

SCCPP REPORT – DA 79/2017/JP

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| Panel Reference | 2016SYW140 |
| DA Number | DA 79/2017/JP |
| LGA | The Hills Shire Council |
| Proposed Development | Demolition of existing structures and construction of a residential flat building containing 71 units, multi dwelling development containing 40 units and associated basement parking and landscaping. |
| Street Address | Lot 1 DP 665946 No. 29 Mason Road, Box Hill |
| Applicant/Owner | GM Architects Pty Ltd / Box Hill (Aust) Pty Ltd |
| Date of DA lodgement | 19 July 2016 |
| Number of Submissions | Nil |
| Recommendation | Approval |
| Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011 | General Development with a CIV of over \$20 million (\$27,912,982.90) (DA lodged prior to March 2018) |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> • SEPP (State and Regional Development) 2011 • SEPP (Sydney Region Growth Centres) 2006 • SEPP 65 – Design Quality of Residential Apartment Development • SEPP 55 – Remediation of Land • Draft Amendment to SEPP (Sydney Region Growth Centres) 2006 (North West Priority Growth Area Land Use and Infrastructure Implementation Plan) • Box Hill Development Control Plan 2018 • The Hills Development Control Plan Part C Section 1 – Parking • The Hills Development Control Plan Part C Section 3 – Landscaping |
| List all documents submitted with this report for the Panel's consideration | <ul style="list-style-type: none"> • Clause 4.6 – Variation to Height |
| Report prepared by | Sanda Watts Senior Town Planner |
| Report date | E-Determination |

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Yes

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

EXECUTIVE SUMMARY

The Development Application is for the demolition of existing structures, subdivision of one lot into four and construction of an 8 storey residential flat building containing 74 units comprising of 17 x 1 bedroom units, 31 x 2 bedroom units and 23 x 3 bedroom units and three levels basement parking for 110 cars. Two multi housing townhouse developments containing 20 units each are proposed to the rear of the residential flat building. Each multi dwelling housing development comprises 4 x 2 bedroom units, 15 x 4 bedroom units and 1 x 5 bedroom units, basement carparking providing 2 car parking spaces for each unit and associated visitor spaces. The application also includes the construction and dedication of Tucana Street, Ursa Street, Aries Way and partial width construction and dedication of Aurora Street. The land zoned SP2 across the Mason Road frontage is subject to future acquisition for road widening.

The site is zoned R4 High Density and R3 Medium Density and the development complies with the development standards contained within the SEPP Growth Centres in relation to floor space ratio and minimum density.

The Development Application was lodged on 19 July 2016. In May 2017 the Department of Planning released the draft North West Land Use and Infrastructure Implementation Plan. In addition to a new growth centres structure plan and an infrastructure schedule the package proposes a draft amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and associated draft changes to the DCP. The proposed changes include the introduction of density bands (rather than only minimum density) and reinstatement of minimum lot sizes for all residential areas (that were removed as part of the 2014 Housing Diversity changes). The amendments to the SEPP were exhibited between 8 May to 27 June 2017. Council staff have been advised by the Department of Planning that they are working through the legal drafting of the clauses and resolving issues raised in submissions. No timeline has been provided to finalise the package.

The draft identifies the R4 zoned site as having a density band of 30-100 dwellings per hectare. The proposal seeks 179.4 dwellings per hectare. No changes to the maximum FSR (2:1) or height limit of 21 metres are proposed. The proposal complies with the FSR requirement with an FSR of 1.38:1. The R3 zoned portion of the site currently has a minimum density of 18 dwelling per hectare, this to be amended to a minimum density of 15 dwellings per hectare and a maximum density of 30 dwellings per hectare. The subject proposal for the multi dwelling component of the site has a density of 46 dwellings per hectare. The Explanation of Intended Effect within the draft Implementation Plan states that “*a consent authority is not required to apply the provisions of the Explanation of Intended Effects to a DA lodged before May 22 2017*”.

The subject site has height limits of 21m (for the R4 zoned land) and 14m (for the R3 zoned land). The proposed residential flat building has a maximum height of 22.86m, which exceeds the height limit by a maximum of 1.86m or 8.9 %. The application is accompanied by a Clause 4.6 variation to the height control. The maximum variation to the height is limited to the top of the lift overrun to the rooftop common open space, further variations of 400mm-600mm are proposed as part of the roof form/parapet. The increased height will have no significant impact upon the solar access on surrounding lots or the amenity of the area and it is considered that the variation results in a better planning outcome as the maximum exceedance in height is for the lift overrun which provide access to the roof top gardens. The

roof top garden provides for a passive recreational area for future residents to complement other spaces provided at ground level. Lowering of the building to facilitate full compliance with the height limit would lower habitable floor to ceiling heights, reducing internal amenity for residents and resulting in non-compliance with SEPP 65 requirements.

The proposal seeks variations to the Apartment Design Guide (ADG) building separation requirement to the western boundary, however the outcome is considered satisfactory as full compliance with the Box Hill DCP setback controls is achieved. In conjunction with the landscaping, a reasonable streetscape is provided and impacts of the built form are minimised. There will be no unreasonable loss of privacy or amenity as a result of the reduced building separation which are considered reasonable and can be supported.

The application was notified to adjoining and surrounding owners with one submission being received, however the submission was subsequently withdrawn.

The application is recommended for approval.

BACKGROUND

MANDATORY REQUIREMENTS

| | | | |
|-----------------------|--|-----|--|
| Owner: | Box Hill (Aust) Pty Ltd | 1. | <u>Section 4.15 (EP&A Act)</u> – Satisfactory |
| Zoning: | R4 High Density Residential R3 Medium Density and SP2 Infrastructure | 2. | <u>SEPP Sydney Region Growth Centres 2006</u> – Variation, see report |
| Area: | 12,750m ² | 3. | <u>Draft Amendment to SEPP (Sydney Region Growth Centres) 2006</u> (North West Priority Growth Area Land Use and Infrastructure Implementation Plan) – Variation, see report |
| Existing Development: | Dwelling house, outbuildings and dam | 4. | <u>SEPP 65 – Design Quality of Residential Apartment Development</u> – Satisfactory |
| | | 5. | <u>SEPP Building Sustainability Index BASIX 2004</u> – Satisfactory |
| | | 6. | <u>State Environmental Planning Policy No 55—Remediation of Land</u> – Satisfactory |
| | | 7. | <u>SEPP Infrastructure 2007</u> - Satisfactory |
| | | 8. | <u>Box Hill DCP 2017</u> – Satisfactory |
| | | 9. | <u>Section 94 Contribution</u> - \$4,284,855.57 |
| | | 10. | <u>Capital Investment Value:</u> \$27,912,982.90 |

SUBMISSIONS SCCPP

REASONS FOR REFERRAL TO

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|--------------------------|--------------|----|--|
| 1. Exhibition: | Not Required | 1. | Capital Investment Value in Excess of \$20 million (lodgement prior to March 2018) |
| 2. Notice Adj Owners: | Yes, 14 days | | |
| 3. Number Advised: | 23 | | |
| 4. Submissions Received: | Nil | | |

HISTORY

The subject Development Application was lodged 19 July 2016. On the 18 August 2016 the then Sydney West Central Planning Panel was briefed on the proposal.

On the 8 and 23 Council staff sent letters to the applicant in regards to non-compliance with height limit, setbacks, solar access, private open space, landscaping, planning controls, and additional information was requested in relation to contamination, salinity, dam de-watering, waste management and various engineering matters.

Additional information was submitted by the applicant on 28 October, 3 and 23 November 2016 in response to the issues raised by Council staff.

Council staff wrote to the applicant on 9 December 2016 raising a number of matters with the amended application, including building height, visual privacy, building separation, setbacks, private open space, waste management, dam de-watering and various engineering matters.

Further additional information was lodged on 7 and 28 July 2017 including revised architectural plans, road design details, revised drainage plans and revised landscape plans. Council staff provided the applicant further comments in relation to engineering matters on 14 September 2017, and further amended plans were received on 19 October reflecting the earlier requests of Council staff.

On 15 September 2017 the single submission that was received to the Development Application was withdrawn. It is noted that the objector, an adjoining land owner, has since lodged a Development Application for a similar type of development on their land.

On 19 January 2018 Council staff wrote to the applicant in regards to compliance with the Apartment Design Guide requirements, Box Hill DCP, waste management and various engineering matters (subdivision plan, civil works, stormwater, driveway design compliance). On 2 February 2018 and 12 March 2018 further amended plans and details were provided and on 5 April 2018 amended engineering details were provided by the applicant. On 1 June 2018, updated landscape plans, architectural plans and engineering details were submitted.

PROPOSAL

The subject Development Application seeks consent for the demolition of existing structures, subdivision of one lot into four and construction of an 8 storey residential flat building containing 74 units comprising of 17 x 1 bedroom units, 31 x 2 bedroom units and 23 x 3 bedroom units and three levels basement parking for 110 cars fronting Mason Road. Two multi dwelling housing developments containing 20 units each is proposed to the rear of the residential flat building. Each multi dwelling housing development comprising of 4 x 2 bedroom units, 15 x 4 bedroom units and 1 x 5 bedroom units basement carparking providing 2 car parking spaces for each unit and associated visitor spaces.

In regards to civil works, the proposal includes the construction of either part or full road width, and dedication to Council, four new roads within the development site. Running north-south along the eastern boundary will be the full width construction of Ursa Street which provides access to the residential flat buildings. The full width of Tucana Street and Aries Street (for the width of the site) is to be constructed, these east-west streets provide access to the multi dwelling developments. At the rear of the site, half width of Aurora Street will be constructed which also runs east-west. The land zoned SP2 across the Mason Road frontage is subject to future acquisition for road widening.

ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

Clause 20 and Schedule 7 of SEPP (State and Regional Development) 2011 provides the following referral requirements to the SCCPP:-

Development that has a capital investment value of more than \$30 million.

However, as the Capital Investment Value exceeded \$20 million, under Clause 151 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, the proposed development still requires determination by the SCCPP.

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

(i) Permissibility

The proposal is defined as a residential flat building and multi dwelling housing:

“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 11 The Hills Growth Centre Precinct Plan, a residential flat building is permitted with consent within the R4 High Density Residential zone.

“multi dwelling housing” means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building or a manor home.

Pursuant to the Land Use Table in Appendix 11 of Growth Centres SEPP, multi dwelling housing is permitted with consent within the R3 Medium Density Residential zone.

(ii) Development Standards

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

| CLAUSE | REQUIRED | PROVIDED | COMPLIES |
|---|---|--|----------|
| 4.1A Minimum lot sizes for development | Residential flat building – 1,000m ² Multi dwelling housing – 1,500m ² | Total Site Area: 1.275 ha R4 RFB Site Area – 3958m ² R3 Multi-Dwelling 1 Site Area (Proposed Lot 2): 2119 m ² R3 Multi-Dwelling 1 Site Area (Proposed Lot 3): 2319 m ² | Yes |
| 4.1B Residential Density | Minimum residential densities R4 - 30 dwellings per hectare R3 - 18 dwellings per hectare | 71 units 40 multi dwellings. RFB = 179.4 dwg/ha Multi dwellings 46 dwg/ha | Yes |

| | | | |
|-------------------------|--------------|--|--|
| | hectare | | |
| 4.3 Height of buildings | R4 21 metres | R4 RFB - 22.86m | No – (refer to Clause 4.6 – Appendix 10) |
| | R3 14 metres | R3 Multi-Dwelling 1 12.2m R3 Multi-Dwelling 2 12.5m | Yes Yes |
| 4.4 Floor space ratio | R4 2:1 | R4 RFB 1.38:1 | Yes |

(iii) Other Provisions

The proposal has been considered against the relevant provision of the SEPP, Appendix 11. Specific regard has been given to Clauses:

- 5.9 Preservation of trees or vegetation; and
- 6.1 Public utility infrastructure;

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

(iv) Variation to Height

Clause 4.6 Exceptions to Development Standards states as follows:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

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

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Director-General has been obtained.*
- (5) In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation if:*
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4.*

SEPP Sydney Region Growth Centres 2006 limits the height of development to 21m and the maximum height of the development is 22.86m, a variation of 1.86m or 8.9%.

The applicant has submitted a Clause 4.6 Variation (refer to Attachment 10) and is summarised as follows:

In summary, the variation to the development standard is due to the specific site and immediate locality circumstances associated with the terrain, future road patterns/levels and precinct plan outcomes.

The proposed development adequately addresses the site opportunities and constraints and the maximum building height would not be a significant factor in the visual impact of the development or its compatibility with the scale of future development in the immediate locality. As such it has been demonstrated that the

objectives behind the maximum building height requirement have been met and therefore, it would be unreasonable and unnecessary in the circumstances to strictly insist on compliance with the numeric height requirement as it would tend to hinder the attainment of the objects specified in Clause 1.3 (previously Section (a)(i) and (ii)) of the Environmental Planning & Assessment Act.

Accepting the variation will result in orderly and economic use of the land, by accommodating a sympathetic development appropriate for the zone and locality in which it is located.

The non-compliance in height results in a better planning outcome as a reduction to the building height could be achieved by deleting the top level of the building, however this would make the development unfeasible and the approach would be contrary to the objectives of the Environmental Planning and Assessment Act, particularly when the development is already well under the available FSR. The upper most level of the development enables horizontal articulation, which assists in the aesthetics of the building and assists in reducing the bulk and scale.

The roof top terraces provides enhanced (better) residential amenity to the occupants of the development.

Lowering the building to comply would result in steeper ramps and transition grades, which is a significantly worse planning outcome in terms of vehicular manoeuvring and pedestrian safety.

The height objectives of the SEPP are:

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

The height of the development is satisfactory given that it is appropriately separated from any adjoining development and the shadow impact is expected given the scale and high density zoning of the area. The maximum variation of 1.86 metres is a result of the lift overrun that provides access to the roof top terrace. A portion of the northern roof is 400mm above the height limit and on the western side of the building the roof/parapet exceeds the height limit by 600mm. All habitable floor area is under the 21 metre height limit, and the development provides for a 7 and 8 storey development in accordance with the envisaged scale of the development site by the planning controls.

Overall, the proposal responds to the existing topography of the site within its context and the development incorporates a variety of finishes/colours and will result in an appropriate urban outcome. The non-compliances do not result in any significant adverse amenity impacts and will not result in a detrimental impact on the streetscape.

It is considered that the variation results in a better planning outcome as the maximum exceedance in height is for the lift overrun which provides access to the roof top gardens and provides for a higher level of amenity for future residents. The roof top garden has barrier free access and provides for a passive recreational area which includes, seating areas and a barbeque for residents to enjoy. Lowering of the building to facilitate full compliance with the

height limit would lower habitable floor to ceiling heights, reducing internal amenity for residents and resulting in non-compliance with SEPP 65 requirements.

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

- The applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R4 High Density Residential zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- The proposal results in a better planning outcome.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance. 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. Draft Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

In May 2017 the Department of Planning released the draft North West Land Use and Infrastructure Implementation Plan. In addition to a new growth centres structure plan and an infrastructure schedule the package proposes a draft amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and associated draft changes to the DCP. The proposed changes include the introduction of density bands (rather than only minimum density) and reinstatement of minimum lot sizes for all residential areas (that were removed as part of the 2014 Housing Diversity changes).

The draft identifies the R4 zoned site as having a density band of 30-100 dwellings per hectare. The proposal seeks 179.4 dwellings per hectare. No changes to the maximum FSR (2:1) or height limit of 21 metres are proposed. The proposal complies with the FSR requirement with an FSR of 1.38:1.

The R3 zoned portion of the site currently has a minimum density of 18 dwelling per hectare, this to be amended to a minimum density of 15 dwellings per hectare and a maximum density of 30 dwellings per hectare. The subject proposal for the multi dwelling component of the site has a density of 46 dwellings per hectare.

The Explanation of Intended Effect states that *"a consent authority is not required to apply the provisions of the Explanation of Intended Effects to a DA lodged before May 22 2017"*. The subject Development Application was lodged on 19 July 2016.

The amendments to the SEPP were exhibited between 8 May to 27 June 2017. Council staff have been advised by the Department of Planning that they are working through the legal drafting of the clauses and resolving issues raised in submissions. No timeline has been provided to finalise the package.

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

The required Design Verification Statement was prepared by Nicholas Nasser, Nominated Architect of GM Architects Pty Ltd.

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

(i) Context and Neighbourhood Character

Currently, the character of the locality is large rural land holdings with single dwellings and small scale rural uses yet to be re-developed. The subject site will be the first Development Application determined along the southern side of Mason Road. There are currently applications lodged for Nos. 13, 17-21, 23-25, 27 and 31 Mason Road which are of a similar scale and style (being residential flat buildings and multi dwellings). The context will change over the coming years as further development occurs in the Precinct.

(ii) Built Form and Scale

The height of the development overall is acceptable in terms of solar access and residential amenity impacts. The height of the development is consistent with the desired future scale and character of the site.

The design of the building elements are of a contemporary style with a number of elements being used to provide an architectural character. The ultimate form of development is achieved in the articulation of the elevations, the selection of colours and materials and the high quality landscaped setting.

The setbacks allow for landscape areas, entrances and deep-soil zones. The proposed setbacks have been developed to provide a satisfactory distance to future developments and to form active street frontages and adequate open space areas for communal recreation spaces. The proposed development addresses matters such as privacy and open space.

(iii) Density

The proposal provides an appropriate built form outcome which achieves the minimum density requirements of 30 dwg/ha required under the SEPP. The proposed density is 179.4 dwg/ha and is consistent with other similar proposed developments within the area. The proposed development is suitable given the zoning and proximity to public transport and a town centre.

The draft SEPP identifies the R4 zoned site as having a density band of 30-100 dwellings per hectare, however a savings provision is included for Development Applications lodged before the 22 May 2017. It should be noted that the development is under the maximum FSR for the site (2:1), being 1.38:1.

(iv) Sustainability

The design achieves good natural ventilation and the addition of insulation will minimise the dependency on energy resources in heating and cooling. The meeting of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs. A BASIX certificate has been lodged. The energy rating of the residential units has been assessed and the accompanying ratings indicate an achievement of the minimum points being scored.

(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 building design incorporates satisfactory

access/circulation, apartment layouts, ceiling heights, private open space, common open space, energy efficiency, adaptability and diversity, safety, security and site facilities.

(vii) Safety

The development has been designed with safety and security concerns in mind. The ground level common open spaces are within direct view of occupants to allow passive surveillance. Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened. The basement car parks have been appropriately designed and appropriate conditions of consent can be imposed to further assist in the promotion of safety and security.

(viii) Housing Diversity and Social Interaction

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The Hills Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings provides development standards in relation to unit mix. Although these controls do not apply to the site, it is noted the development complies with the apartment mix controls which states that no more than 25% of the dwelling yield is to comprise of one bedroom apartments and no less than 10% of the development is to comprise of three bedroom units. The application includes 17 x 1 bed (23.9%), 31 x 2 bedroom (43.7%) and 23 x 3 bedroom units (32.4%) which is considered to be an appropriate mix for the development.

(ix) Aesthetics

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

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

| Clause | Design Criteria | Compliance |
|---------------------|--|---|
| Siting | | |
| Communal open space | 25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter. | Yes, 35% of the site is for communal open space, with both two separate roof top open spaces and a single ground floor open space which achieve the solar access requirement in midwinter. |
| Deep Soil Zone | 7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² . | Yes. 514m ² or 24% deep soil provided on a site area. |
| Separation | For habitable rooms, 12m (6m setback from boundary) for 4 storeys, 18m (9m setback from boundary) for 5-8 storeys and 24m (12m setback from boundary) for 9+ storeys. | No. However, satisfactory outcome as full compliance with DCP setbacks is achieved with 3-6m setback from western boundary proposed for up to 3 storeys and 6m setback from western boundary proposed for 4- 8 storeys. Furthermore, a Development Application has been lodged over 27 Mason Rd which provides large side |

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| | | setbacks (over 17m) to the subject site. |
| Visual privacy | Visual privacy is to be provided through use of setbacks, window placements, screening and similar. | Satisfactory outcome. |
| Carparking | <p>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</p> <p>Therefore, the requirement is: 17 x 1 bedroom units = 11 spaces 31 x 2 bedroom units = 28 spaces 23 x 3 bedroom units = 33 spaces =72 spaces For 71 units, 15 visitor spaces required</p> <p>A total of 72+15 = 87 car spaces is required. 110 provided</p> | Yes, 110 car spaces provided which exceeds the requirement by 23 spaces. |
| 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, 76% - 54/71 units |
| | A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. | Yes, all units achieve solar access between 9am and 3pm. |
| 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 | Yes, 66% 47/71 of apartments are naturally cross ventilated. |

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| | <p>enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> | |
| Ceiling heights | <p>For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p> | Yes, the ceiling height of each residential floor level is 2.7m. |
| Apartment size | <p>Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> | Yes, all apartments comply with the minimum internal unit size requirements. |
| Apartment layout | <p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p> | Yes, habitable rooms are limited to a maximum depth of 2.5 x 2.7m ceiling height (max. 6.75m depth). |
| Balcony area | <p>The primary balcony is to be:</p> <p>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</p> | Yes, all balconies comply with the area and depth requirements. |

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| | <p>minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.</p> | |
| Storage | <p>Storage is to be provided as follows:</p> <p>Studio – 4m³</p> <p>1 bedroom – 6m³</p> <p>2 bedroom – 8m³</p> <p>3+ bedrooms – 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p> | Yes, adequate storage has been 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. A variety of apartment types including adaptable apartments have been provided. |

The proposal is considered satisfactory with respect to compliance with SEPP 65 and the Apartment Design Guide.

5. Compliance with the Box Hill Development Control Plan 2017

The proposal has been assessed against the provisions of The Box Hill Development Control Plan and the following addresses the relevant development controls of the DCP:

| | | | |
|-------------------------|--|--|-----|
| RFB controls (table 20) | 50% site cover | 1090m ² - 49.5% | Yes |
| | 30% landscaped area | 730m ² - 34% (24% deep soil) | Yes |
| | 15% communal area | 828m ² - 38% | Yes |
| | POS – 10m ² with 2.5m dimension | Min. 10sqm | Yes |
| | Front setback – 6m building façade /4.5m balconies (first 3 storeys) for a max. of 50% façade length | Mason Road Front setback: First 3 storeys - 6m (building façade) and 4.5m balconies L3+ - 6m | Yes |
| | Secondary Setbacks 6m | 6m to Ursa and Tucana Streets | Yes |
| | Side setback – 3m up to 3 storeys 6m above 3 storeys | Ground – to L2 -3m L3-7 – 6M | Yes |
| | Rear setback – 6m | N/A Required – 83 + 15 | Yes |

| | | | |
|------------------------------------|---|---|------------|
| | Car parking – 1 space per dwelling plus 0.5 spaces per 3 or more bedroom Visitor – 1 per 5 units | = 98 (11 being tandem) Proposed – 110 | Yes |
| Multi Dwelling controls (table 19) | 50% site cover | 49.7% for multi dwelling housing 1 48% for multi dwelling housing 2 | Yes Yes |
| | 30% landscaped area | 33% and 34% for multiunit housing developments | Yes |
| | POS – 16m ² with 3m dimension 10m ² per dwelling if provided as balcony or rooftop with 2.5m dimension | All balconies exceed 16m ² and meet 3m dimension | Yes |
| | Front setback – 4.5m to building façade line and 3m articulation zone | Dev 1 – 4.5m to buildings Dev 2 - 4.5m to buildings | Yes Yes |
| | Corner lots secondary setbacks 2m | Dev 1 – 2m Dev 2 – >2m | Yes Yes |
| | Side setback – 0.9m ground floor and upper floor | N/A | N/A |
| | Rear setback – 4m | Dev 1 – Ground – 4m First – 4m Second – 4m | Yes |
| | | Dev 2- Ground – 4m First – 4m Second – 4m | Yes |
| | Internal building separation – 5m | Dev 1 – 5m Dev 2 – 5m | Yes Yes |
| | Car parking – 1 space per dwelling plus 0.5 spaces per 3 or more bedroom Visitor – 1 per 5 units | Dev 1- 20x 1.5 = 30 spaces req'd 40 spaces provided (including 9 stacked) Visitor – 4 req'd 4 provided (including car wash bay) | Yes |
| | | Dev 2- 20x 1.5 = 30 | Yes |

| | | | |
|--|--|--|--|
| | | spaces req'd 40 spaces provided (including 9 stacked) Visitor – 4 req'd 4 provided (including car wash bay) | |
|--|--|--|--|

6. SEPP 55 - Remediation of Land

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

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

A Detailed Site Investigation prepared by Benviron Group has been prepared in relation to the contamination investigations of the site, and accompanies the Development Application. In summary, the report concludes that the risk to human health and the environment associated with soil and groundwater contamination of the site are low in the context of the relevant guidelines applied to the results. The site is therefore suitable for development. However, the report recommended that any soil removed from the site, as part of future site works should be classified in accordance with the “Waste Classification Guidelines, Part 1: Classifying Waste” NSW EPA (2014).

Furthermore, if during any potential site works, significant odours and/or evidence of gross contamination (including asbestos) not previously detected are encountered, or any other significant unexpected occurrence, site works should cease in that area, at least temporarily, and the environmental consultant should be notified immediately to set up a response to this unexpected occurrence. A condition of consent has been recommended which requires compliance with the above mentioned matters (refer Condition No. 67).

7. A Metropolis of Three Cities – the Greater Sydney Region Plan

The Central City District Plan contains ‘Directions for Liveability’ which include:

- Housing the City – Planning Priority C5 - Providing housing supply, choice and affordability with access to jobs, services and public transport; and
- A City of Great Places – Planning Priority C6 – Creating and renewing great places and local centres, and respecting the District’s heritage.

The plan seeks to provide housing supply which is diverse and affordable and which meets the needs of residents and which bring people together. The plan seeks to provide housing in locations which are easily accessible by public transport to reduce commuting time. Housing should be located in places which are liveable, walkable and cycle friendly. Housing should also respond to the changing needs of residents and consider single person and aging households. Great places are defined as areas which have a unique combination of local people, built form and natural features which reflect shared community values and which attract residents, workers and visitors. Local centres act as a focal point for neighbourhoods and provide essential access to day to day goods and services.

Implementation and monitoring of the Plan and the potential indicators are as follows:

Direction 4: Housing the City: Providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney’s

growing population. Housing affordability is also a challenge that can affect job and lifestyle choices.

Direction 5: A City of Great Places: The creation and renewal of great places for people, together with better local accessibility through walking and cycling, will achieve local liveability that attracts and retains residents and workers. Great places exhibit design excellence and start with a focus on open spaces and a people-friendly realm.

The proposed development meets the intent of the Plan as follows:

- The proposal will provide a range of units types which will assist in meeting housing demands;
- The site is located in an area serviced by existing and future public transport and is in close proximity to the Rouse Hill Town Centre; and
- The proposed will result in an appropriate built form outcome which responds to the desired future modern character of the area;

The proposal is considered satisfactory in regard to the Central City District Plan.

SUBDIVISION ENGINEERING COMMENTS

The proposal is required to provide all the public roads and street drainage as part of the development in accordance with the pre-determined road pattern of the Box Hill DCP. Ursa Street which is proposed along the eastern boundary relies on significant excavation up to approximately 5m to achieve the design profile, which requires earth works and demolition/protection of existing structures within the property to the east at 31 Mason Road. The owner of the affected property (31 Mason Road) has provided written concurrence for the works to be completed within their site.

Similarly, Aurora Street which traverses along the southern boundary is to be built to the partial width road standards, which requires a 0.5m wide road and associated earth batter within the southern property (23 Hynds Road). In addition, stormwater runoff from the southern part (majority of the site) and the public roads is proposed to drain into the property to the south, 23 Hynds Road. The property owner has provided written concurrence for the earth works and creation of temporary drainage easement. Relevant conditions of consent are included in the recommendation.

TREE MANAGEMENT COMMENTS

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

WASTE MANAGEMENT COMMENTS

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

ROADS & MARITIME SERVICES COMMENTS

No objection raised to the proposal.

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 (refer Condition No. 4).

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, SEPP Sydney Region Growth Centres 2006 and the Box Hill Development Control Plan and is considered satisfactory.

The variation to the SEPP Height control and the ADG variation to building separation are addressed in the report and are considered satisfactory.

In relation to the Clause 4.6 Variation request, it is considered that the Applicant's request is well founded, and the proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R4 High Density Residential zone objectives, compliance with the standard are unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report and the Applicant's Clause 4.6 Variation.

Accordingly approval subject to conditions is recommended.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

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 Page | - | 30/01/2018 |
| a000 | BASIX & Calculations | J | 30/01/2018 |

| | | | |
|------|------------------------------|---|------------|
| a002 | Site Analysis | O | 25/05/2018 |
| a003 | Site Subdivision | O | 25/05/2018 |
| a004 | Site Location | O | 25/05/2018 |
| a005 | Demolition | O | 25/05/2018 |
| a200 | Basement 3 | O | 25/05/2018 |
| a201 | Basement 2 | O | 25/05/2018 |
| a202 | Basement 1 | O | 25/05/2018 |
| a203 | Ground Floor Plan | O | 25/05/2018 |
| a204 | Level 1 Floor Plan | O | 25/05/2018 |
| a205 | Level 2 Floor Plan | O | 25/05/2018 |
| a206 | Level 3 Floor Plan | O | 25/05/2018 |
| a207 | Level 4 Floor Plan | O | 25/05/2018 |
| a208 | Level 5 Floor Plan | O | 25/05/2018 |
| a209 | Level 6 Floor Plan | O | 25/05/2018 |
| a210 | Level 7 Floor Plan | O | 25/05/2018 |
| a211 | Roof Plan | O | 25/05/2018 |
| a300 | North Elevation | O | 25/05/2018 |
| a301 | South Elevation | O | 25/05/2018 |
| a302 | West Elevation | O | 25/05/2018 |
| a303 | East Elevation | O | 25/05/2018 |
| a400 | Section aa | O | 25/05/2018 |
| a401 | Section bb | O | 25/05/2018 |
| a402 | Section cc | O | 25/05/2018 |
| a404 | Section dd – ramp section | O | 25/05/2018 |
| a600 | Adaptable units | O | 25/05/2018 |
| - | Cover Page – Multi Dwellings | - | 25/05/2018 |
| b602 | Site Analysis | - | 25/05/2018 |
| b604 | Site Location | - | 25/05/2018 |
| b605 | Demolition | - | 25/05/2018 |
| b200 | Basement | - | 25/05/2018 |
| b201 | Ground Floor Plan | - | 25/05/2018 |
| b202 | Level 1 Floor Plan | - | 25/05/2018 |
| b203 | Level 2 Floor Plan | - | 25/05/2018 |
| b204 | Roof Plan | - | 25/05/2018 |
| b300 | West and East Elevation | - | 25/05/2018 |
| b301 | North and South Elevation | - | 25/05/2018 |
| b400 | Sections | - | 25/05/2018 |

| | | | |
|----------|--|---|------------|
| b401 | Ramp Section | - | 25/05/2018 |
| - | Cover Page – Multi Dwellings | - | 25/05/2018 |
| C002 | Site Analysis | K | 25/05/2018 |
| C004 | Site Location | K | 25/05/2018 |
| c200 | Basement | K | 25/05/2018 |
| c201 | Ground Floor Plan | K | 25/05/2018 |
| c202 | Level 1 Floor Plan | K | 25/05/2018 |
| c203 | Level 2 Floor Plan | K | 25/05/2018 |
| c204 | Roof Plan | K | 25/05/2018 |
| c300 | West and East Elevation | K | 25/05/2018 |
| c301 | North and South Elevation | K | 25/05/2018 |
| c400 | Sections | K | 25/05/2018 |
| c401 | Ramp Section | K | 25/05/2018 |
| 1 of 11 | Landscape Ground Floor Residential Flat | G | 31/05/2018 |
| 2 of 11 | Landscape Level 1 Plan Residential Flat | G | 31/05/2018 |
| 3 of 11 | Landscape Level 3 Plan Residential Flat | G | 31/05/2018 |
| 4 of 11 | Landscape Roof Top Plan Residential Flat | G | 31/05/2018 |
| 5 of 11 | Landscape Basement 1 Townhouse B | G | 31/05/2018 |
| 6 of 11 | Landscape Ground Floor Townhouse B | G | 31/05/2018 |
| 7 of 11 | Landscape Level 2 Plan Townhouse B | G | 31/05/2018 |
| 8 of 11 | Landscape Basement 1 Townhouse C | G | 31/05/2018 |
| 9 of 11 | Landscape Ground Floor Townhouse C | G | 31/05/2018 |
| 10 of 11 | Landscape Level 2 Plan Townhouse C | G | 31/05/2018 |
| 11 of 11 | Landscape Details | G | 31/05/2018 |

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

2. Construction Certificate

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

3. 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. 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. The safety devices must be robust and childproof.

5. External Finishes

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

6. Provision of Parking Spaces

The development is required to be provided with 110 off-street car parking spaces for the residential flat building. These car parking spaces shall be available for off street parking at all times.

7. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 45 litre pot size.

All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size.

Groundcovers are to be planted at 5/m².

8. Tree Removal

Approval is granted for the removal of trees shown for removal on Site analysis plans prepared by GM Architects dated 25/05/18.

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

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 93 of the Protection of the Environment Operations (Waste) Regulation 2014 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. Salinity Requirements

The recommendations of the *Salinity Assessment* for 29 Mason Road Box Hill, prepared by Benviron Group, referenced as E923-2, dated 11 November 2016 and submitted as part of the Development Application are to be implemented as part of this approval. In particular the preliminary management strategies should be considered and implemented where appropriate.

11. Property Numbering

The responsibility for property numbering is vested solely in Council.

The property addresses for this development are:

Residential Unit Building

| Lift 1 – 1 Ursa Street Box Hill | | Lift 2 – 3 Ursa Street Box Hill |
|---------------------------------|---------|---------------------------------|
| Ground | G01-G03 | G04-G06 |
| First | 101-106 | 107-112 |
| Second | 201-206 | 207-212 |
| Third | 301-304 | 305-309 |
| Fourth | 401-404 | 405-409 |
| Fifth | 501-504 | 505-509 |
| Sixth | 601-604 | 605-609 |
| Seventh | N/A | 701-705 |

Townhouse Development 1

| | | |
|------------------|------------------------------------|--------------------|
| T/H 1-9 & T/H 20 | 1-9&20/4 Tucana Street Box Hill | (Letterbox bank) |
| T/H 10 | 6 Tucana Street Box Hill | (single letterbox) |
| T/H 11 | 2 Tucana Street Box Hill | (single letterbox) |
| T/H 12-19 | Odd Nos. 5-19 Ursa Street Box Hill | (single boxes) |

Townhouse Development 2

| | | |
|------------------|--|--------------------|
| T/H 1-9 & T/H 20 | 1-9&20/4 Aries Way Box Hill | (Letterbox bank) |
| T/H 10 | 6 Aries Way Box Hill | (single letterbox) |
| T/H 11 | 2 Aries Way Box Hill | (single letterbox) |
| T/H 12-19 | Odd Nos. 21-35 Ursa Street Box Hill (single boxes) | |

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

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

The above numbering is conditional upon each of the three complexes being separately registered stratas. Should this change, numbering must be resubmitted to Land Information Section of Council for approval/change. If a single strata is created, unit and townhouse numbering cannot be repeated anywhere throughout the development.

12. Approved Amended Plan

The subdivision component of the development must be carried out in accordance with the concept Site Subdivision prepared by gm architects Drawing **a003** and other supporting

documentation including, but not limited to, the undertaking annotated on the subdivision plan relating to construction and dedication of the new roads as public roads reserve at no cost to Council.

The proposed lot 1 associated with road widening across Mason Road frontage is subject to future acquisition pursuant to SP2 zoned land of the SEPP.

13. Adherence to Demolition and Construction Waste Management Plan

All requirements of the Waste Management Plan submitted as part of the Development Application must be implemented except where contrary to other conditions of consent. 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.

14. Management of Construction and/or Demolition Waste

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

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

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

15. 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.

16. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council. The service must be arranged no earlier than one week prior to occupancy and no later than two days post occupancy. All requirements of Council's domestic collection service must be complied with at all times.

Please telephone Council's Resource Recovery Department on (02) 9843 0310 for the commencement of waste services.

17. Construction of the Garbage Rooms

All work involving construction of the garbage rooms must comply with the requirements below. Minimum storage facility must be provided for 8 x 1100 litre garbage bins and 8 x 1100 litre bulk recycling bins (Residential Flat Building), 10 x 240 litre garbage bins and 10 x 240 litre recycling bins (Townhouse Development 1) and 10 x 240 litre garbage bins and 10 x 240 litre recycling bins (Townhouse Development 2).

1. The layout of the garbage room must ensure that each bin is easily accessible and manoeuvrable in and out of the room with minimal or no manual handling of other bins.
2. The walls of the garbage room must be constructed of brickwork.
3. The floor of the garbage room must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
4. The garbage room must have a waste servicing door, with a minimum clear floor width of 820mm, unless bulk bins (660L and 1100L bins) are required, where the minimum clear width shall be 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.
5. The garbage room must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors.
6. All doors of the garbage room, when fully opened, must be flush with the outside wall and must not block or obstruct the driveway or footways. All doors must be able to be fixed in position when fully opened.
7. The garbage room must be adequately ventilated (mechanically). Ventilated garbage rooms should not be connected to the same ventilation system supplying air to the units.
8. The garbage room must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the garbage room, it is not to conflict with the space designated for the placement of bins.
9. The garbage room must be provided with an internal light (artificial) such as an automatic sensor light.
10. 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.
11. The garbage room must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Body Corporate.
12. Finishes and colours of the bin room are to complement the design of the development.

Bin Measurements (mm)

240L: 730 (d) 580 (w) 1080 (h) 1100L: 1245 (d) 1370 (w) 1470 (h)

18. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities for the residential flat building must be provided and designed in accordance with Australian Standard 2890.2-2002 for the standard 8.8m long Medium Rigid Vehicle, with the exception that the minimum clear vertical clearance is 3.5m. The following additional requirements are applicable:

1. All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to

the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.

2. Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
3. The requirement for reversing is limited to a single reverse entry manoeuvre into the designated garbage truck loading bay. The service bay must allow additional space for access and loading and have appropriate signage such as no parking at any time.
4. The loading area must have a sufficient level of lighting, and allow additional space for access and loading (e.g. wheeling a bulk bin to the back of the collection vehicle for rear load collection).
5. Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of medium and heavy vehicles, remote access or other measure to ensure there is no requirement for collection contractors to exit the cab. Copies of scan cards or remotes must be provided to Council no later than upon the commencement of waste services.

19. 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.

20. Approved Street Naming

Street naming must comply with Council's approved map which can be found on Council's website.

21. Street Trees

Street trees must be provided for the section of Ursa Street, Tucana Way, Aries Way and Aurora Street within or fronting the development site spaced between 7m and 10m apart and with a minimum of one tree per lot frontage. For corner lots, except with separately approved, there should be one tree on the primary frontage and two trees on the secondary frontage. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. This includes a street tree masterplan where one exists (check Council's website for details). Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

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

22. Recycled Water

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

23. Process for Council Endorsement of Legal Documentation

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

24. 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.

25. Separate Application for Strata Subdivision

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

26. Protection of Public Infrastructure

Adequate protection must be provided prior to work commencing and maintained during building operations so that no damage is caused to public infrastructure as a result of the works. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site. The certifier is responsible for inspecting the public infrastructure for compliance with this condition before an Occupation Certificate is issued. Any damage must be made good in accordance with the requirements of Council and to the satisfaction of Council.

27. Subdivision Certificate Preliminary Review

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

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

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. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

29. Special Infrastructure Contribution – Growth Centres

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

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

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

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

30. 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.

31. Section 7.11 Contribution

The following monetary contributions must be paid to Council in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development.

Payments comprise of the following:-

| | Purpose: 1 bedroom unit | Purpose: 2 bedroom unit | Purpose: 3 bedroom unit | Purpose: 4 bedroom unit | Purpose: Credit | No. of 1 Bedroom Units: 17 | No. of 2 Bedroom Units: 31 | No. of 3 Bedroom Units: 31 | No. of 4 Bedroom Units: 32 | Sum of Units | No. of Credits: 1 | Total \$7.11 |
|----------------------------------|-------------------------------|----------------------------|----------------------------|----------------------------|--------------------|-------------------------------|----------------------------------|----------------------------------|-------------------------------|------------------------|----------------------|------------------------|
| Open Space - Land | \$13,612.29 | \$14,413.01 | \$15,030.59 | \$15,030.59 | \$15,030.59 | \$ 231,408.93 | \$ 446,803.31 | \$ 465,948.29 | \$ 480,978.88 | \$ 1,625,139.41 | \$ 15,030.59 | \$ 1,610,108.82 |
| Open Space - Capital | \$6,602.20 | \$6,990.56 | \$7,290.11 | \$7,290.11 | \$7,290.11 | \$ 112,237.40 | \$ 216,707.36 | \$ 225,993.41 | \$ 233,283.52 | \$ 788,221.69 | \$ 7,290.11 | \$ 780,931.58 |
| Transport Facilities - Land | \$1,048.53 | \$1,110.21 | \$1,157.78 | \$1,157.78 | \$1,157.78 | \$ 17,825.01 | \$ 34,416.51 | \$ 35,891.18 | \$ 37,048.96 | \$ 125,181.66 | \$ 1,157.78 | \$ 124,023.88 |
| Transport Facilities - Capital | \$3,708.92 | \$3,927.08 | \$4,095.35 | \$4,095.35 | \$4,095.35 | \$ 63,051.64 | \$ 121,759.48 | \$ 126,955.85 | \$ 131,051.20 | \$ 442,798.17 | \$ 4,095.35 | \$ 438,702.82 |
| Water Management - Land (KCP) | \$5,999.58 | \$6,352.51 | \$6,624.70 | \$6,624.70 | \$6,624.70 | \$ 101,992.86 | \$ 196,927.81 | \$ 205,365.70 | \$ 211,990.40 | \$ 716,276.77 | \$ 6,624.70 | \$ 709,652.07 |
| Water Management - Capital (KCP) | \$5,055.27 | \$5,352.64 | \$5,581.99 | \$5,581.99 | \$5,581.99 | \$ 85,939.59 | \$ 165,931.84 | \$ 173,041.69 | \$ 178,623.68 | \$ 603,536.80 | \$ 5,581.99 | \$ 597,954.81 |
| Administration | \$198.78 | \$210.47 | \$219.48 | \$219.48 | \$219.48 | \$ 3,379.26 | \$ 6,524.57 | \$ 6,803.88 | \$ 7,023.36 | \$ 23,731.07 | \$ 219.48 | \$ 23,511.59 |
| Total | \$36,225.57 | \$38,356.48 | \$40,000.00 | \$40,000.00 | \$40,000.00 | \$ 615,834.69 | \$ 1,189,050.88 | \$ 1,240,000.00 | \$ 1,280,000.00 | \$ 4,324,885.57 | \$ 40,000.00 | \$ 4,284,885.57 |

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are updated quarterly.

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

This condition has been imposed in accordance with Contributions Plan No 15.

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

32. Erosion & Sediment Control Plan

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

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

- h) Erosion control practices
- i) Sediment control practices
- j) Outline of a maintenance program for the erosion and sediment controls

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

33. Acoustics - Protection of Internal Noise Levels

An acoustic statement is required to be submitted to the Principal Certifying Authority providing methods of noise attenuation (if any) prior to the issue of a Construction Certificate to ensure that the following internal noise levels are achieved:

- a) 35 dB (A) in any bedroom between 10pm am 7am.
- b) 40dB (A) elsewhere (other than garage, kitchen, bathroom and hallway) anytime.

34. Internal Pavement Structural Design Certification - Residential Flat Building

Prior to a Construction Certificate being issued, a Certified Practising 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.

35. Works on Adjoining Land

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

36. Engineering Works and Design

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

Engineering works can be classified as either "subdivision works" or "building works". Works within an existing or proposed public road, or works within an existing or proposed public reserve can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively.

The following engineering works are required:

a) Full Width Road Construction

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

| | |
|---------------|---|
| Road Name: | Formation: (Footpath/ Carriageway/ Footpath) (m) |
| Ursa Street | Road Type: Local Road DCP Box Hill Precinct 3.5m/ 11m/ 3.5m (total 18m) Pavement Design: Local (Design Guidelines Section 3.12) |
| Tucana Street | Road Type: Local Road DCP Box Hill Precinct 3.5m/ 11m/ 3.5m (total 18m) Pavement Design: |

| | |
|-----------|---|
| | Local ((Design Guidelines Section 3.12) |
| Aries Way | Road Type: Local Road DCP Box Hill Precinct 3.5m/ 11m/ 3.5m (total 18m) Pavement Design: Local ((Design Guidelines Section 3.12) |

The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council.

Except where a modified kerb treatment is required (such as for roadside bio-retention swales) roll kerb is to be used for all roads other than sub-arterial roads or roads fronting a park or creek corridor.

b) Partial Width Road Construction

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

| | |
|---------------|---|
| Road Name: | Formation: (Footpath/ Carriageway/ Footpath) (m) |
| Aurora Street | Road Type: Local Road DCP Box Hill Precinct 3.5m/ 11m/ 3.5m (total 18m) Pavement Design: Local (Design Guidelines Section 3.12) |

The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council.

Where partial width construction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width construction does not exist opposite, you will be responsible for the formation of the footpath verge, kerb and gutter and the construction of 6m of road pavement in accordance with the written concurrence obtained from the adjoining owner to the south.

Any requirements relating to partial width road construction from the relevant section of Council's DCP must also be complied with. All works must be carried out in accordance with the submitted traffic safety statement.

c) Temporary Turning Heads

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

A temporary turning head is required at the western end of Tucana Street, Aries Way and Aurora Street extending into 27 Mason Road, in accordance with the Civil Works Concept Plan prepared by Australian Consulting Engineers Drawings 170121 C01 and C02, also supported in writing by the adjoining property to the west.

d) Signage and Line Marking Requirements/ Plan

A signage and line marking plan must be submitted with the detailed design. This plan needs to address street name signs and posts, regulatory signs and posts (such as no parking or give way signs), directional signs and posts (such as chevron signs), speed limit signs and posts and line marking, where required.

Thermoplastic line marking must be used for any permanent works. Any temporary line marking must be removed with a grinder once it is no longer required, it cannot be painted over.

Details for all signage and line-marking must be submitted to Council's Construction Engineer for checking prior to works commencing. For existing public roads, signs and line marking may require separate/ specific approval from the Local Traffic Committee.

Street name signs and posts must be provided in accordance with the above documents and Standard Drawing 37. With respect to street name signs specifically, all private roads must include a second sign underneath which reads "private road".

e) 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.

f) Concrete Footpath

A 1.2m wide concrete footpath, including access ramps at all intersections, must be provided on one side of all roads in accordance with the DCP and the above documents.

g) Disused Layback/ Driveway Removal

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

h) 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.

i) Stormwater Drainage – Temporary Works

Stormwater drainage outlet must be extended within the adjoining property to the south to the satisfaction of the owner.

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

37. Integrated Site Stormwater Management

Temporary stormwater management in the form of OSD Basin and Water Quality Treatment chambers must be provided for each building A, B and C in accordance with the set of Stormwater Concept Plan prepared by Australian Consulting Engineers Revision D dated 25/5/2018.

All model parameters and data outputs are to be generally reflective to the DRAINS model Rev E and the MUSIC model Revision D both provided to Council on the 1/6/2018.

The purpose of the temporary stormwater management measures is to ensure there is no impact downstream between the pre-development and post development conditions, both with respect to the volume and quality of runoff, for a range of storm events. The cost of removing these temporary stormwater management measures and all associated re-work to pits and pipes must be determined at the detailed design stage, with a bond for 150% of the cost of these works submitted to ensure this occurs when the permanent basin/ rain garden planned in the locality is constructed and runoff from the subject site is/ can be connected to the same via the development of the intermediary properties downstream. The bond amount must be confirmed with Council prior to payment.

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

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

All model parameters and data outputs are to be provided.

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

Water Sensitive Urban Design – Technical Guidelines for Western Sydney, 2004, <http://www.wsud.org/tools-resources/index.html>

Australian Runoff Quality – A Guide to Water Sensitive Urban Design, 2005, <http://www.ncwe.org.au/arq/>

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

38. 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.

39. Erosion and Sediment Control/ Soil and Water Management Plan

The detailed design must be accompanied by an Erosion and Sediment Control Plan (ESCP) or a Soil and Water Management Plan (SWMP) prepared in accordance with the Blue Book and Council's Works Specification Subdivision/ Developments.

A SWMP is required where the overall extent of disturbed area is greater than 2,500 square metres, otherwise an ESCP is required.

An ESCP must include the following standard measures along with notes relating to stabilisation and maintenance:

- Sediment fencing.
- Barrier fencing and no-go zones.
- Stabilised access.
- Waste receptacles.
- Stockpile site/s.

A SWMP requires both drawings and accompanying commentary (including calculations) addressing erosion controls, sediment controls, maintenance notes, stabilisation requirements and standard drawings from the Blue Book.

40. Construction Management Plan

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

41. Security Bond – External Works

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded amount must be based on 150% of the tendered value of providing all such works. The minimum bond amount is \$10,000.00. The bond amount must be confirmed with Council prior to payment.

The bond must be lodged with Council before a Construction Certificate is issued for the building works.

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

42. Security Bond Requirements

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

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

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

PRIOR TO WORK COMMENCING ON THE SITE

43. Principal Certifying Authority

A sign is to be erected in accordance with Clause 98 A (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. 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).

47. 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 and receipt from Sydney Water Tap in™ (if not already provided) must be submitted to the Principal Certifying Authority upon request prior to works commencing.

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

48. 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.

49. Erosion and Sedimentation Controls

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

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

50. 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.

51. 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.

52. Notification of Asbestos Removal

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

53. 371 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 offsite 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 must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the SafeWork NSW, 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.

54. 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.

55. 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.

56. Erosion and Sediment Control/ Soil and Water Management

The approved ESCP or SWMP measures 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.

57. 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.

58. Service Authority Consultation – Subdivision Works

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

- The provision of electrical services for the non-residue lots created by the subdivision. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.
- The provision of water and sewerage facilities.
- The provision of telecommunication services for the non-residue lots created by the subdivision, typically requiring the installation of pits and pipes complying with the standard specifications of NBN Co current at the time of installation. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. The Telecommunications Act 1978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

59. 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.

60. 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

61. 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.

62. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No. 742846M_03 is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate. A Section 4.55 Application **may** be required should the subsequent version of this BASIX Certificate necessitate design changes to the development. However, a Section 4.55 Application **will** be required for a BASIX Certificate with a new number.

63. Compliance with Critical Stage Inspections and Inspections Nominated by the PCA

Section 6.5 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Clause 162A of the Environmental Planning and Assessment Regulation 2000. Prior to allowing building works to commence the PCA must give notice of these inspections pursuant to Clause 103A of the Environmental Planning and Assessment Regulation 2000.

An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspection or other inspection required by the PCA is not carried out. Inspections can only be carried out by the PCA unless agreed to by the PCA beforehand and subject to that person being an accredited certifier.

64. Filling of Dam

All fill is to be placed according to geotechnical advice and compacted in layers to achieve a standard suitable for residential development.

All fill must be Virgin Excavated Natural Material (VENM) and must not contain contaminants such as demolition material or organic wastes. The source of the VENM material and relevant certificates are to be obtained and provided to Council.

65. 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)*.

66. Removal of Septic Tank and Effluent Disposal Area

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

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

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

67. 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.

68. Dust Control

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

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

69. Asbestos Removal

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

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

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

70. Dam Dewatering Requirements

The recommendations of the *Dam Dewatering Assessment* prepared by Benviron Group for 29 Mason Road, Box Hill referenced as E1149 and dated 23 August 2017 as to be complied with as part of this application.

All dam water is to be irrigated (via spray irrigation) onsite, within the property boundaries prior to vegetation removal. No water from the dam is to be discharged into any watercourse without the prior approval of Council's Manager – Environment and Health.

72 hours prior to dewatering the dam, Council's Manager – Environment and Health is to be notified. Notification is to be made to Council's Duty Environmental Health Officer on 9843 0555.

71. 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.

72. Critical Stage Inspections – Subdivision Works

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

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

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

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

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

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

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

74. Provision of Electricity Services

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

75. Provision of Telecommunications Services

The submission of a compliance certificate from the relevant telecommunications provider, authorised under the Telecommunications Act confirming satisfactory arrangements have been made for the provision of, or relocation of, telecommunication services including telecommunications cables and associated infrastructure. This includes undergrounding of aerial telecommunications lines and cables where required by the relevant telecommunications carrier.

76. 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.

77. Landscaping Prior to Issue of any Occupation Certificate

Landscaping of the site shall be carried out prior to issue of any Occupation Certificate (within each stage if applicable). The Landscaping shall be either certified to be in accordance with the approved plan by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

78. Internal Pavement Construction - Residential Flat Building

Prior to any 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 the approved waste collection vehicle when fully laden.

79. Final Inspection of Waste Storage Areas - Residential Flat Building and Townhouses

Prior to any Occupation Certificate being issued, a final inspection of the waste storage areas and associated management facilities must be undertaken by Council's Resource Recovery Project Officer. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for domestic waste collection by Council. The time for the inspection should be arranged at least 48 hours prior to any suggested appointment time.

80. Risk Assessment - Domestic Waste Collection

Prior to an Occupation Certificate being issued, an onsite risk assessment relating to waste collection from the residential flat building must be undertaken by Council and its contractor. The time for the assessment must be arranged with Council when clear unobstructed

circulation in and out of the basement is available for Council and its contractor to perform a mock collection run. The final approved method for waste collection from the site is at the discretion of Council on satisfactory completion of this risk assessment.

81. 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.

82. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

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

83. Subdivision Works – Submission Requirements

Once the subdivision works are complete the following documentation (where relevant/ required) must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments and submitted to Council's Construction Engineer for written approval:

- Works as Executed Plans
- Stormwater Drainage CCTV Recording
- Pavement Density Results
- Street Name/ Regulatory Signage Plan
- Pavement Certification
- Public Asset Creation Summary
- Concrete Core Test Results
- Site Fill Results
- Structural Certification

The works as executed plans must be prepared by a suitably qualified engineer or registered surveyor.

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

A template public asset creation summary is available on Council's website and must be used.

84. Performance/ Maintenance Security Bond

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

85. Confirmation of Pipe Locations

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

86. Stormwater CCTV Recording

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

87. Public Asset Creation Summary

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

88. 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.

89. 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.

90. OSD System Certification

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

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

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

91. 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.

92. Notice of Privately Issued Strata Certificate

Should the Strata Certificate be issued by a certifier other than Council a copy of the strata certificate, along with all supporting documentation relied upon as part of the same, must be submitted to Council within seven days.

93. Final Plan and Section 88B Instrument

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

a) Dedication – New Road

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

b) Easement – Temporary Public Access

A temporary public access easement must be created within the adjoining property to the west 27 Mason Road over the temporary cul-de-sac turning head using the “temporary public access easement” terms included in the standard recitals.

c) Easement – Public Stormwater Drainage

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

d) Easement – Temporary Public Stormwater Drainage/ Outlet

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

e) Restriction – Rainwater Tanks

All residential lots must be burdened with a restriction using the “rainwater tanks” terms included in the standard recitals.

f) 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.

g) Restriction – Bedroom Numbers

All lots that contain a new dwelling home/ attached dwelling must be burdened with a restriction using the “bedroom numbers” terms included in the standard recitals.

h) Covenant – Onsite Waste Collection

Lot 2 must be burdened with a positive covenant relating to onsite waste collection using the “onsite waste collection” terms included in the standard recitals.

i) Restriction/ Covenant – Water Sensitive Urban Design

Lots 2 - 4 must be burdened with a restriction and a positive covenant that refers to the WSUD elements referred to earlier in this consent using the “water sensitive urban design elements” terms included in the standard recitals.

j) Easement – Temporary Stormwater Management (Box Hill)

Lots 2 - 4 must be burdened with an easement over the temporary stormwater management measures referred to earlier in this consent using the “temporary stormwater management” terms included in the standard recitals.

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

Lots 2 - 4 must be burdened with a restriction and a positive covenant that refers to the temporary stormwater management measures referred to earlier in this consent using the “temporary stormwater management” terms included in the standard recitals.

THE USE OF THE SITE

94. 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*.

95. Offensive Noise - Acoustic Report

The proposed use of the premises and/or machinery equipment installed (eg. ventilation systems and car park exhausts) 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.

96. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation of the residential flat building and townhouses, all garbage and recyclable materials emanating from the sites must be stored in the designated garbage room, which includes provision for the storage of all waste generated on the premises between collections. A caretaker must be engaged by the Owners Corporation to clean bins and the garbage room on a regular basis, and must be responsible for liaising with Council regarding the domestic waste service at the site when required.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning Plan with DCP Road Layout Plan
4. Site Plan
5. Floor Plans – Residential Flat Building
6. Floor Plan – Multi-Dwellings
7. Elevations – Residential Flat Building
8. Elevations – Multi-Dwellings
9. Landscape Plan – RFB and Multi-Dwellings
10. Clause 4.6 Variation

ATTACHMENT 1 – LOCALITY PLAN



SUBJECT SITE

✓ PROPERTIES NOTIFIED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

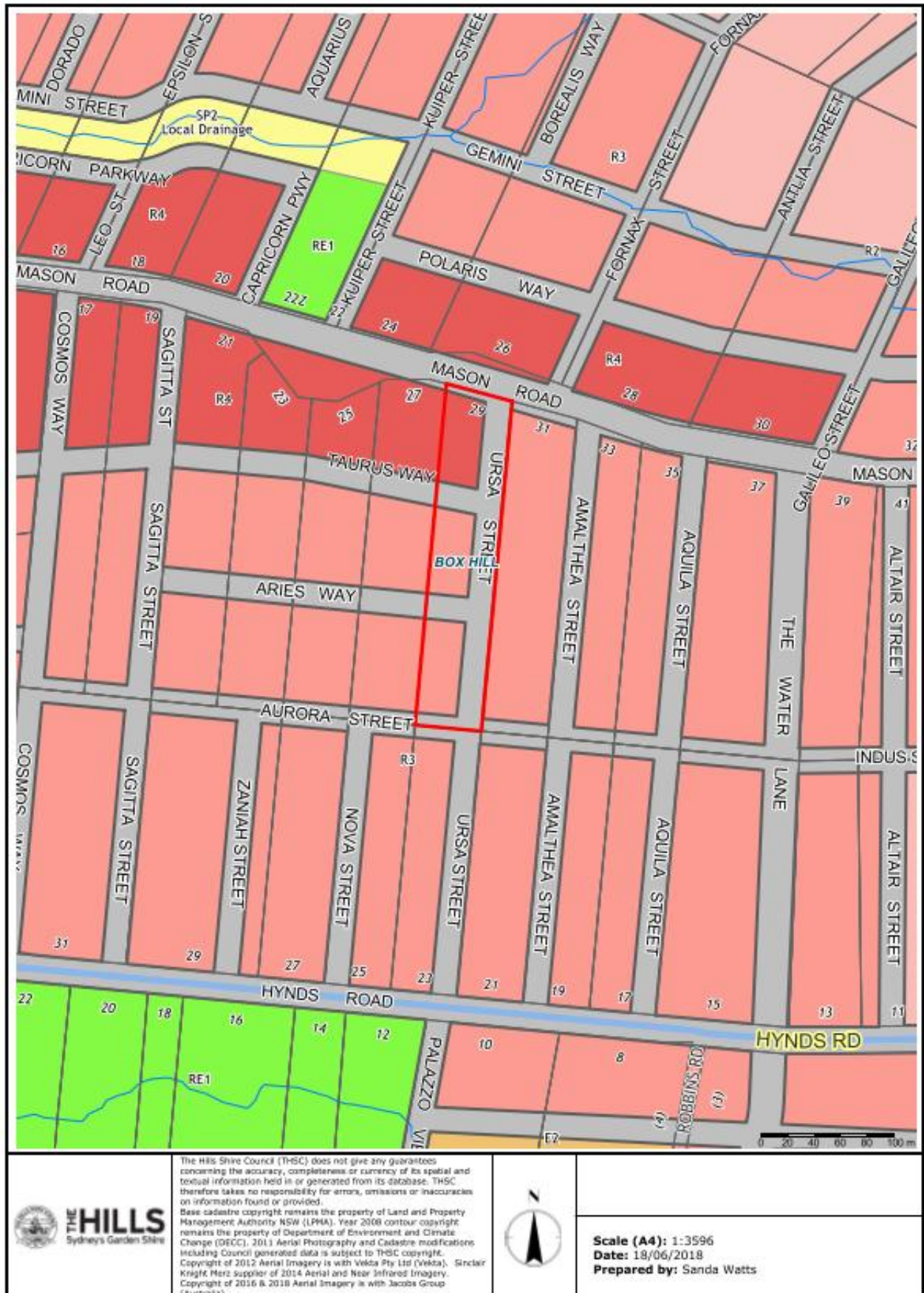
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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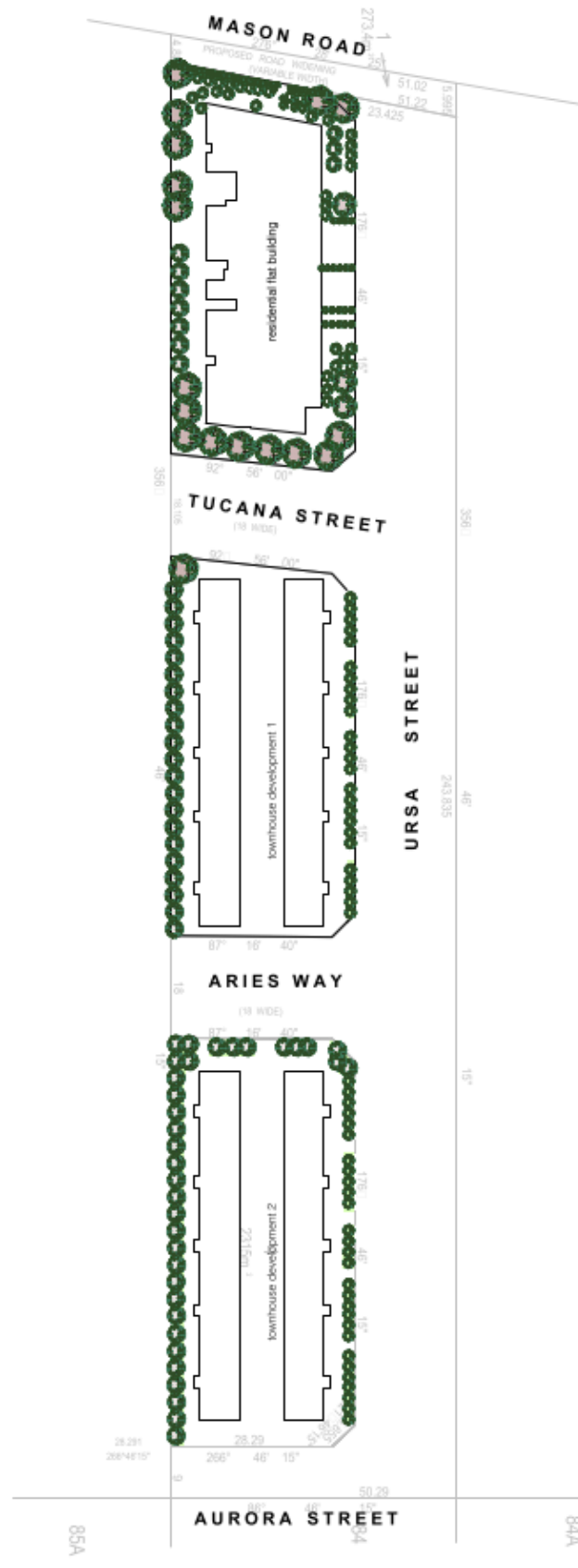
ATTACHMENT 2 – AERIAL PHOTOGRAPH



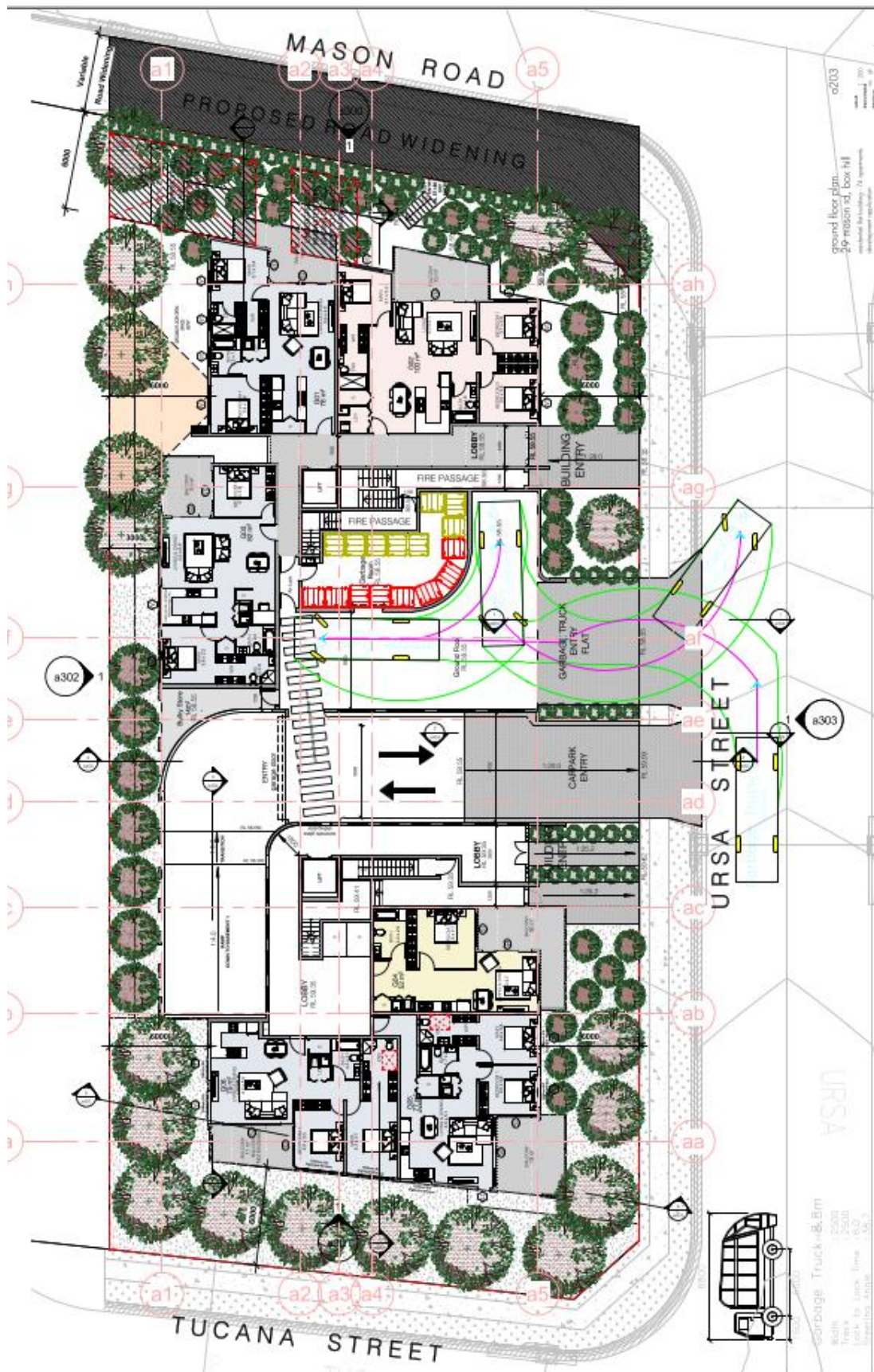
ATTACHMENT 3 – ZONING PLAN WITH DCP ROAD LAYOUT PLAN



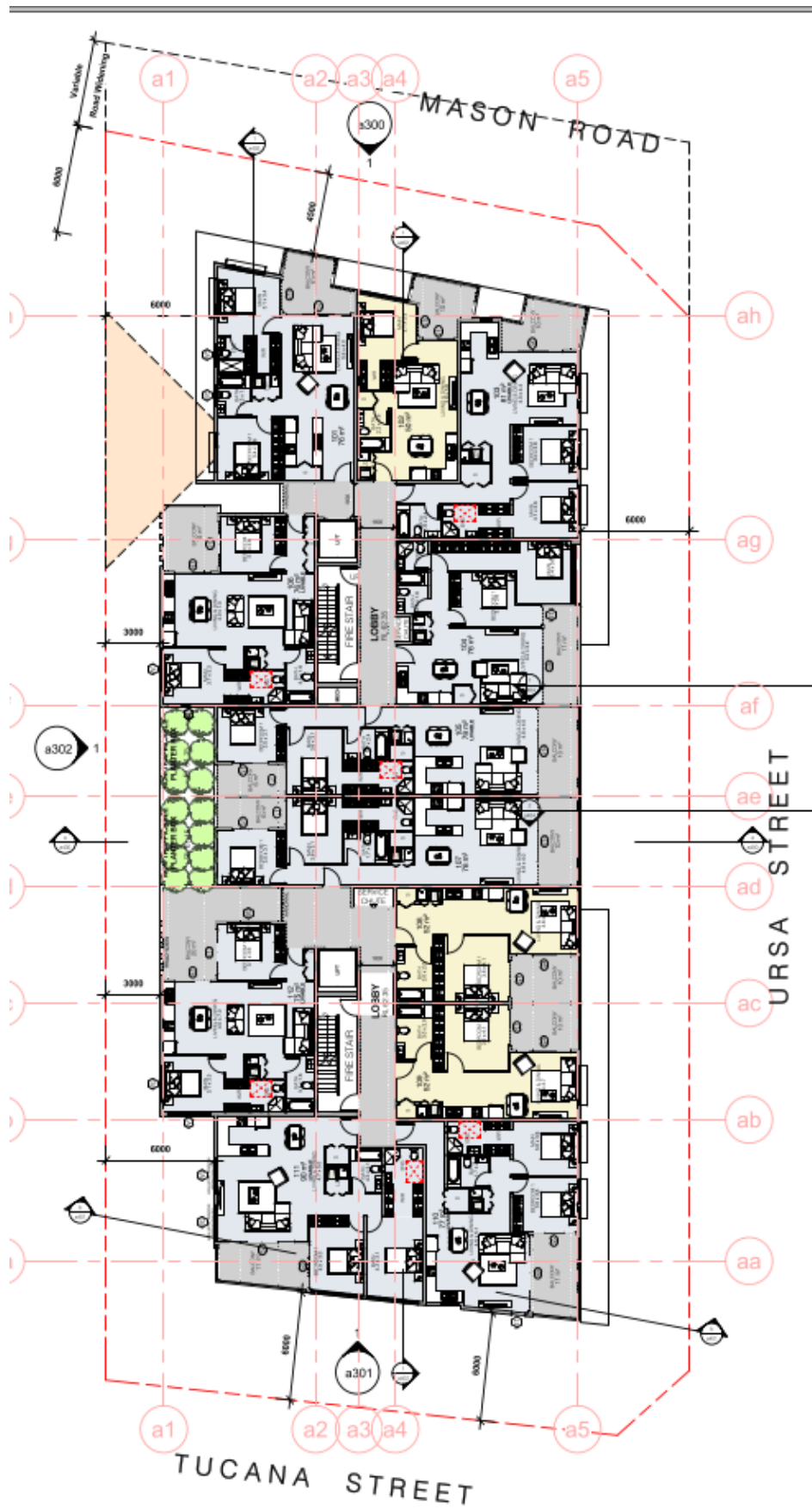
ATTACHMENT 4 – SITE PLAN



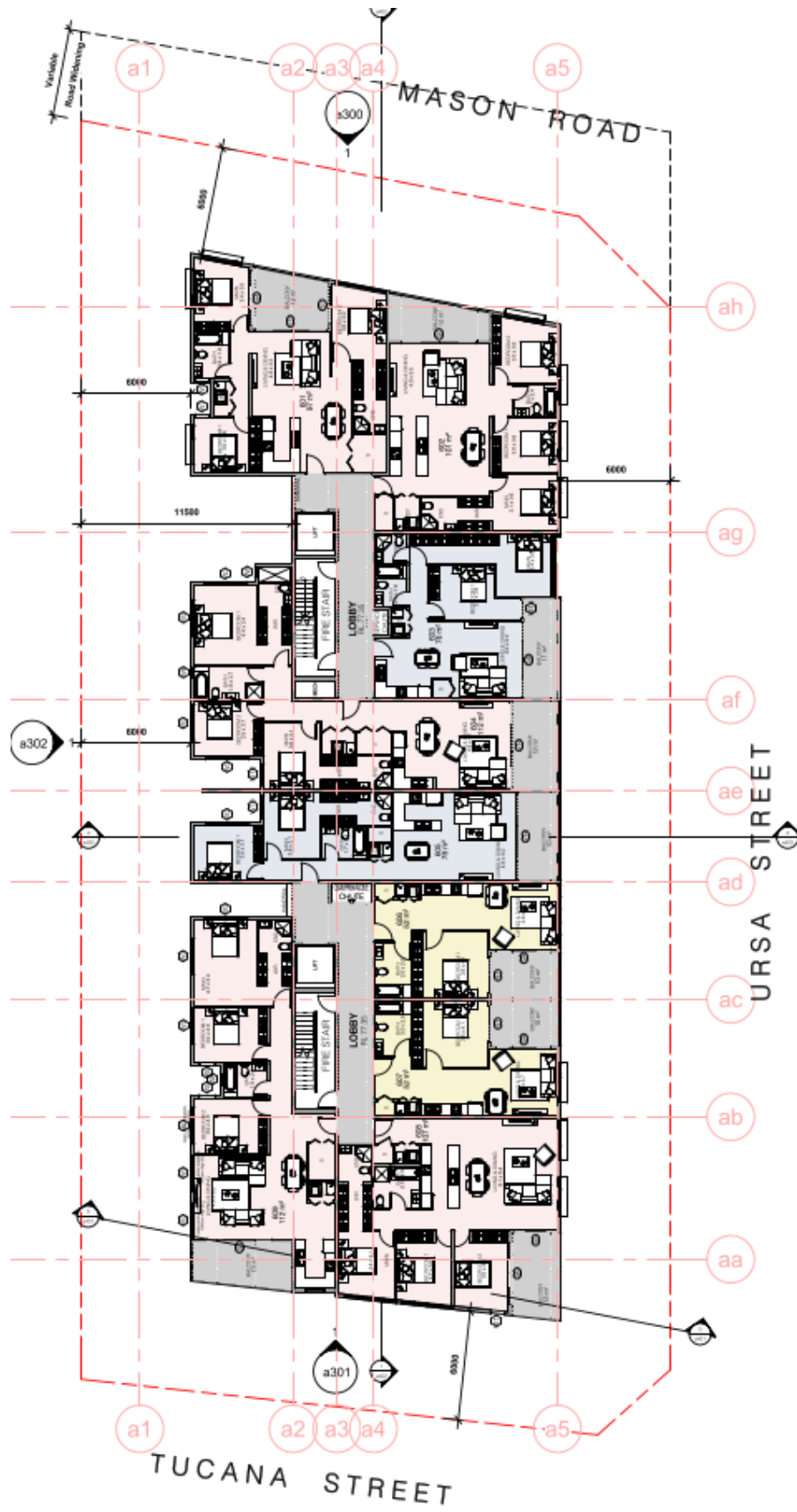
ATTACHMENT 5 – FLOOR PLAN – RESIDENTIAL FLAT BUILDING



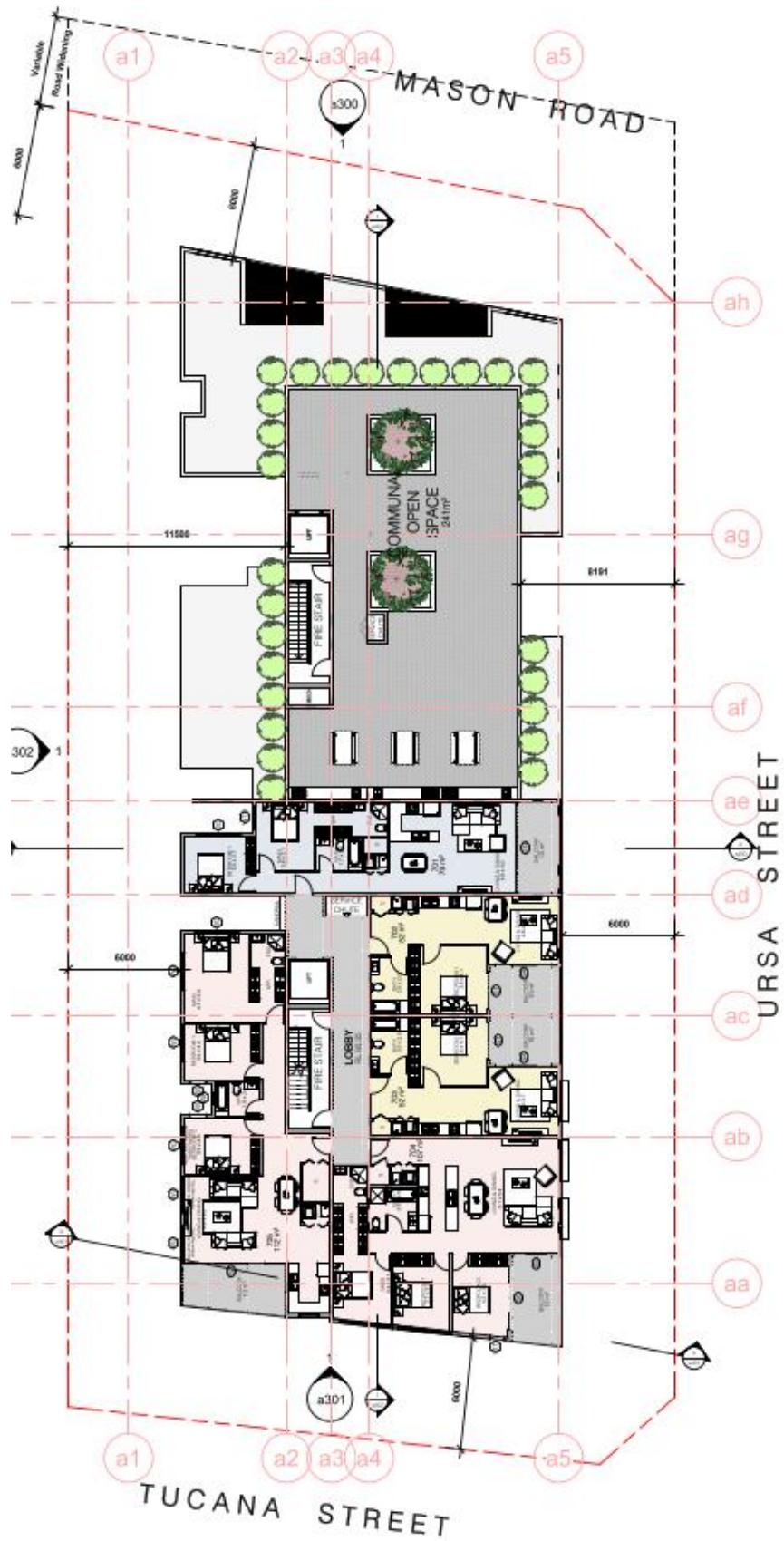
Ground Floor



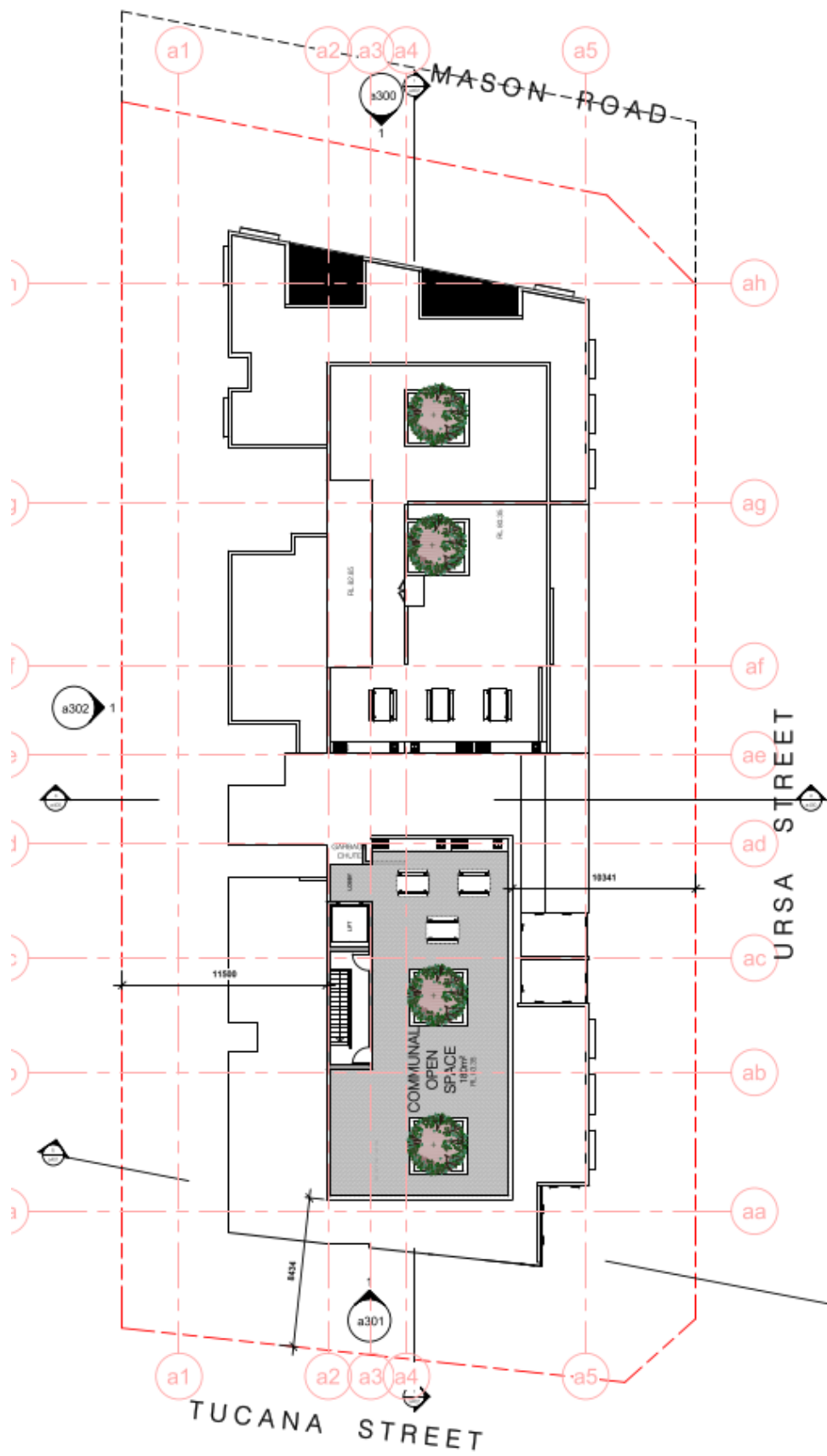
First floor



6th Floor Plan

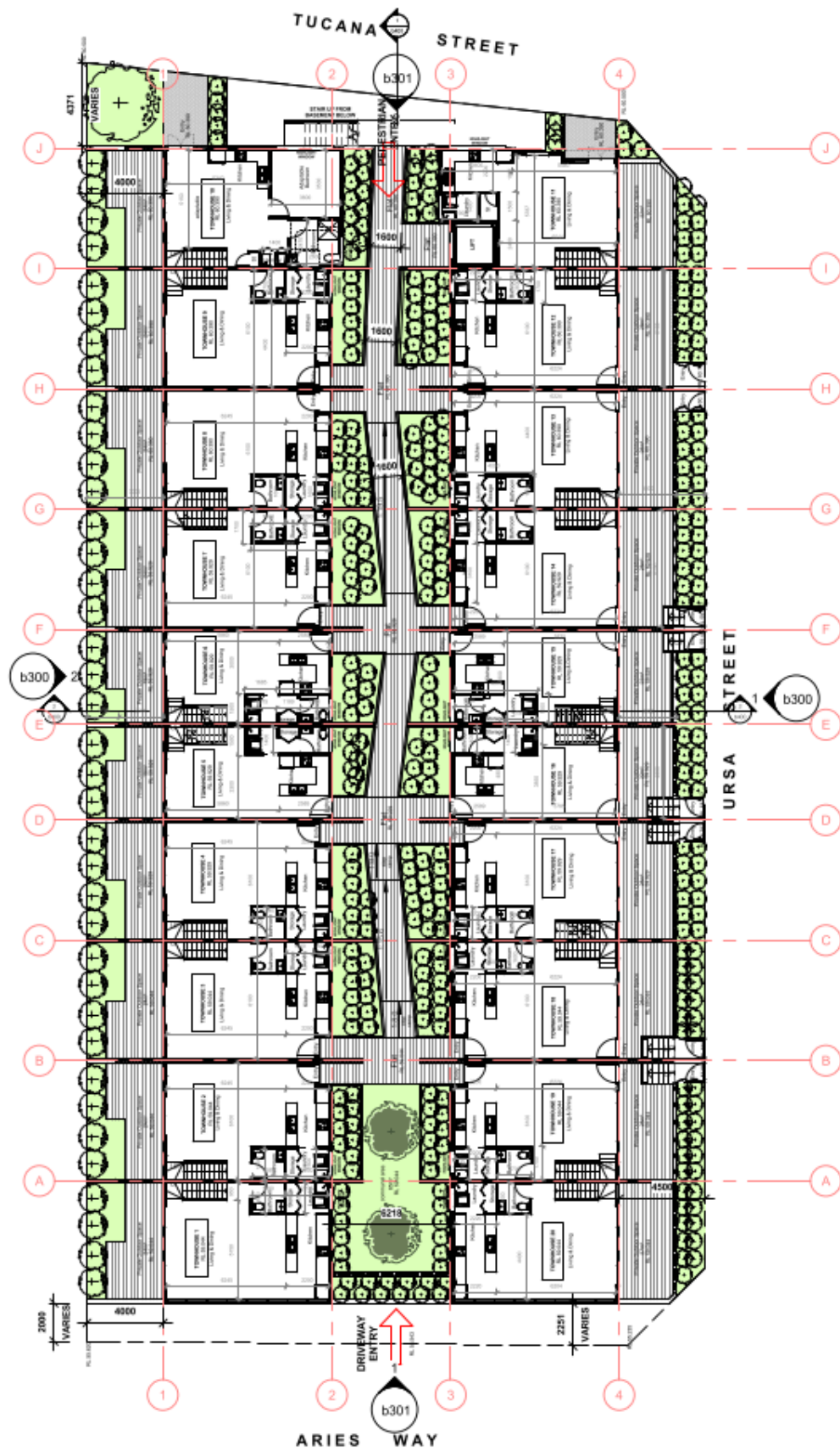


7th floor plan

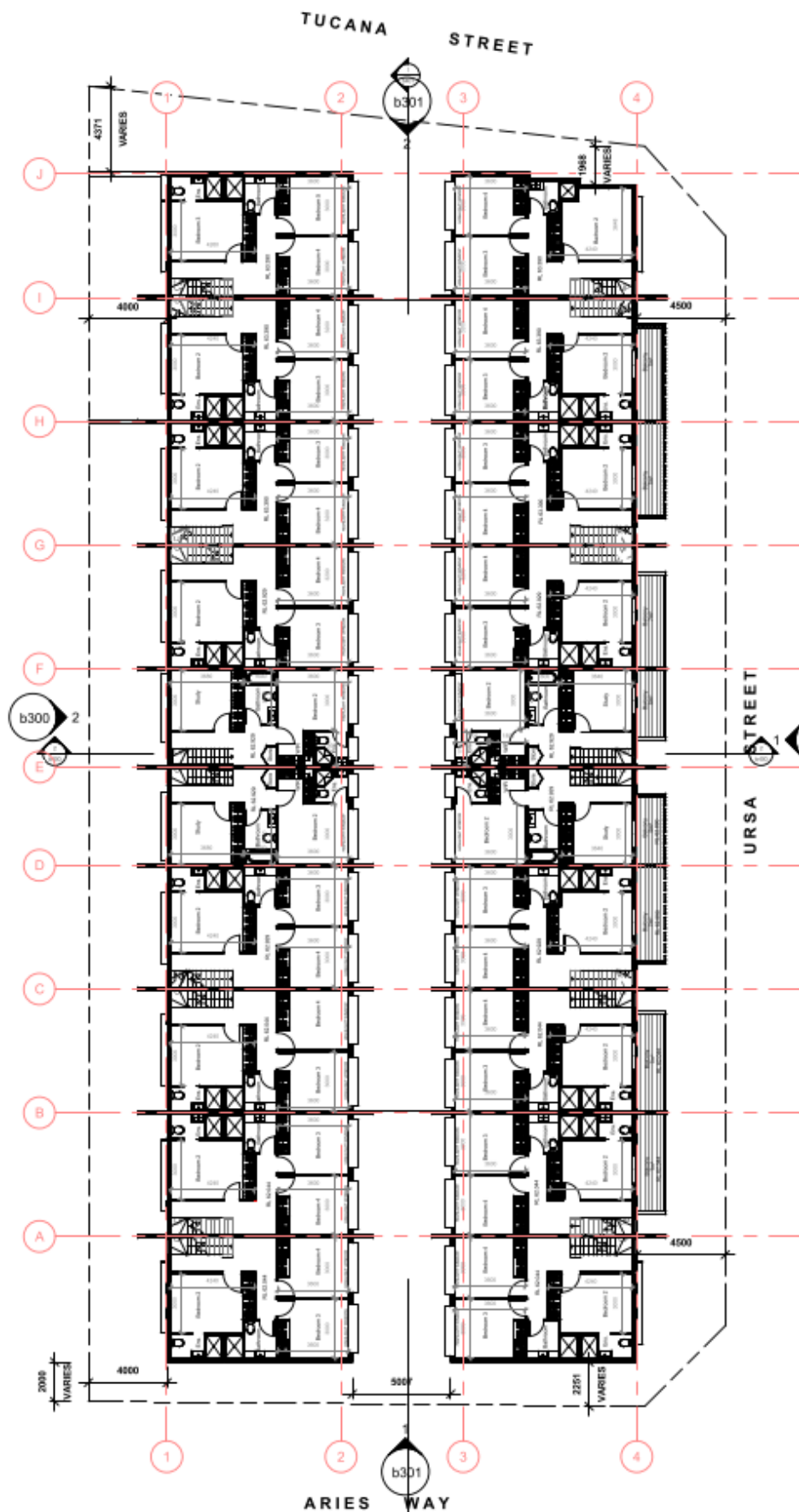


Roof Plan

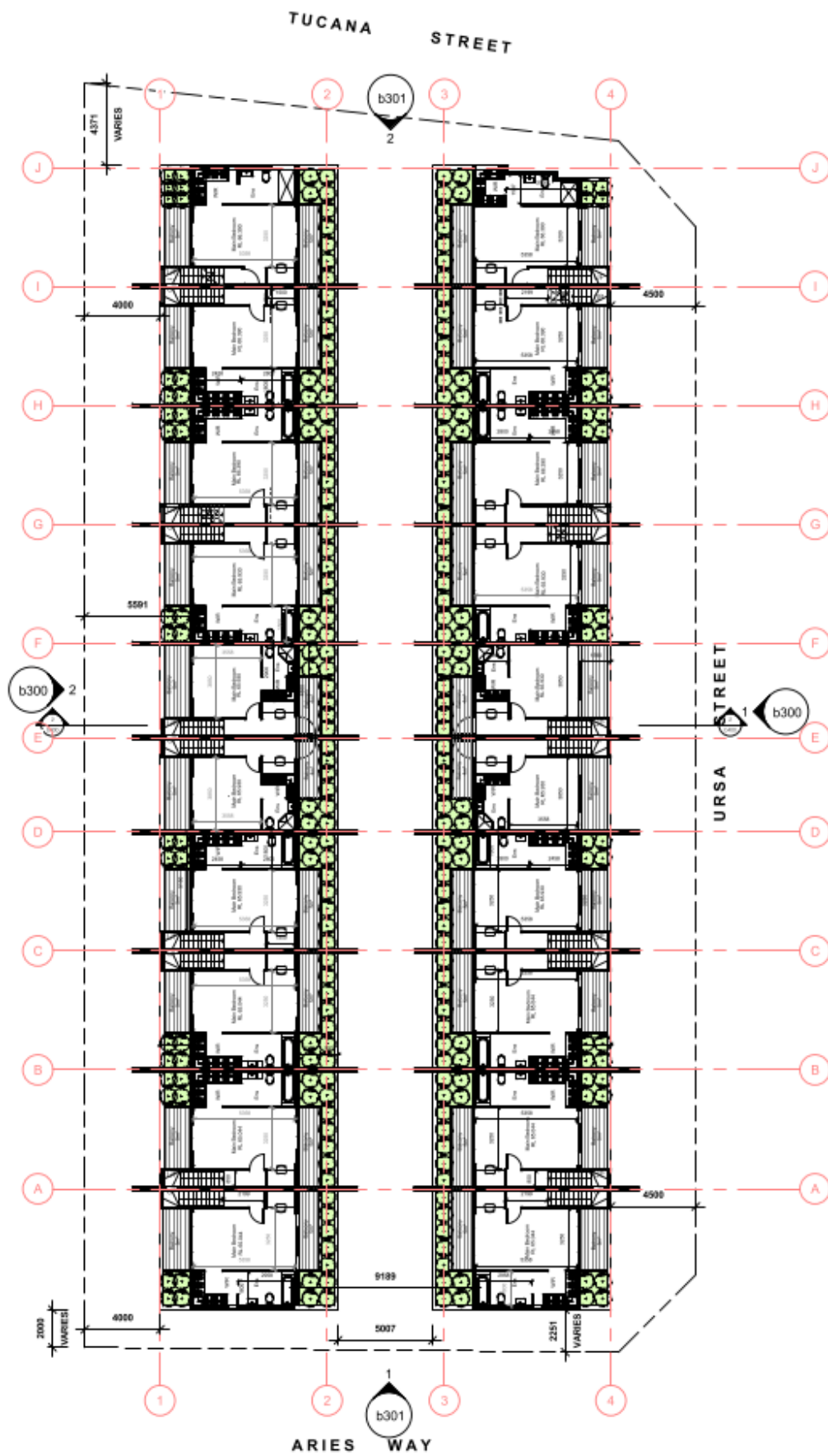
ATTACHMENT 6 – FLOOR PLANS MULTI DWELLINGS



Ground Floor Plan



First floor plan



Second Floor Plan

[illegible]

South Elevation

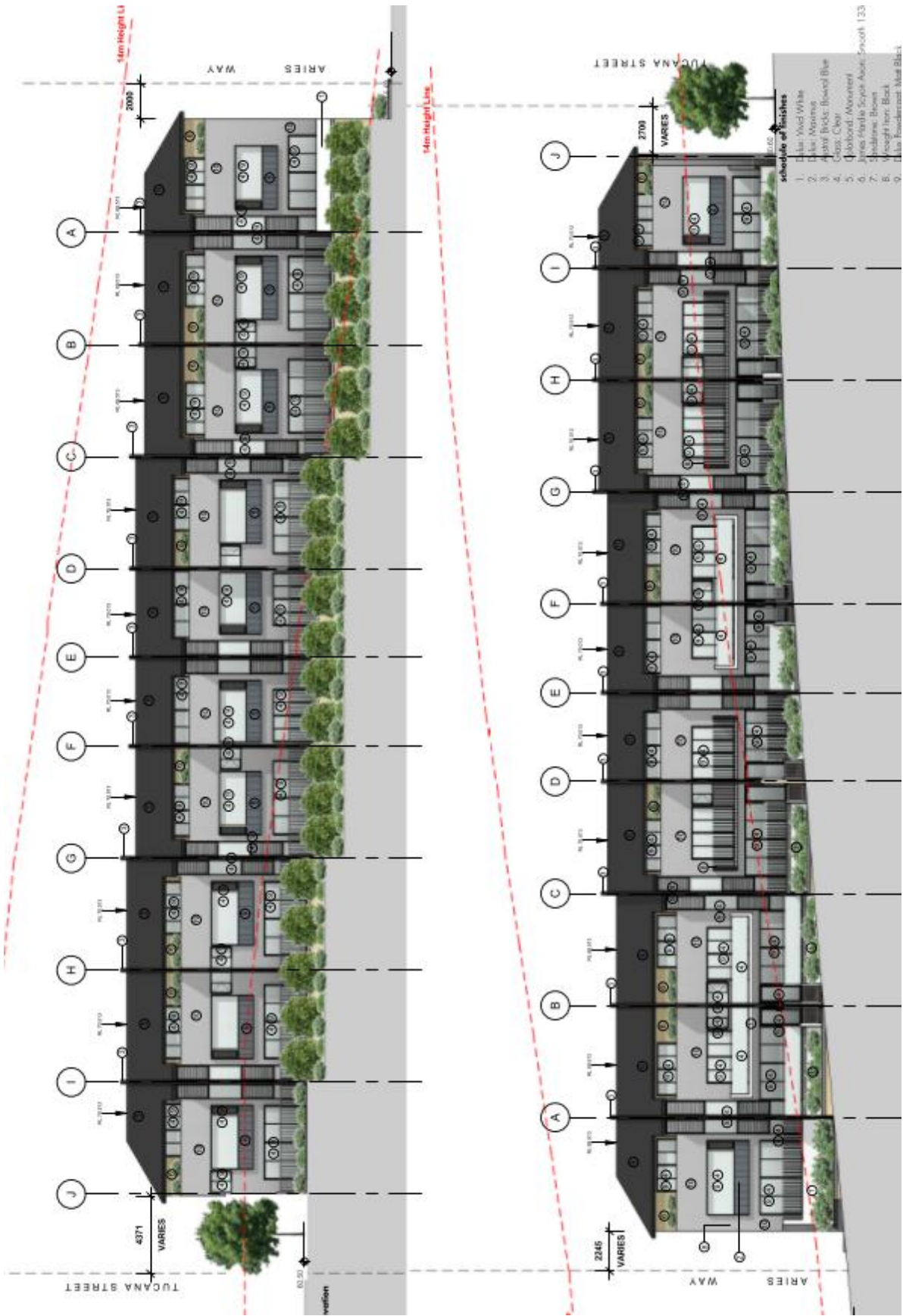


West Elevation



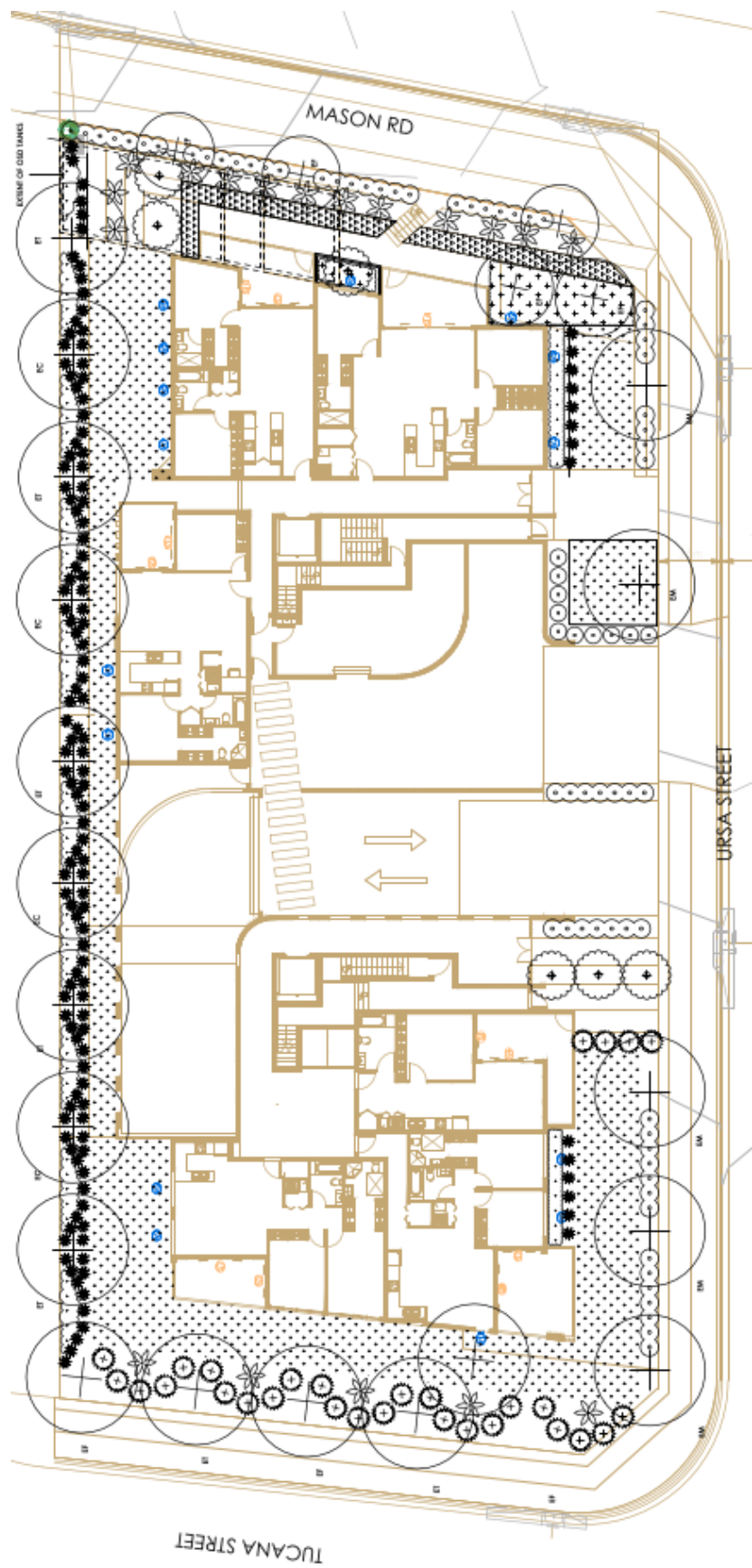
East Elevation

ATTACHMENT 8 – ELEVATIONS – MULTI DWELLINGS



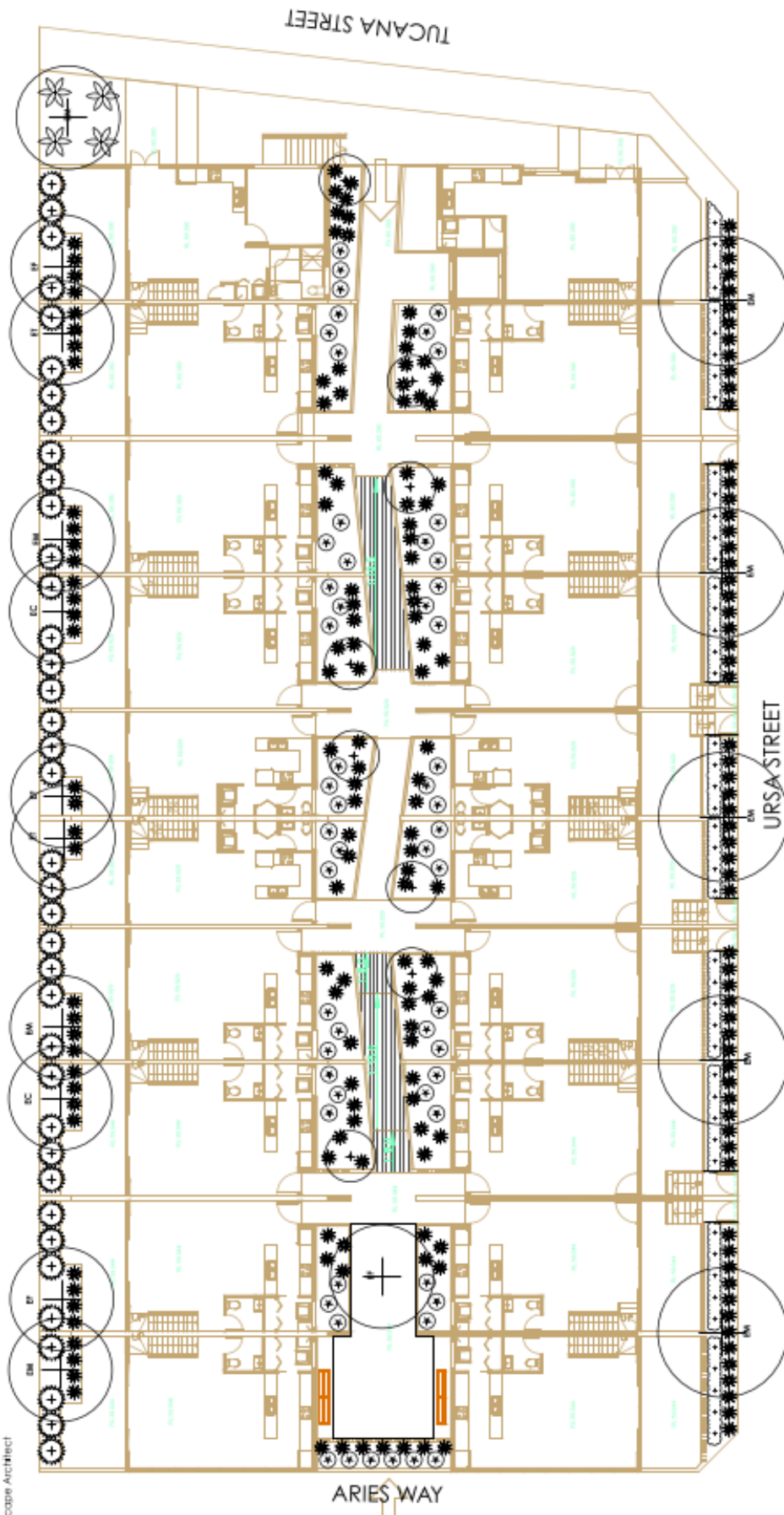


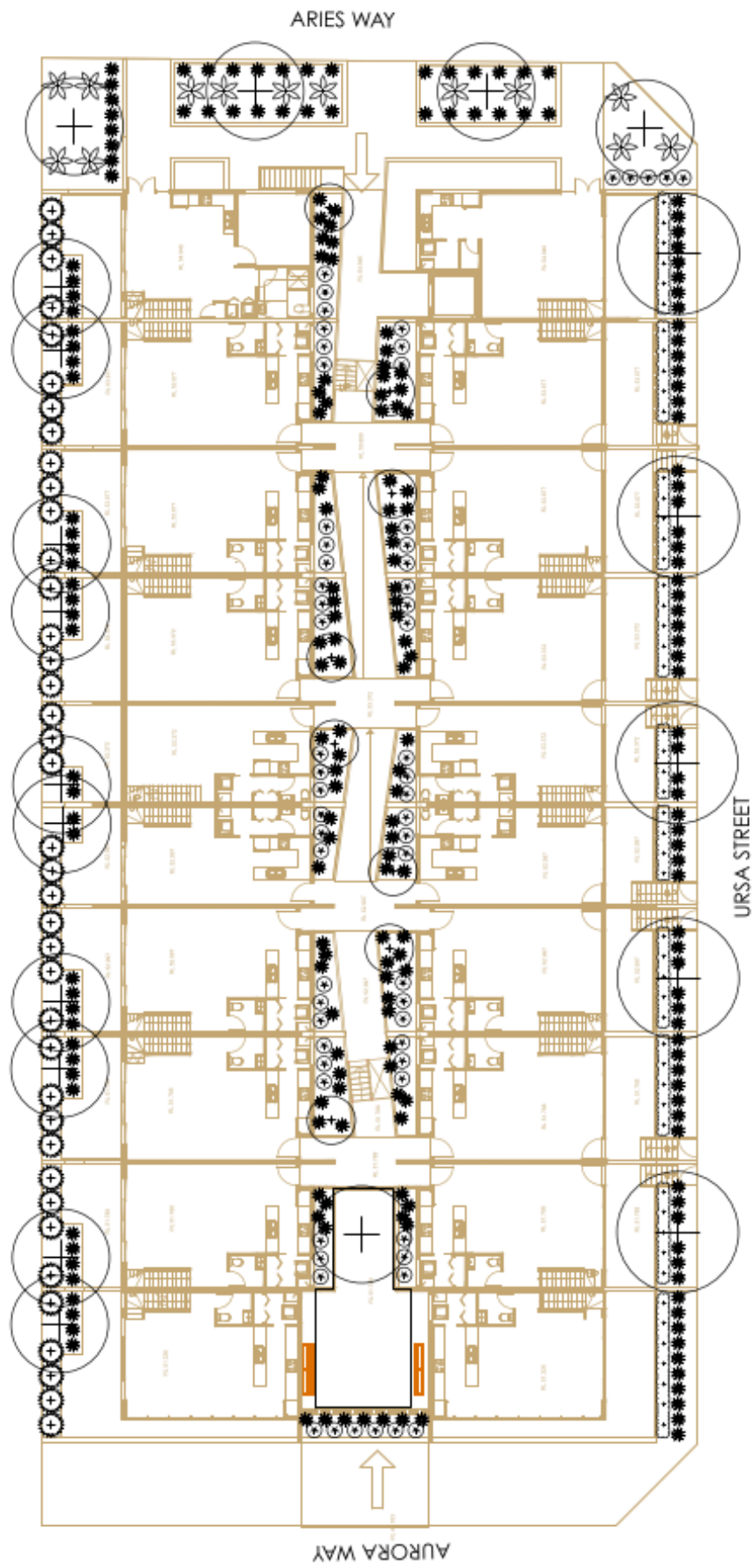
ATTACHMENT 9 – LANDSCAPE PLANS – RFB AND MULTI DWELLINGS



IFE PLAN

nisChan®
2020 Architect





ATTACHMENT 10 – CLAUSE 4.6 VARIATION



General Manager
The Hills Shire Council
PO Box 7064
Baulkham Hills BC NSW 2153

22nd May 2018

RE: 29 Mason Road, Box Hill - Addendum to Statement of Environmental Effects

In addition to the items discussed in the Statement of Environmental Effects, Clause 4.3(2) of State Environmental Planning Policy (Sydney Regional Growth Centres) 2006 – The Hills Growth Centres Precinct Plan, stipulates a maximum height requirement of 21m for development, which the proposal exceeds (i.e., primarily with the lift overruns and roof elements). As such, it will be necessary to include a Clause 4.6 Variation Request to vary the standard stipulated in the Clause [see **Attachment 1 – Variation Request (Building Height)**].

The Variation Request is to be read in conjunction with the Statement of Environmental Effects.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'D. Bobinac'.

David Bobinac

PO Box 201 Liverpool NSW 1871
Ph: (02) 9802 5030 Mob: 0410 331 467
E-mail: david@dplan.com.au
www.dplan.com.au

REQUEST TO VARY A DEVELOPMENT STANDARD [CLAUSE 4.6 SEPP(SRGC) 2006]

| | |
|------------------------------|--|
| Property: | 29 Mason Road, Box Hill |
| Date: | 22/05/2018 |
| Planning Instrument: | State Environmental Planning Policy (Sydney Regional Growth Centres) 2006 The Hills Growth Centres Precinct Plan 2013 |
| Development Standard: | Maximum Building Height [Clause 4.3(2)] |

Clause 4.6 of the SEPP states:

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Precinct Plan was made it did not include any of these zones other than Zone RU6 Transition, Zone E2 Environmental Conservation and Zone E4 Environmental Living.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
 - (c) clause 5.4.

Better Planning Outcome

It can be deduced from the following discussion that the building height requirement relates primarily to the bulk and scale of buildings (i.e., visible physical appearance within the context of its surrounds), which has in this instance been addressed through skillful design. It should also be noted, that the proposed development is well under the available FSR for the site, being the usual measuring tool for bulk and scale.

The reasons for the non-compliance with the maximum building height requirement include, attainment of an economically feasible development, the need to carry out bulk earth works to effectively integrate road and intersection levels and the inclusion of a roof top (terrace) common open space area, which was encouraged by Council. All result in a **better planning outcome**, viz:

- **Orderly and economic development of land** – a reduction to the building height could be achieved by deleting the top level of the building, however, this would make the development unfeasible and the approach would be contrary to the objectives of the Environmental Planning and Assessment Act, particularly when the development is already well under the available FSR. The upper most level of the development enables horizontal articulation, which assists in the aesthetics of the building and assists in reducing its bulk and scale.
- **Roof top terrace** – provides enhanced (better) residential amenities to the occupants of the development.
- **Lowering the building to comply** – results in steeper ramps and transition grades, which is a significantly worse planning outcome in terms of vehicular manoeuvring and pedestrian safety.



ELEVATION DEPICTING HEIGHT EXCEEDENCE

Development Standard

In this particular case, the development standard relates to the maximum building height for development under the provisions of *State Environmental Planning Policy (Sydney Regional Growth Centres) 2006 & The Hills Growth Centres Precinct Plan (Appendix 11)*, Clause 4.3(2) in particular.

The EP&A Act defines development standard as follows:

"development standards" means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work,..."*

NOTE: It is clear from the above definition that the 'maximum building height' requirement of the SEPP is a 'development standard'.

A variation is sought to Clause 4.3(2) which states the following:

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

The Height of Buildings Map stipulates a maximum height of **21m** for the subject site.

The proposed development involves the construction of a contemporary style residential flat building development which exceeds the maximum building height [i.e., **22.86m** (max)], hence, the need for a Clause 4.6 - Variation Request to accompany the application.

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

Compliance with Development Standard is Unreasonable and Unnecessary

The application must address whether strict compliance with the standard in this particular case, would be unreasonable or unnecessary and why.

The usual way is to demonstrate that the proposed development proffers an alternative means of achieving the objective, then strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

Justice Preston in a decision in the Land and Environment Court **Wehbe v Pittwater Council [2007] NSWLEC 827 at 43** outlines a number of other ways to establish that compliance with a development standard would be 'unreasonable' or 'unnecessary.' These include:

1. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
2. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
3. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
4. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

It is a well-known fact that the strict application of numeric requirements in the planning process restricts the design process and often produces poor urban design outcomes.

The Department of Planning's "Guidelines for the Use of State Environmental Planning Policy No.1" (refer to DOP Circular No. B1 - issued 17th March 1989) state that:

"As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases the variation will be numerically small and in other cases it may be numerically large, but nevertheless be consistent with the purpose of the standard..."

In deciding whether to consent to a development application the Council should test whether the proposed development is consistent with the State, regional or local planning objectives for the locality; and in particular the underlying objective of the standard. If the development is not only consistent with the underlying purposes of the standard, but also with the broader planning objectives of the locality, strict compliance with the standard would be unnecessary and unreasonable."

The underlying purpose of the maximum height standard can be deduced from the following objectives identified in Clause 4.3 (1) of the SEPP, viz:

4.3 Height of buildings

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

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

It is considered that strict compliance with Clause 4.3(2) of the SEPP would be unreasonable and unnecessary when adopting the abovementioned test of Justice Preston.

In summary, the underlying purpose of the maximum building height requirement is to ensure that new development is of a comparable height as other development in the locality and to maintain views, privacy and solar access. The proposed development which is located within a R4 High Density Residential Zone satisfies the above objectives as follows:

1. The relevant SEPP's, accompanying Precinct DCP and Apartment Design Guide encourage a range of building forms and horizontal variation, particularly on corner sites and where there is transitioning between high and low density development.
2. The residential flat building is a part 7/part 8 storey building that includes a roof top common open space, encouraged by Council to provide enhanced amenities for the residents of the development. The proposed height (22.86m) measured to the highest point, being the lift over-run and fire stair, are centrally positioned away from the visible edges of the building. As such, the visual impact objective is not undermined.
3. Opportunities – the proposed Residential Flat Building will occupy a street block and is delineated by the proposed road, as such any height anomalies are contained within the site and street-block and are not related to any adjacent development.
4. Constraints - there are site specific constraints which need to be addressed with the proposed development, including:
 - Stormwater Drainage outcomes;
 - Post bulk siteworks with assumed ground levels; and
 - The inclusion of basement levels to accommodate the car parking generation rates.

Note:

The bulk earthworks required to establish the road pattern in the vicinity of the subject site necessitates significant excavation, which in turn influences basement, ground and above ground finished floor levels, therefore, the overall height of the building is to some extent unavoidable in attaining the full potential of the site.

5. Strict compliance with the numeric requirement, in this particular case, would result in the deletion of rooftop amenities OR a diminished range of horizontal variation (i.e., the whole building would need to be uniformly 7 storeys max), which significantly diminishes the development potential of the site, making it unfeasible.
6. The proposed building height will form a good transition between the bulkier building forms planned in the Business Development zone, west of the site, towards Terry Road.
7. The design skillfully addresses visual bulk through the effective use of design elements and colours and textures.

Overall, it is considered that the proposed development will effectively assimilate with the envisaged future streetscape, therefore, its appearance will not be in strong visual contrast, being within the environmental capacity of the zone, and the variation to the maximum building height requirements is considered acceptable.

The justification is based on site specific and local circumstances, which have no bearing on State or Regional environmental planning interests and there are no particular benefits in strictly maintaining the maximum building height standard in this particular case, given that:

1. It would diminish residential amenity;
2. The inconsequential impacts of the variation; and
3. The mitigating circumstances with the skillful design (i.e., the design achieves the intent of the development standard).

Environmental Planning Grounds

In addition to the benefits to broader planning grounds, such as:

- Public benefit arising from additional housing, and
- An increase in the variety of housing stock¹.

The more specific environmental planning grounds established in the recent case of ***Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009**, are discussed in the following paragraphs.

As mentioned earlier, the building height is influenced by site specific circumstances such as:

- Road pattern and design levels;
- Required bulk earthworks;
- Drainage patterns and requirements; and
- The slope of the site.

Under the circumstances, the strict application of the development standard, restricts the attainment of the urban design principles established through the Precinct DCP and Apartment Design Guide. It is therefore, specific to the site and immediate locality, and the delivery of permissible forms of residential development.

As such, strict compliance with the height control in this instance would restrict the delivery of residential development with a high level of residential amenity, which in turn represents an unreasonable outcome that actually undermines the intent of the standard (i.e., *to provide a variety of housing types and to facilitate higher density development in and around commercial centres and major transport routes*).

Hence, in this instance, there is sufficient planning grounds to justify contravening the standard, so as to achieve a **better planning outcome** from the development, viz:

- **Orderly and economic development of land** – a reduction to the building height could be achieved by deleting the top level of the building, however, this would make the development unfeasible and the approach would be contrary to the objectives of the Environmental Planning and Assessment Act, particularly when the development is already well under the available FSR. The upper most level of the development enables horizontal articulation, which assists in the aesthetics of the building and assists in reducing its bulk and scale.
- **Roof top terrace** – provides enhanced (better) residential amenities to the occupants of the development.
- **Lowering the building to comply** – results in steeper ramps and transition grades, which is a significantly worse planning outcome in terms of vehicular manoeuvring and pedestrian safety.

Other site specific factors stem from the opportunities of the site, including; the sites context within the planned road network (i.e., it will be surrounded by new roads and in effect occupies the street-block, as such, any height anomalies are contained within the site and street-block and are not relative to any adjacent development, therefore there are no environmental consequences/impacts as a result of the additional height).

The proposed development will be in the public interest because it is consistent with the objectives of the R4 High Density Residential zone (i.e., the objectives of the zone encourage high density housing developments).

The objectives of the zone are:

- To provide for the *housing needs of the community within a high density residential environment.*
- To provide *a variety of housing types within a high density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed development satisfies the above objectives as follows:

- The proposed development is within the range of permissible uses and will meet the housing needs of the community;
- Consideration has been given to the desired future amenity and character of the area and it is considered that the proposed development will be sympathetic and harmonious with nearby development in the precinct and wider locality in general; and
- The proposed development will enhance the amenity of the site and immediate locality by the provision of new housing stock of a comparable scale as envisaged on adjoining and nearby sites.

Given the above, it is considered that the proposed development is within the environmental capacity of the R4 – High Density Residential zone.

The EP&A Act also promotes the economic use of land, which will be achieved through a development that caters for the desired lifestyle of future occupants of the land and the highest and best use of the site, in this particular case, being a residential flat building development. **The alternative situation of restricting or limiting the design affects the economic viability of developing the site.**

In terms of orderly use – all residential amenities are available to the development (i.e., vehicular and pedestrian access, car parking, open space and services). The interface of the development with the public domain is consistent with envisaged outcomes described in the precinct masterplan.

A compliant development with a reduced height would not, for all intents and purposes, achieve a better environmental outcome in the zone or enhance the residential amenity of residents living in the development, given that, the development is consistent with the envisaged building character in the locality.

Conclusion

In summary, the variation to the development standard is due to specific site and immediate locality circumstances associated with the terrain, future road patterns/levels and precinct plan outcomes.

The proposed development adequately addresses the sites opportunities and constraints and the maximum building height would not be a significant factor in the visual impact of the development or its compatibility with the scale of future development in the immediate locality. As such, it has been demonstrated that the objectives behind the maximum building height requirement have been met and therefore, it would be unreasonable and unnecessary in the circumstances to strictly insist on compliance with the numeric height requirement as it would tend to hinder the attainment of the objects specified in Clause 1.3 (previously Sections 5(a)(i) and (ii)) of the Environmental Planning & Assessment Act.

Accepting the variation will result in an orderly and economic use of the land, by accommodating a sympathetic development, appropriate for the zone and locality in which it is located.



David Bobinac
Town Planner

