprint. Two orange arrows point to specific areas of the building's facade, with callouts indicating a minimum 4.5m articulation zone exceeding 50% of the facade and a minimum 6m setback. The plan also shows landscaping with trees and a parking area.

Min. 4.5m Articulation Zone Exceeding 50% of Facade

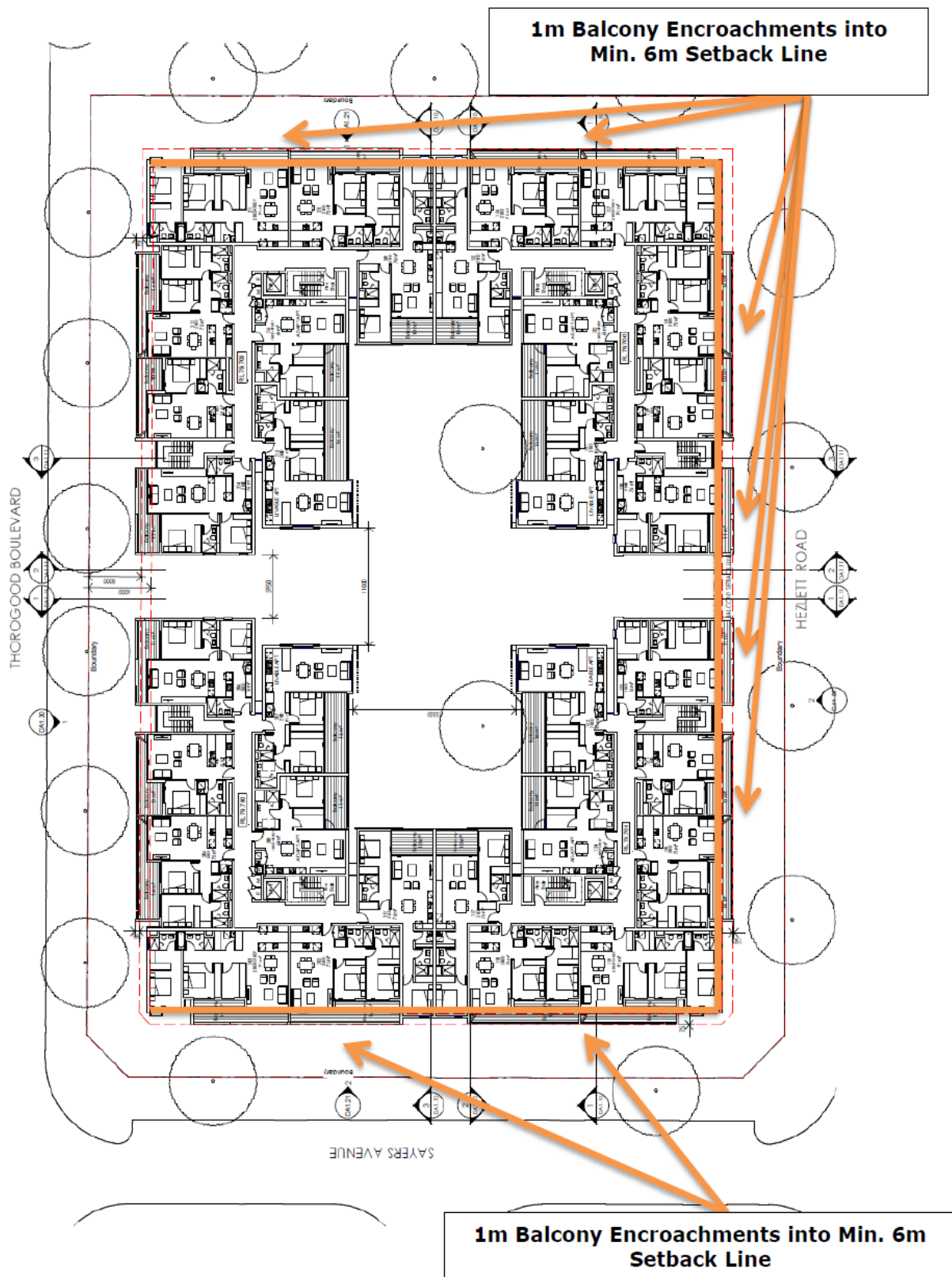
Min. 6m Setback

THOROGOOD BOULEVARD

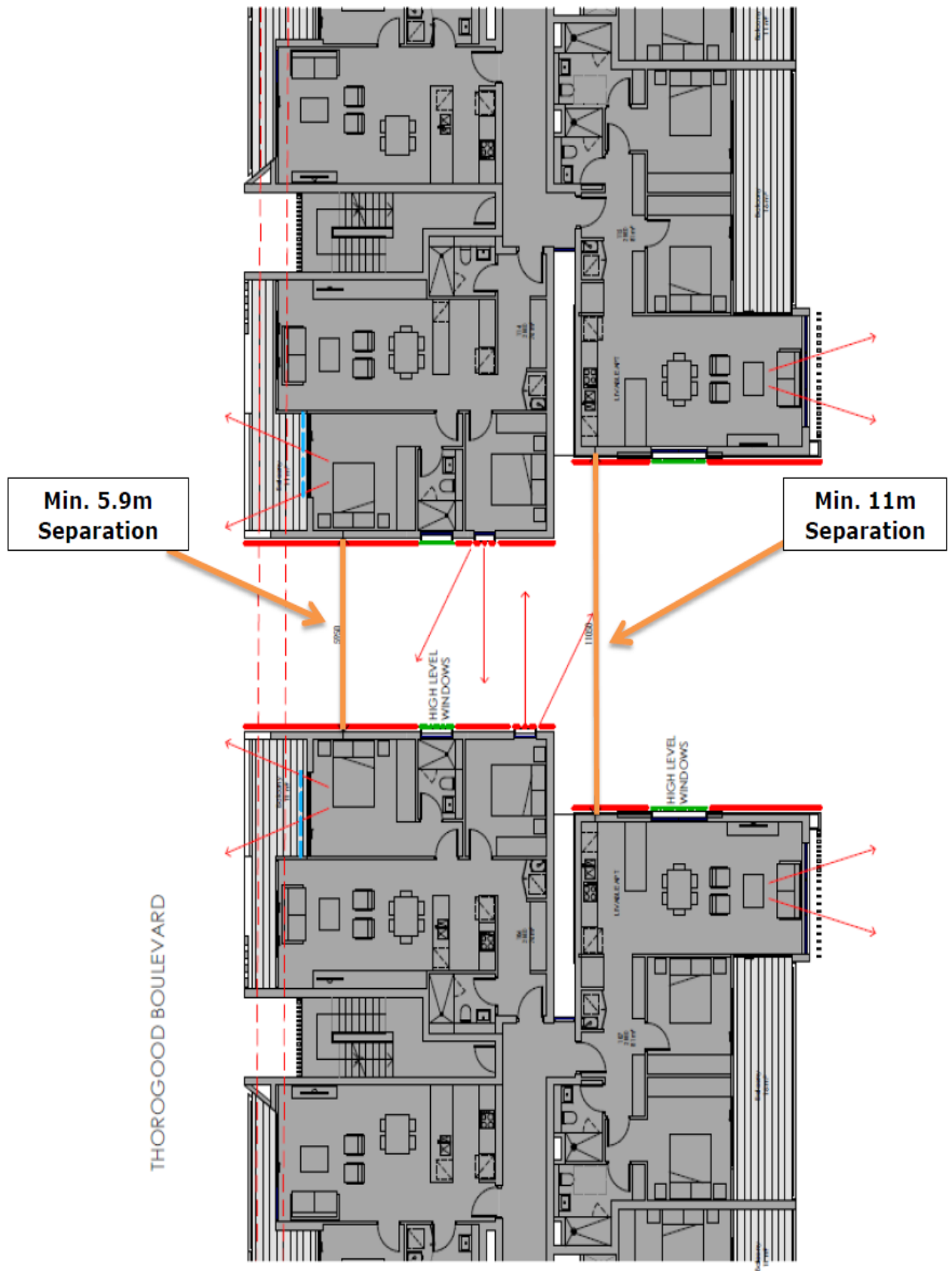
HAZLETT ROAD

SAYERS AVENUE

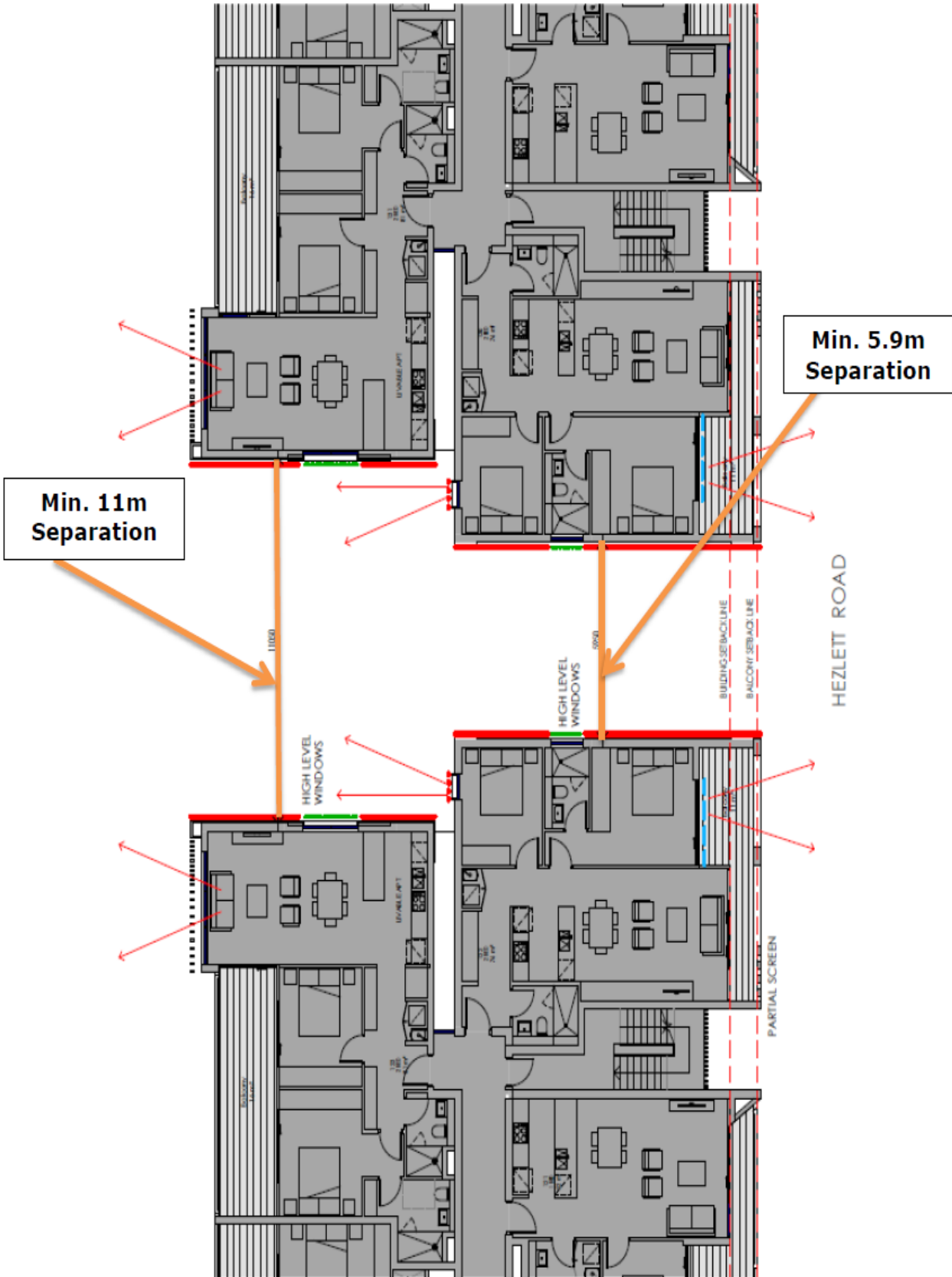
ATTACHMENT 11 – PROPOSED VARIATIONS TO SETBACKS



ATTACHMENT 12 – PROPOSED VARIATIONS TO SEPARATION



ATTACHMENT 12 – PROPOSED VARIATIONS TO SEPARATION



This architectural elevation drawing shows a modern building facade with a variety of materials and window types. The facade is divided into several sections by vertical elements. On the far left, a section is labeled CL3. Moving right, there is a section with a brown vertical panel labeled CL4, followed by a section with a white panel labeled SC1. The central part of the facade features a brick section with a large window labeled FB1 and a smaller window labeled FB2. To the right of the brick section is a section with a white panel labeled SC2. Further right, there is a section with a white panel labeled CL1, followed by a section with a brown vertical panel labeled SC1. The far right section is labeled CL4 and CL3. The drawing includes various window types, including large rectangular windows, smaller square windows, and a large arched window. The building is set against a light blue sky and a dark grey ground plane. There are some trees and shrubs indicated by simple line drawings.

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ATTACHMENT 13 – ELEVATIONS AND SECTIONS

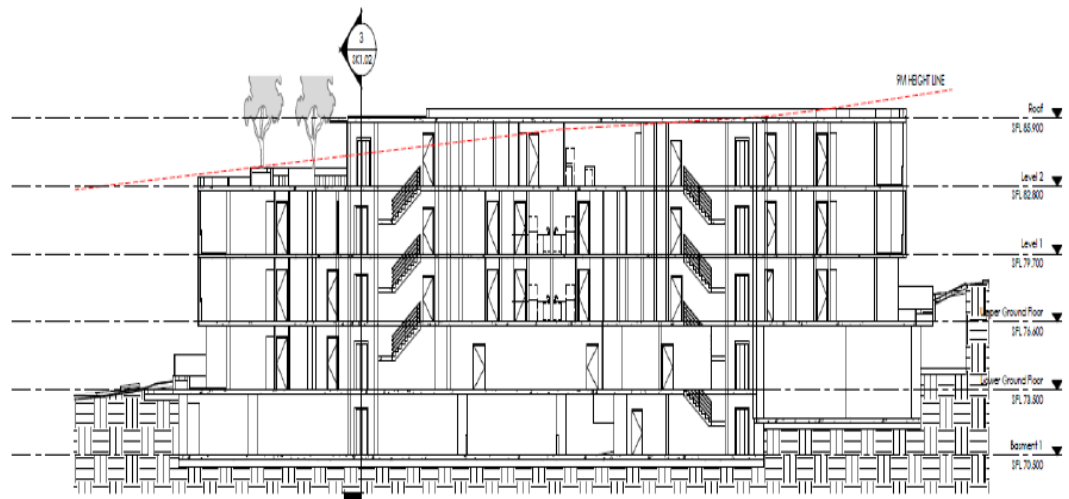


3 North West Elevation

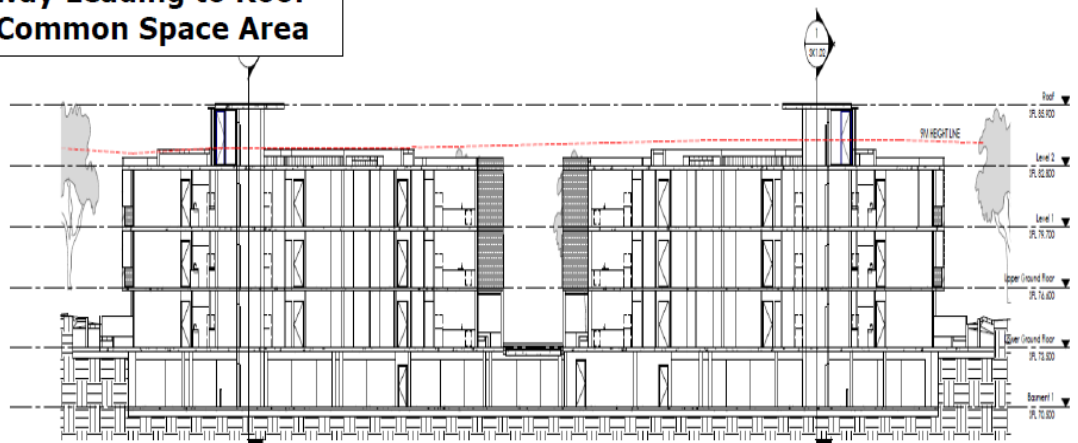


4 South East Elevation (Sayers Avenue)

ATTACHMENT 13 – ELEVATIONS AND SECTIONS



**Lift, Fire Stair Case and
Hallway Leading to Roof
Top Common Space Area**



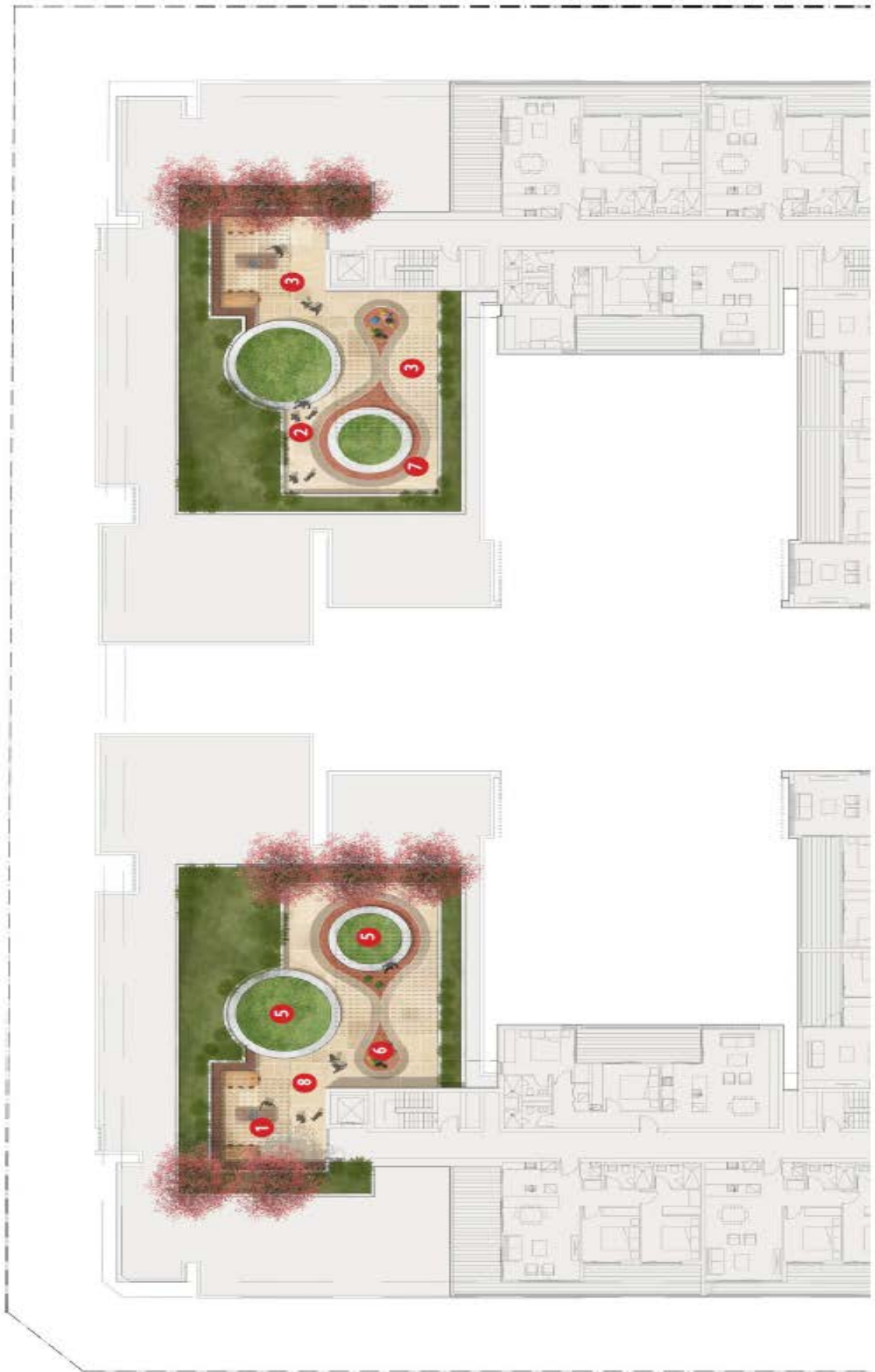
ATTACHMENT 14 – LANDSCAPE PLANS



ATTACHMENT 14 – LANDSCAPE PLANS



ATTACHMENT 14 – LANDSCAPE PLANS





Annexure 1: Clause 4.6 Variation: Building Height

The development concept results in the height of the proposal exceeding the permissible height as shown on the LEP height map, with parts of the upper level as well as the four lift overruns exceeding the 9m control as shown on the submitted height plane map below.



Figure 1: Amended plans with reduced height departure.

The actual height departure to a small portion of the upper level is up to 2.7m with the lift overrun exceeding the height control by between 1m and 3.3m.

As shown on figure 1 above, the variation is a function of topography with parts of the building exceeding the height where natural ground level dips away from the site's road frontages.

It is also noted that the as lodged scheme that is illustrated in figure 2 on the following page had a greater height departure.



Figure 2: Original plans with as lodged height departure.

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Mays Hill Gatehouse - Parramatta Park

Phone: 9687 8899

(Mailing address - PO Box 121 Wahroonga 2076)

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By comparing the above diagrams, you can clearly see that the revised development results in a three storey presentation to Thorogood Boulevard with only a small portion of the development presenting as a stepped four story development to Sayers Avenue and the northern boundary. This clearly means that where the development is adjacent to R2 zoned dwelling allotments that the building will be one storey above the height of the majority of dwellings. Stepping up of building heights in proximity to Hezlett Road is appropriate.

The provisions of Clause 4.6 of the LEP are addressed below in order to permit the JRPP to vary the LEP requirement given the minor nature of the departure and given the area of departure is at the rear of the building meaning it is not easily ‘read’ at street level- particularly once taking into account the finished ground levels.

Clause 4.6(3)

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.

The objectives of the height of buildings development standard are stated as:

- (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 current development proposal seeks to depart from the height control for small portions of the building. Despite this the proposal remains consistent with the objectives of the clause and is a more appropriate outcome on the site because of the following:

- a) The proposal is in close proximity to the future North Kellyville Local Centre and the extent of non-compliance represents an appropriate higher density on the site with the buildings being three to four storey in height which is an appropriate height for a low rise residential flat building.
- b) The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are manageable within the site, and have no significant impact on adjoining properties or open space areas given that the development is contained within its own street-block meaning shadows cast by the proposal fall on the street with the exception of the adjoining development to the south and the extent of overshadowing is not unreasonable for density envisaged of this scale within the North Kellyville precinct;
- c) The proposal provides an appropriate 3-4 storey building form that is consistent with the desired future character of the locality and is reflective of the objectives for the

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Mays Hill Gatehouse - Parramatta Park

Phone: 9687 8899

(Mailing address - PO Box 121 Wahroonga 2076)

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zone and locality generally- noting the uneven topography on this site is the key driver of the height variation rather than a desired to achieve greater yield on the site;

- d) The development provides an appropriate transition to adjoining development allotments that are zoned R2 and will likely contain 2 storey dwellings in the future with the building presenting to Thorogood road as a three storey building. This building will be one storey above the height of the majority of buildings which is an appropriate transition;
- e) The proposal has no impact on heritage or other views; and
- f) The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the North Kellyville Precinct.

The unique circumstances of the case that warrant support of the departure are:

- The desire to provide a lift cores in central locations to provide accessible entries to all units which is preferable to only having stair access which would compromise amenity and useability for future residents; and
- That the topography of the site lends itself to a partial fourth level.

As outlined above the proposal remains consistent with the underlying objectives of the controls and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

Clause 4.6(4)

In accordance with the provisions of Clause 4.6(4) the consent authority can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the height control. In addition, the proposal is consistent with the objectives of the zone.

The proposal provides for the housing needs of the community and contributes to a variety of housing forms within a high density residential environment. The development site is in close proximity to public transport and the design concept recognises the key site attributes and provides for an attractive built form that relates to the existing and future site context.

It is understood that the concurrence of the Director-General can be assumed in the current circumstances.

Clause 4.6(5)

As addressed it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

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Phone: 9687 8899

(Mailing address - PO Box 121 Wahroonga 2076)

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- a) The contravention of the height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal given that the non-compliance has no discernible impact upon the public streetscape. The departure from the control is acceptable in the circumstances given that the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality given the unique site constraints (topography) and the implications of the R1 zoned land and land dedications that affects the delivery of an appropriate yield on the site.

Strict compliance with the prescriptive height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts. The proposal will not have any adverse effect on the surrounding locality.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. The consent authority is requested to invoke its powers under Clause 4.6 to permit the variation proposed to the maximum height control.

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Mays Hill Gatehouse - Parramatta Park

Phone: 9687 8899

(Mailing address - PO Box 121 Wahroonga 2076)

ATTACHMENT 16 – ANALYSIS OF HEIGHT DIAGRAM

