

## JOINT REGIONAL PLANNING PANEL (Sydney West)

<b>JRPP No</b>	2016SYW142
<b>DA Number</b>	1124/2016/JP
<b>Local Government Area</b>	CITY OF PARRAMATTA COUNCIL
<b>Proposed Development</b>	CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING COMPRISING A PORTION OF IN-FILL AFFORDABLE RENTAL HOUSING UNDER THE PROVISIONS OF STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009
<b>Street Address</b>	LOTS 11, 12, 13 & 14 DP 25590 – NOS. 28-34 DONALD STREET, CARLINGFORD
<b>Applicant/Owner</b>	GHAZI AL ALI ARCHITECT/ TNJ PROPERTY DEVELOPMENTS PTY LTD
<b>Number of Submissions</b>	TWO
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	CIV OVER \$5 MILLION – PRIVATE INFRASTRUCTURE AND COMMUNITY FACILITIES (AFFORDABLE RENTAL HOUSING)
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> <li>- State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>- State Environmental Planning Policy (State and Regional Development) 2011</li> <li>- State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>- The Hills Local Environment Plan 2012</li> </ul> </li> <li>• List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) <ul style="list-style-type: none"> <li>- Nil</li> </ul> </li> <li>• List any relevant development control plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> <li>- DCP 2012 Part B Section 5 – Residential Flat Buildings</li> <li>- DCP 2012 Part C Section 1 – Parking</li> <li>- DCP 2012 Part C Section 3 – Landscaping</li> <li>- DCP 2012 Part D Section 12 – Carlingford Precinct</li> </ul> </li> <li>• List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv) <ul style="list-style-type: none"> <li>- Nil</li> </ul> </li> <li>• List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> <li>- Nil</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> <li>Environmental Planning and Assessment Regulation 2000</li> </ul> </li> </ul>
<b>Does the DA require Special Infrastructure Contributions conditions (s94EF)?</b>	No
<b>List all documents submitted with this report for the panel's consideration</b>	SUBMISSIONS
<b>Recommendation</b>	APPROVAL SUBJECT TO CONDITIONS
<b>Report by</b>	SENIOR TOWN PLANNER  CYNTHIA DUGAN
<b>Report date</b>	19 OCTOBER 2016

<b>Summary of S.79C matters</b> Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> 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?	NA
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	Yes

## EXECUTIVE SUMMARY

The Development Application is for the demolition of existing structures, consolidation of four lots and the construction of a four (4) and five (5) storey residential flat building containing forty-eight (48) units. The development comprises 6 x 1 bedroom, 34 x 2 bedroom and 8 x 3 bedroom units with basement car parking containing 50 car parking spaces. A total of twenty-three or 48% of the units are to be dedicated as affordable rental housing under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP (ARH) 2009).

The proposal comprises a floor space ratio (FSR) of 1.45:1 and minimum lot size of 2,836.1m<sup>2</sup>. It is noted that the Hills LEP 2012 development standard for FSR allows a maximum FSR of 1:1 and the minimum lot size development standard for residential flat buildings of 4,000m<sup>2</sup>. However, given the effect of SEPP (ARH) 2009 the application cannot be refused on the basis of FSR or minimum lot size as the proposal complies with the development standards of the SEPP.

The proposal complies with the requirements under State Environmental Planning Policy No. 65 (SEPP 65) - Apartment Design Guide (ADG) apart from the carparking requirements. Notwithstanding, the proposed development provides 50 car parking spaces for 6 x 1 bedroom, 34 x 2 bedroom and 8 x 3 bedroom units which exceed the SEPP (ARH) 2009 requirement by 1 car space which also cannot be used as grounds for refusal.

The proposal seeks variations to DCP 2012 Part D Section 12 – Carlingford Precinct in relation to site amalgamation plan, maximum number of storeys, unit sizes, car parking and setback to Tanderra Avenue. The Hills DCP Part D Section 12 Carlingford Precinct is relevant when SEPP (ARH) 2009, SEPP 65 and LEP 2012 are silent on standards such as height and setbacks and only to the extent that it provides a guide as to the future likely character envisaged for that area.

The subject site forms part of a larger site that is identified for potential redevelopment in the amalgamation plan and illustrative masterplan within DCP 2012 Part D Section 12 - Carlingford Precinct resulting in a variation to a larger site envisaged to be amalgamated consisting of Nos. 28, 30 and 32 Donald Street and Nos. 2, 4, 6 and 8 Tanderra Ave and 2, 4, 6 and 10 Paul Place (Refer Attachment 7). Notwithstanding DA 20/2016/JP was approved for a residential flat building development at Nos. 19-23 Post Office Street, 2-8A Donald Street, 6-10 Tanderra Avenue and 10 Paul Place (Refer Attachment 1). In this regard, the only lots left within this larger site identified for potential redevelopment in the amalgamation plan are Nos. 28,30,32 and 34 Donald Street (the subject site) and Nos. 2 and 4 Tanderra Avenue and Nos. 2, 4 and 6 Paul Place. As the resultant lots at Nos. 2 and 4 Tanderra Avenue and Nos. 2, 4 and 6 Paul Place could be consolidated to form a site area greater than 4,000m<sup>2</sup> approval of the subject development would not result in the isolation of any adjoining lots.

Notwithstanding, the applicant has approached the adjoining property owners at No. 2 Tanderra Ave and Nos. 26A and 26 Donald Street and made reasonable offers in accordance with the planning principle established in *Grech vs. Auburn Council* [2004]. These offers were declined by the adjoining property owners. Whilst not required, supporting documentation has been provided by the applicant which indicates that reasonable attempts have been made to purchase the adjoining lots and how the site could be development in the future.

Whilst the proposal complies with the maximum height development standard of 16m, the proposal exceeds the maximum four (4) storey limit, with the fifth storey element being located centrally, on the eastern and western elevations. Notwithstanding, these elements are recessed which presents the building as 4 storeys when viewed from the public domain. The variation is considered satisfactory as it does not result in

unreasonable adverse impacts on adjoining properties with respect to solar access and privacy.

The proposal seeks a variation to the Hills DCP 2012 Part D Section 12 - Carlingford Precinct setback requirements (to Tanderra Avenue) and car parking requirements (shortfall of 62 spaces) and Council's DCP 2012 Part B Section 5 – Residential Flat Buildings in terms of apartment sizes (Type 1 – 1, 2 and 3 bedroom units exceed 30%). The variation to the front setback requirement only occurs to the north eastern corner and balconies of the building and is considered minor in nature as the impacts to the bulk and scale of the proposed building is negligible when compared to a fully compliant scheme.

The overall design of the residential flat building is compatible with the future character envisaged for the Carlingford Precinct and is in keeping with the aims and objectives of the Carlingford Precinct Plan.

The variation to car parking requirements is supported as the proposal meets the minimum car parking requirements under SEPP (ARH) 2009, and therefore cannot be refused on this basis. The variation to unit sizes is supported as the proposal meets the minimum internal floor area requirements specified in the Apartment Design Guide, and therefore cannot be refused on this basis under Clause 30 of SEPP 65.

The application was notified for 14 days and placed on exhibition for public comments and received 2 submissions. The issues raised in the submission relate mainly to inadequate car parking, increased local traffic and devaluation of adjoining properties. These issues have been addressed in the report and do not warrant refusal of the application.

In the absence of the JRPP process, this matter would be determined by Council's Development Assessment Unit.

#### BACKGROUND

#### MANDATORY REQUIREMENTS

Owner:	TNJ Property Developments Pty Ltd	1.	<u>LEP 2012</u> - Satisfactory
Zoning:	R4 High Density Residential	2.	<u>The Hills DCP 2012</u> - Part D Section 12 – Carlingford Precinct – Variation, see Report.
Area:	2,836.1m <sup>2</sup>	3.	<u>Section 79C (EP&amp;A Act)</u> - Satisfactory
Existing Development:	4 detached dwellings	4.	<u>Section 94 Contribution</u> - \$582,640.85

#### SUBMISSIONS

#### REASONS FOR REFERRAL TO JRPP

1. Exhibition:	Yes, 14 days	1.	CIV – exceeds \$5 million - Private Infrastructure and Community Facilities
2. Notice Adj Owners:	Yes, 14 days		
3. Number Advised:	Twenty Seven (27)		
4. Submissions Received:	Two (2)		

#### HISTORY

<b>03/02/2016</b>	Subject Development Application lodged.
<b>12/02/2016</b>	Subject application notified and advertised in local newspaper for 14 days.
<b>29/02/2016</b>	Letter sent to applicant requesting additional information



regarding non-compliances with the Hills DCP 2012 in terms of the character of area, setbacks, floor space ratio, height, building depth, building separation, side setbacks, privacy, site coverage, open space, apartment size and layout, size of balconies, solar access. In addition concerns were raised regarding engineering (street drainage, onsite detention system, vehicle access and car park), Waste Management and Landscaping.

<b>31/03/2016</b>	The applicant requested an extension of time to submit additional information.
<b>01/04/2016</b>	The applicant submitted draft plans for review to address the concerns raised by Council staff.
<b>05/04/2016</b>	Email sent to applicant advising that the proposed Waste Management design to be provided at grade level next to the driveway rather than on basement level would require sufficient turning areas for a Medium Rigid Vehicle and increased Landscape screening to screen the area.
<b>22/04/2016</b>	Formal submission of additional information and amended plans by applicant.
<b>02/05/2016</b>	Amended plans re-notified for 14 days to adjoining properties and objectors.
<b>12/05/2016</b>	Further request for additional information sent to applicant regarding Waste Management and previous landscaping concerns that have not been fully addressed with the submitted information.
<b>31/05/2016</b>	Further request for additional information sent to applicant regarding previous engineering concerns that were not fully addressed with the submitted information.
<b>22/06/2016</b>	Conceptual plans received addressing the concerns raised by Council's engineering staff.
<b>16/08/2016</b>	Additional information and amended plans received addressing concerns regarding engineering, waste management and landscaping concerns.
<b>17/08/2016</b>	On-site Briefing meeting with JRPP. Concerns were raised regarding how the FSR bonus allowed under SEPP (Affordable Rental Housing) 2009 would impact on the bulk and scale of the development and the character of the locality.
<b>18/08/2016</b>	Email sent to applicant advising JRPP concerns and requested planning justification for the impacts resulting from the additional FSR bonus allowed under SEPP (Affordable Rental Housing) 2009.
<b>02/09/2016</b>	Planning justification received from applicant regarding JRPP concerns.

## THE SITE

The subject site is situated within the Northern Precinct of the Carlingford Precinct. It is located within 600m walking distance from Carlingford Station and 540m from Pennant Hills Road (a classified road under the control of the Roads and Maritime Services) that provides access to Hornsby and Epping.

The combined land area of the site is 2,836.1m<sup>2</sup>. It is regular in shape with a frontage to Donald Street and Tanderra Avenue and currently occupied by 4 detached dwellings between one and two storeys.

The adjoining properties comprise a mix of low density residential dwellings and medium density multi-unit dwellings to the north, east and west of the subject site. Low density residential dwellings, as well as approved sites for residential flat buildings exist to the south of the site. Construction of a number of residential flat buildings is evident within the vicinity of the site.

## PROPOSAL

The Development Application is for the demolition of existing dwelling houses, consolidation of lots and the construction of a residential flat building comprising 48 residential units including 23 in-fill affordable rental housing units under the provisions of State Environmental Planning Policy (ARH) 2009. The development comprises 6 x 1 bedroom, 34 x 2 bedroom and 8 x 3 bedroom units with one (1) level of basement car parking containing 50 car parking spaces. Vehicular access is to be provided via Tanderra Avenue.

## ISSUES FOR CONSIDERATION

### 1. (State and Regional Development) 2011

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

*Development for Private Infrastructure and Community Facilities that has a capital investment value of more than \$5 million.*

The proposed development contains 48% of units for in-fill affordable rental housing which is defined as community facilities under the SEPP. The total capital investment value of the development is \$11,629,415 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

### 2. Compliance with SEPP (Affordable Rental Housing) 2009

The State Environmental Planning Policy (Affordable Rental Housing) 2009 provides for affordable rental housing to be developed on any residential zoned allotment on which residential flat buildings are permissible. The Policy provides incentives for the development of affordable rental housing, including relaxation of development standards and increased floor space ratio provisions.

The SEPP includes the requirement that the subject site is within 800 metres walking distance of a public entrance to a railway station or a wharf where a Sydney Ferries ferry service operates, and within land that is zoned R4 High Density Residential. The subject site satisfies these requirements and the proposed development is therefore permissible.

The Development Application is made under Part 2 Division 1 of the SEPP (In-fill Affordable Housing).

The proposal has been assessed against the relevant controls prescribed by the SEPP for in-fill housing and the following table shows the development's performance against the relevant controls of the Policy.

<b>DEVELOPMENT STANDARD (CLAUSE NO.)</b>	<b>SEPP (ARH) 2009 REQUIREMENTS</b>	<b>PROPOSED DEVELOPMENT</b>	<b>COMPLIANCE</b>
Clause 8 – Relationship with other environmental planning instruments	If there is an inconsistency between this Policy and any other environmental planning instrument, where made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.	Proposal demonstrates compliance with all relevant provisions of the SEPP and where inconsistencies with the Hills LEP 2012 occur, this Policy prevails.	Yes
Part 2 new affordable rental housing  Clause 10(1) land to which this division applies	For the purpose of dwelling houses, multi-unit dwelling housing or residential flat building the land must be zoned: (a) Zone R1 General Residential (b) Zone R2 Low Density Residential (c) Zone R3 Medium Density Residential (d) Zone R4 High Density Residential	The subject site is zoned R4 High Density Residential under the Hills LEP 2012.	Yes
Clause 10(2) Public transport	The site must be located: (a) 800 metres walking distance of a public entrance to a railway station or a wharf where a Sydney Ferries ferry service operates, or (b) 400 metres walking distance of a public entrance to a light rail station or in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06:00 and 18:00 each day from Monday to Friday (both days	The subject site is located 602 metres walking distance to the entrance of Carlingford Station.	Yes

DEVELOPMENT STANDARD (CLAUSE NO.)	SEPP (ARH) 2009 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	inclusive)		
Clause 11(b) Development to which Division applies	Development for the purposes of residential flat building where at least 20% of the dwellings in the building will be used for affordable housing, but only if: (i) residential flat buildings are permissible on the land otherwise than because of this Policy, and (ii) the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register.	The proposal is permissible in the zone, does not contain a heritage item and contains 48% affordable housing (23 of 48 units).  The affordable housing units are: Lower Ground Level - LG01, LG02, LG03, LG04, LG05 & LG06 Ground level - G01, G02, G03, G04, G06, G07, G09 & G12 Level 1 - 101, 102, 103, 104, 105, 106, 107, 108 & 112	Yes
Clause 13 Residential flat buildings where such buildings permissible	This clause refers to in-fill affordable housing development if the percentage of the gross floor area of the development that is used for the purposes of affordable housing is at least 20 per cent. The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus: Y:1 (if the percentage of the gross floor area of the development that is used for affordable housing is less than 50%), under the following equation: AH - % of gross floor area to be used as affordable housing $Y = AH / 100$	Proposed affordable housing gross floor area is 1852.5m <sup>2</sup> . The total gross floor area is 4113m <sup>2</sup> . Therefore; $Y = 1852.5 / 4113$ $= 45 / 100$ or 0.45:1 additional permitted + 1:1 which is permitted under the Hills 2012. Therefore max FSR is 1.45:1.  The proposal has a maximum FSR of 1.45:1.	Yes
Clause 14 (2) Standards that cannot be used to refuse consent	General – A consent authority must not refuse consent to development to which this Division applies on any of the	Parking – 50 car parking spaces provided.	Yes – exceeds SEPP requirement by 1 space.

DEVELOPMENT STANDARD (CLAUSE NO.)	SEPP (ARH) 2009 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	<p>following grounds:</p> <p>(a)(ii) parking – at least 0.5 spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.</p> <p>(b) dwelling size must have a gross floor area of at least:</p> <p>(i) 35sqm for a bedsitter or studio</p> <p>(ii) 50sqm for a 1 bedroom</p> <p>(iii) 70sqm for a 2 bedroom</p> <p>(iv) 95sqm for a 3 bedroom</p>	<p>The proposal consists of 6 x 1 bedroom units and 36 x 2 bedroom units and 8 x 3 bedroom units. Therefore 49 car parking spaces are required.</p> <p>Minimum GFA for a 1 bedroom unit is 50.14sqm Min GFA for a 2 bedroom unit is 75.24sqm. Min GFA for a 3 bedroom unit is 97.24sqm.</p>	Yes – all units meet minimum required GFA.
Clause 16 Continued application of SEPP 65	Nothing in this Policy affects the application of SEPP 65 to any development to which this Division applies.	Refer to SEPP 65 - ADG compliance table.	General compliance with SEPP 65 requirements.
Clause 16A Character of local area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The design of the development is compatible with the character of the local area.	Yes, refer to discussion below.
Clause 17 Must be used for affordable housing for 10 years	<p>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</p> <p>(a) for 10 years from the date of the issue of the occupation certificate:</p> <p>(i) the dwellings proposed to be used for the purpose of affordable housing will be used for the purposes of affordable housing, and</p> <p>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</p> <p>(b) a restriction will be</p>	Refer to Condition No. 2	Yes

DEVELOPMENT STANDARD (CLAUSE NO.)	SEPP (ARH) 2009 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	registered before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.		

As described above, the proposal fully complies with the requirements of the SEPP (ARH) 2009. A discussion on compliance with Clause 16A – Character of local area is detailed below:

#### a) Character of local area

Clause 16A of SEPP (ARH) 2009 prescribes that a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

The applicant has provided the following character statement:

*"The design of the development will be compatible with the character of the local area for the following reasons:*

- The construction of the RFB is permissible in the R4 zone and it is within a residential area earmarked for high density residential development.*
- The proposal is of an appropriate scale, height, bulk and massing, which responds to the surrounding and future residential context.*
- The proposal is located within an area well served by public transport as well as private sector vehicular access and is a land use that is consistent with the surrounding neighbourhood and envisaged future character as prescribed by Council's development standards.*
- The proposal is generally consistent with the character of the area, as represented in the prescribed zone objectives and the surrounding development.*
- The proposal will mitigate amenity impacts to adjoining properties in terms of privacy, overshadowing and view loss. The proposed RFB is compatible with the design and development in the locality, including anticipated future built forms.*
- The modern design will positively contribute to the streetscape and architectural styles anticipated for the area. Given that the site is within close proximity to major arterial routes and has a number of regular bus services, the proposal is also in line to encourage public transport use."*

In addition to the above statement, the applicant argues the following:

*"It is important to note that being compatible is not synonymous with being identical. This was established in Project Venture Development Pty Ltd v Pittwater Council in the NSW Land and Environment Court. In that case, the Court accepted that buildings can exist together in harmony without having the same density, scale or appearance...where compatibility between building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.*

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

*In the surrounding area, the pattern of development offers context when understanding the transitioning nature of the Carlingford Precinct, where design concepts are encouraged to increase height and density in targeted locations. There are various examples of RFB's in the surrounding area that demonstrate buildings which differ in density, scale and appearance, yet still respond harmoniously to the character of the area.*

**Comment:**

The site forms part of the Carlingford Precinct, a transitioning area from low density single detached residential dwellings to high density residential apartment buildings as envisaged in Council's LEP which rezoned the site to R4 High Density Residential.

Whilst the existing area is predominantly low density, Council's future intent for the locality (including the subject site) is for the built form to reflect a transition of scale between the larger residential apartment buildings around the train station in the south of the Precinct and the smaller scale residential apartment buildings proposed to the north of Post Office Street. A number of residential flat buildings have been approved and constructed within the vicinity of the site.

The proposed residential flat building is located within the northern precinct and the proposal complies with the maximum height restriction of 16m. As a proportion of the residential building is dedicated to affordable rental housing, an additional bonus of 0.45:1 floor space ratio can be applied under SEPP (ARH) 2009. The applicant has provided indicative building envelopes, comparing a compliant RFB with an FSR of 1:1 as permitted under the Hills LEP 2012 to the proposed development (Refer Attachment 17)

The SEPP (ARH) 2009 provides incentives for the development of affordable rental housing, including increased floor space ratio provisions. Consequently, this must result in a development going up or out. Specifically, it should be noted that the SEPP ARH does not place restrictions on where the additional Gross Floor Area (GFA) must be placed, relying instead on the design principles and controls contained in the ADG to achieve the required planning outcomes. The proposal generally complies with the design principles and controls in SEPP 65 – ADG. The physical impacts of the proposal such as noise, overlooking and overshadowing do not result in unreasonable impacts on surrounding development is considered acceptable.

The proposal marginally increases the height of the residential flat building when compared to a fully compliant FSR scheme. As the proposal complies with the maximum height restriction of 16m and generally complies with design principles and controls contained in SEPP 65 – ADG, it is considered that the proposal is of a design and form that is in harmony with the buildings around it and meets Council's future intent for the local area and is therefore supported.

### **3. Compliance with SEPP 65 – Design Quality of Residential Apartment Development**

As required by Clause 16 of the SEPP (ARH) 2009, the proposal has been assessed against the relevant Design Principles and controls prescribed by SEPP 65.

The subject development has been assessed against the relevant design quality principles under Schedule 1 of the SEPP as follows:



#### Principle 1: Context and neighbourhood character

The site is located within a precinct planned for R4 High density developments incorporating residential flat buildings in close proximity to Carlingford Railway Station. The proposal responds to the desired future character of the Carlingford precinct as envisaged by Council. Once the development of the precinct is completed, the proposal would integrate with the surrounding sites and would be in keeping with the future urban form. The proposed building would respond and contribute to the identity and future character of the precinct and its context.

#### Principle 2: Built form and scale

The scale, bulk and height of the development is appropriate for the desired future character of residential flat building development within the Carlingford precinct. The proposed building generally complies with the height and setbacks prescribed within the Hills DCP. The development achieves a scale consistent with the desired outcome for residential flat buildings as envisaged under the structure plan and master plan for the Carlingford precinct. The proposal incorporates high quality facades with a balanced composition of varied building elements and achieves an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements.

#### Principle 3: Density

The proposal complies with the floor space ratio requirements under SEPP (ARH) 2009. The proposed density is considered to be sustainable as it responds to the regional context, availability of infrastructure, public transport, community facilities and environmental quality and is acceptable in terms of density.

#### Principle 4: Sustainability

The application includes good sustainable design including the use of natural cross ventilation and sunlight for amenity, liveability of residents and passive thermal design including a rooftop communal open space area. The applicant has also submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction.

#### Principle 5: Landscape

The application includes a landscape concept plan which provides landscaping along the street frontages, side and rear boundaries and rooftop. The proposal has been designed to facilitate the retention of a number of locally indigenous trees which are located along the existing property boundaries. Medium to large trees are proposed along the street frontages intercepted by shrubs and hedges which would soften the appearance of the development when viewed from the streets. Deep soil areas that incorporate canopy trees are provided around the building envelope which would enhance the development's natural environmental performance and provide an appropriate landscaped setting. In addition, a communal open space area is located on the building's rooftop which would contribute to the development's environmental performance and optimises usability, privacy and opportunities for social interaction and equitable access.

#### Principle 6: Amenity

The proposed units are designed with appropriate room dimensions and shapes to maximise amenity for future residents of all age groups and degrees of mobility. The proposal incorporates good design in terms of achieving natural ventilation, solar access, visual and acoustic privacy. All units incorporate adequate indoor and outdoor spaces with balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas have been provided within each unit and in the ground floor level. The proposal would provide efficient and safe access to service areas and all residential units via a central lift connecting the basement and all other levels.

#### Principle 7: Safety

The design orientates the balconies and windows of individual apartments towards the street, rear and side boundaries, providing passive surveillance of the public domain and communal open space areas. Both the pedestrian and vehicular entry points are secured and visually prominent from Tanderra Avenue. Condition No. 31 has been recommended to ensure the development is safe and crime prevention is minimised.

#### Principle 8: Housing diversity and social interaction

The proposal incorporates a range of unit sizes to cater for different demographics, living needs and household budgets. The development provides a component of adaptable housing and a mix of 1, 2 and 3 bedroom dwellings. The proposal responds to the social context in terms of providing a range of dwelling sizes with good access to social facilities and services as the site is located in close proximity to Carlingford railway station and shops. A variety of communal spaces including barbeque facilities provide opportunities for social interaction amongst residents.

#### Principle 9: Aesthetics

The architectural treatment of the building incorporates indentations and projections in the exterior walls with balcony projections to articulate the facades and landscaping is provided on the ground and roof level to soften the appearance of the building. The articulation of the building, composition of building elements, textures, recycled materials and colours would achieve a built form generally consistent with the design principles contained within the Apartment Design Guideline and the desired future character envisaged for the Carlingford precinct.

The following table shows the development's performance against the relevant controls of the Policy.

#### **APARTMENT DESIGN GUIDE (ADG) REQUIREMENTS**

Clause	SEPP Requirements – 65 ADG Design Criteria	Proposed Development	Compliance
<b>Siting</b>			
Communal open space	25% of the site, with a minimum of 50% direct sunlight to the principal usable part of the communal open space for 2 hours midwinter.	Approximately 580m <sup>2</sup> of communal open space is proposed on the ground floor and 395m <sup>2</sup> is proposed on the rooftop.	Yes, a total communal open space area of 975m <sup>2</sup> which is 34% of the site area which complies with the control. The rooftop communal area would achieve a minimum of 50% of direct sunlight for 2 hours 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 <sup>2</sup> and 15% for sites greater than 1500m <sup>2</sup> .	16% of site area is proposed for deep soil landscaping.	Yes, 16% of site area is proposed for deep soil landscaping which exceeds the 7% of site area and 15% requirement for sites greater than 1500m <sup>2</sup> .
Separation	For habitable rooms, 12m for 4 storeys and 18m for 5-8 storeys.	Eastern side has a setback of at least 6m for LG, G, L1	Yes, the setbacks provided are adequate to ensure building

		<p>and L2</p> <p>Southern rear is setback at least 8m for LG, G, L1 and L2 and 18m for L3</p> <p>Internal building separation on southern building elements is 12m.</p>	<p>separations of 12m for 3 storeys (Lower Ground to Level 2) and 18m for 5 storeys (Level 3) to future high density residential developments on the eastern and southern adjoining lots.</p>
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Visual privacy provided through adequate setbacks, window placements, highlight windows and full height privacy louvres.	Yes
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>The proposed unit mix is as follows:</p> <p>6 x 1 bedroom units 34 x 2 bedroom units 8 x 3 bedroom units</p> <p>Therefore the carparking required is:</p> <p><math>(0.6 \times 6) + (0.9 \times 34) + (1.4 \times 8) + (48/5) = 3.6 + 30.6 + 11.2 + 9.6</math> (visitor spaces) = 55 car spaces</p>	No addressed in part a) below.
<b>Designing the Building</b>			
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 mid-winter.	The proposal includes 36 units that would receive a minimum of 2 hours direct sunlight between 9am and 3pm mid-winter.	Yes, 36/48 units = 77% of apartments would receive a minimum of 2 hours direct sunlight between 9am and 3pm mid-winter.
	A maximum of 15% of apartments in a	The proposal includes 6 units that would not	Yes, 6/48 units = 13% of apartments

	building receive no direct sunlight between 9 am and 3 pm at mid-winter.	receive any direct sunlight between 9am and 3pm mid-winter.	would receive no direct sunlight between 9am and 3pm mid-winter.
Natural ventilation	<p>At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	The proposal includes 36 units that are naturally cross ventilated.	Yes, 36/48 units = 75% of units are naturally cross ventilated for the part 4 and 5 storey residential flat building.
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>	The drawings submitted indicate that the finished floor level to finished floor level is 3m for all habitable rooms. It is fair to assume that the concrete slab for each floor level would be less than 300mm which would result in a floor to ceiling height of 2.7m which complies with the control.	Yes
Apartment size	<p>Apartments are required to have the following internal size:</p> <p>Studio – 35m<sup>2</sup> 1 bedroom – 50m<sup>2</sup> 2 bedroom – 70m<sup>2</sup> 3 bedroom – 90m<sup>2</sup></p> <p>The minimum internal areas include only one bathroom. Additional</p>	<p>The sizes for each unit type are as follows:</p> <p>1 bedroom: 50.14sqm – 63.87sqm</p> <p>2 bedroom: 75.24sqm – 84.41sqm</p> <p>3 bedroom: 97.24sqm - 99.89sqm</p>	Yes, the sizes for each unit comply with the minimum internal areas as required.

	<p>bathrooms increase the minimum internal areas by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>		
Apartment layout	<p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p>	<p>All habitable rooms proposed have a depth of 2.5 x 2.7 (ceiling height) = 6.75m<sup>2</sup> or less and open plan layouts have a habitable room depth of 8m or less from a window.</p> <p>All bedroom windows are at least 10% of floor area of room.</p>	Yes
Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m<sup>2</sup> with no minimum depth  1 bedroom – 8m<sup>2</sup> with a minimum depth of 2m  2 bedroom – 10m<sup>2</sup> with a minimum depth of 2m  3 bedroom – 12m<sup>2</sup> with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m<sup>2</sup> with a minimum depth of 3m is required.</p>	<p>The proposal includes the following primary balcony sizes:</p> <p>1 bedroom – &gt;8m<sup>2</sup> with a min. depth of 2m</p> <p>2 bedroom – ≥10m<sup>2</sup> with a minimum depth of 2m</p> <p>3 bedroom – &gt;12m<sup>2</sup> with a minimum depth of 2.4m</p> <p>The majority of ground floor units have a private open space area of at least 15m<sup>2</sup> with a minimum depth of 3m except for the following units: LG02, LG03 &amp; LG04.</p>	No addressed in part b) below.
Storage	<p>Storage is to be provided as follows:</p> <p>Studio – 4m<sup>3</sup>  1 bedroom – 6m<sup>3</sup>  2 bedroom – 8m<sup>3</sup>  3+ bedrooms – 10m<sup>3</sup></p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>The proposal includes the following minimum storage areas for each unit type:</p> <p>1 bedroom – 6m<sup>3</sup>  2 bedroom – 8m<sup>3</sup>  3 bedroom – 10m<sup>3</sup></p> <p>The plans indicate that all units contain at</p>	Yes

		<p>least 50% of the required storage area within the apartments which complies with the control.</p> <p>The majority of units contain storage areas wholly within the units, with the exception of additional storage areas located in the lower ground level for Units G05, 110, 210, LG05, G08 and G10.</p>	
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	The proposal includes a variety of apartment types including 48% in-fill affordable units, 10% adaptable units and 12% 1 bedroom units, 71% 2 bedroom units and 17% 3 bedroom units.	Yes

As described above, the proposal generally complies with the requirements of SEPP 65 except for Car Parking and Private Open Space areas for three ground floor units.

#### **a) Car Parking**

SEPP 65 – ADG requires car parking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:

Metropolitan Sub-Regional Centres:

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.
- 1 space per 5 units (visitor parking).

The proposal is within 600m of Carlingford Railway Station. Therefore, the above requirements apply. The proposed unit mix comprises 6 x 1 bedroom units, 34 x 2 bedroom unit and eight 8 x 3 bedroom units. Therefore the number of car parking required under SEPP 65 is 55 car spaces.

The proposal provides a total of 50 car parking spaces which results in a shortfall of 5 spaces. However, the proposal includes 48% units to be used as in-fill affordable rental housing. As required under the provisions SEPP (ARH) 2009, the proposal is located less than 800 metres from Carlingford Railway Station. Clause 14 (2) of The SEPP (ARH) 2009 prescribes Standards that cannot be used to refuse consent including the following grounds:

- (a)(ii) parking – at least 0.5 spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.

In accordance with the above standard, 49 car parking spaces are required. The proposed development provides 50 car parking spaces for 48 units which exceed the requirement by 1 car space and cannot be used as grounds for refusal.

**b) Private Open Space Areas for Ground Floor Units**

SEPP 65 – ADG 4E Private open space and balconies require that for units at ground or podium levels, a private open space area of 15m<sup>2</sup> with a minimum depth of 3m is required. The majority of ground floor units proposed have a private open space area of at least 15m<sup>2</sup> with a minimum depth of 3m except for units LG02, LG03 and LG04 which contain private open space areas of 10.02m<sup>2</sup> to 11.64m<sup>2</sup> which does not comply with the numeric control.

The objective of the control is that apartments provide appropriately sized private open space and balconies to enhance residential amenity. The subject units are located directly adjacent to the principal communal open space area on the ground floor. The communal open space area is designed with raised planter boxes that screen the private open space areas of units which would alleviate potential visual and acoustic impacts for residents and would enhance residential amenity. Reducing this “buffer zone” to ensure full compliance with the numeric control for private open space areas for the subject units would exacerbate visual and acoustic amenity impacts from the communal open space area. As the subject units comply with the minimum area requirement for balconies serving one and two bedroom units, the minor variations to the private open space areas of units LG02, LG03 and LG04 is considered satisfactory.

**4. Compliance with 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.*

The likelihood of encountering contaminated soils on the subject site is low given the site has been historically used for residential purposes. Potential land contaminated activities, such as those listed in Table 1 and Appendix A of the Contaminated Land Planning Guidelines of SEPP 55, are unlikely to have been carried out on the site or adjoining properties. The site is not identified under the LEP as constituting contaminated land or land that must be subject to site audit statement and is not subject to legal notice for a matter listed under Section 59(2) of the Contaminated Land Management Act 1997. Given the above factors, no further investigation of land contamination is warranted in this case. The site is suitable in its present state for the continued use of residential purposes.

**5. Compliance with The Hills Local Environmental Plan 2012**

**i) Permissibility**

The subject site is zoned R4 High Density Residential under the Hills LEP 2012. The proposed residential flat building is permitted within the R4 High Density Residential zone under the Hills LEP 2012. The proposed development satisfies the following objectives of the R4 High Density Residential zone:



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

The proposed development seeks consent to consolidate four lots totalling an area of 2,826.1m<sup>2</sup> which does not meet the 4,000m<sup>2</sup> minimum lot size development standard for residential flat buildings under Clause 4.1A in LEP 2012. This is addressed in Section 5 below.

## ii) Development Standards

The proposal has been assessed against the LEP 2012 Map Sheets as follows: -

LEP 2012 MAPPING - DEVELOPMENT STANDARDS			
STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Floor Space Ratio	1.1:1	1.45:1	Not Applicable complies with SEPP (ARH) 2009
Allotment Size	4,000m <sup>2</sup>	2,836.1m <sup>2</sup>	Not Applicable, however complies with SEPP (ARH) 2009
Building Height	16m	Max. 15.8m	Yes

## 6. Compliance with DCP 2012 Part D Section 12 – Carlingford Precinct

The proposed development has been assessed against the relevant development standards and objectives of The Hills Development Control Plan 2012 and Part D Section 12 – Carlingford Precinct. Part D Section 12 – Carlingford Precinct was prepared to guide future development permissible within the Carlingford Precinct. It provides a Structure Plan and Masterplan to guide development which includes the following parameters:

### i. Amalgamation Plan

Under Clause 4.4.2(a) for the Carlingford DCP, the minimum site area of development sites shall be consistent with the site areas specified in the potential site amalgamation (Refer Attachment 7).

The subject site is only a portion of a larger site identified for potential redevelopment in the amalgamation plan within the DCP. The larger site identified includes a residual area which consists of No. 28 Donald Street and portions of No. 2 Tanderra Avenue and Nos. 4 and 6 Paul Place. Council's Forward Planning Team has confirmed this to be an anomaly that has not been identified for land acquisition or part of the open space strategy.

The larger site identified for potential redevelopment in the amalgamation plan includes Nos. 28, 30, 32 and 34 Donald Street and Nos. 2, 4, 6 and 8 Tanderra Ave and 2, 4, 6 and 10 Paul Place. Notwithstanding DA 20/2016/JP was approved for a residential flat building development at Nos. 19-23 Post Office Street, 2-8A Donald Street, 6-10 Tanderra Avenue

and 10 Paul Place. In this regard, Nos. 28,30,32 and 34 Donald Street, Nos. 2 and 4 Tanderra Avenue and Nos. 2, 4 and 6 Paul Place are the only lots left in the larger site identified for potential redevelopment in the amalgamation plan.

Clause 3.1 (c) of Part B Section 5 Residential Flat Building of DCP 2012 states:

*"A residential flat building development shall not isolate adjoining lots so that they are incapable of multi dwelling housing development, meaning there will be insufficient area to meet the minimum site area requirement in Clause 4.1A Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings of the LEP 2012."*

A key consideration during the assessment of the application was the impact of the proposal upon the orderly development of the Carlingford Precinct. The 'potential site amalgamation plan' within DCP 2012 Part D, Section 12- Carlingford Precinct (see diagram above) outlines that the subject site should be amalgamated with Nos. 2 and 4 Tanderra Avenue and Nos. 2, 4 and 6 Paul Place to form a larger amalgamated site. However, the total site area for the remaining lots would exceed the minimum 4,000m<sup>2</sup> which complies with Clause 4.1A Minimum lot sizes for residential flat buildings of the LEP 2012. In this regard, the proposal would not result in the isolation of any lots as the remaining lots have the potential for development of a residential flat building.

It should also be noted that the adjoining southern and eastern sites are constrained by a stormwater easement traversing the centre of the site (from east to west). This easement contains Council stormwater infrastructure and conveys overland flow. Notwithstanding, the overland flow would be required to be modified to allow for maximum potential for a residential flat building development. This would be assessed in a future application for the adjoining lots and is not relevant to this application.

Whilst approval of the subject development would not result in the isolation of adjoining lots, the applicant has made reasonable offers to purchase neighbouring lots including No. 2 Tanderra Avenue. In the decision of *Melissa Grech v Auburn Council* [2004] NSWLEC 40, Commissioner Brown set out what was a reasonable offer for the purposes of determining the development application and addressing the planning implications of an isolated lot. At [51], the Court said that:

"a reasonable offer... is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property".

Whilst the planning principle only relates to an isolated lot, an independent valuation of the adjoining lot at No. 2 Tanderra Ave was submitted with the application that based the applicable rate of \$1925 - \$2265 per square metre on a land area of approximately 1013 sqm and indicated the value of the lot was \$2,300,000. Documentary evidence has been provided demonstrating that the applicant's client TNJ Property Developments Pty Ltd offered \$2,645,000 on 21 September 2015 for the purchase of No. 2 Tanderra Avenue which exceeds the valuation price by 15%. This offer was declined by the adjoining property owner.

Whilst not required, it has been demonstrated that the applicant has made reasonable attempts to acquire No. 2 Tanderra Avenue. Whilst the amalgamation of a larger site incorporating Nos. 28, 30, 32 and 34 Donald Street and Nos. 2 and 4 Tanderra Ave and 2, 4 and 6 Paul Place is the most desirable outcome, it would be unreasonable to sterilise the re-development of the subject site in the circumstances. In this regard, the proposal is generally in keeping with the master plan for the Carlingford Precinct.

## ii. DCP's Precinct-Wide Built Form Controls

The proposal has been assessed against the DCP's Precinct-Wide Built Form Controls and achieves compliance with the exception of building height (maximum number of storeys), front setback to the corner of Tanderra Avenue, car parking and maximum percentage of Type 1 size category allowed for 1, 2 and 3 bedroom units.

DEVELOPMENT STANDARD	DCP 2012 REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
4.2 Building Height	Building heights as specified in the Building Height Map in LEP 2012 equal to number of storeys, in this case:  16m – 4 storeys	5 storeys	No, see comment below in part a).
4.7 Setbacks	As shown in Figure 9 of the DCP (Refer Attachment 9).  Tanderra Avenue – 10m  Donald Street – 6m	Ground Level – Level 3: 10m to building line and 8m to balconies. However corner units contain an 8m front setback to building line and 6m to balconies  Ground Level – Level 3: 6m	No, see comment below in part b).  Yes
4.14 Car Parking Provision	Residents: 1BR unit – 1 space 2BR unit – 2 spaces 3BR unit – 2 spaces  6x1 BR = 6 spaces 34x2BR = 68 spaces 8x3BR = 16 spaces Sub-total = 90 spaces  Visitors: For 48 units @2 spaces per 5 units - 20 spaces Total required = 100 spaces	Car Spaces (unallocated) – 50 spaces including 2 tandem spaces Total = 48 spaces (excluding 2 tandem spaces)	No, shortfall of 62 car parking spaces. See comment below in part c).
4.6 Apartment Size	Clause 3.11 of DCP 2012 Part B Section 5 – Residential Flat		



- (i) *To ensure that buildings reflect the existing landform of the neighbourhood, including ridgelines and drainage depressions;*
- (ii) *To protect privacy and amenity of surrounding residential developments and allotments in accordance with Council ESD objective 7;*
- (iii) *To ensure that development responds to the desired scale and character of the street appropriate in different parts of the Precinct; and*
- (iv) *To allow reasonable daylight access to all developments and the public domain.*

The predominant height of the residential flat building is four storeys when viewed from the public domain with a fifth storey component being a recessive element when viewed from Tanderra Avenue. Given the site's topography, location and nature of surrounding development, the proposal is unlikely to adversely affect any significant views. The shadow diagrams submitted indicate that adequate solar access would be provided to future residential flat buildings on adjoining lots.

The proposed variation to the maximum allowed number of storeys is considered acceptable as the proposal complies with the 16 metre height control and achieves the objectives outlined above. Having regard to the existing apartment buildings 5-7 storeys in height within the vicinity of the site, it is considered that the proposed development will be consistent in terms of built form and scale. The variation is considered satisfactory in this regard.

#### **b) Setback**

The proposed variation to the setback control to Tanderra Avenue of 6-8m is only for the corner units. The applicant has provided the following justification for the variation:

*"The Hills DCP 2012 requires a front setback to the primary street of 10m, a setback to the secondary frontage of 6m, side setbacks of 6m and a rear setback of 8m...the non-compliance is located on the corner of Tanderra Avenue and Donald Street and is acceptable as this is a corner feature of the site. The further away from the corner, the further the development sets back. The setbacks adapt to the site's orientation and slope constraints to establish the desired future character on a corner site."*

#### **Comment:**

The variation to the 10m setback requirement on Tanderra Avenue is limited to the corner units and balconies (see diagram below).



The objectives of the 10m setback are as follows:

- (i) To reinforce the north south and east west axes in the Precinct; and*
- (ii) To create a green edge along Pennant Hills Road to allow for tree planting, future footpath widening and bus shelters.*

The proposed variation is only for a building length of 6m at the corner units of the residential flat building and three balconies encroach up to 9m from the side property boundary. This variation is only approximately 0.7% of the total gross floor area of the development and is considered to be negligible when viewed from the public domain. In addition, the proposal includes landscape screening along the Tanderra Road and Donald Street corner including native tree species of *Elaeocarpus Eumundi* (Eumundi Quandong), *Elaeocarpus reticulatus* (Blueberry Ash) and *Tristaniopsis laurina* 'Luscious' (Watergum) which grow to mature heights of 5m – 11m.

The proposal generally complies with the 10m setback control and the minor variation to the corner of the building and three balconies would not result in detrimental impacts to the reinforcement of north south and east west axes in the Carlingford precinct. The variation would pose minimal impacts to the streetscape when viewed from the public domain and provides reasonable separation distance to nearby residential dwellings fronting Tanderra Avenue and is therefore supported.

#### **c) Car Parking:**

The proposal does not comply with Council's car parking requirements. The total number of off-street car parking spaces proposed is deficient by 62 spaces.

The applicant has provided the following justification for the proposed variation relying upon the parking requirements outlined in the SEPP (ARH) 2009 in relation to the provision of off-street car parking for infill affordable rental housing development within 800 metres of a railway station:

*"The parking provision for the development has been established with reference to the requirements presented in SEPP (ARH) 2009. In accordance with the SEPP, the relevant residential parking requirements for development applications made by other parties and social housing providers are as follows:*

*0.5 spaces per one bedroom unit;*

*1 space per two bedroom unit and*

*1.5 spaces per three bedroom unit.*

*The proposed development will accommodate 48 residential units, of which; six (6) are 1 bedroom, thirty four (34) are 2 bedroom units and eight (8) x 3 bedroom units. The proposed parking provision has been calculated based on the requirements of the SEPP (ARH) 2009 as shown below:*

Use Type			SEPP (ARH) Parking provision rate	Required Spaces
1 BR Unit	6	@	0.5 spaces per room	3
2 BR Unit	34	@	1.0 spaces per room	34
3 BR Unit	8	@	1.5 spaces per room	12
Required Spaces				49
Total On-Site Parking Spaces Provided				50

**Comment:**

The proposed development makes provision for a total of 50 off-street parking spaces.

The applicant's justification relying upon the SEPP (ARH) 2009 parking rate that applies to apartment developments within 800 metres of a railway station has been taken into consideration in the assessment of this application. It is noted that parking provision cannot be used as a ground for refusal if a development complies with the parking rates as set out in Clause 14 (2) of the SEPP (ARH) 2009.

As the subject site is located 600 metres from Carlingford Railway Station and the application is made pursuant to SEPP (ARH) 2009, the parking rates identified under the SEPP (ARH) 2009 are applicable and therefore the proposed 50 off-street parking spaces are considered to satisfy the parking demands for the proposed development. In this regard, no objection is raised to the proposed variation to Council's parking requirements.

**d) Apartment Mix and Size**

Clause 3.11 of the Council's Residential Flat Building DCP requires the following in relation to apartment mix and size:

**Apartment Mix**

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

The proposal includes 6 x 1 bedroom units (12% of the total) and there are 8 x 3 bedroom units (17% of the total). The proposal complies in regard to apartment mix.

**Minimum Internal Floor Area**

The table under clause 3.11(d) prescribes the minimum internal floor area for each unit (excluding common passageways, car parking spaces and balconies) in a residential flat development containing 30 or more units, which shall not be less than the following:

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

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



The table below details the unit size of each unit and their DCP typology as follows:

Unit No.	No. of Beds	Size (m <sup>2</sup> )	DCP Typology
Lower Ground Level			
LG01	2	75.78	1
LG02	1	63.87	1
LG03	2	78.60	1
LG04	2	82.06	1
LG05	2	78.48	1
LG06	2	84.41	1
Ground Level			
G01	2	76.51	1
G02	1	50.14	1
G03	2	75.24	1
G04	2	78.60	1
G05	1	54.11	1
G06	3	99.88	1
G07	3	99.89	1
G08	1	54.96	1
G09	2	81.05	1
G10	2	78.48	1
G11	2	83.36	1
G12	2	82.06	1
Level 1			
101	2	76.51	1
102	1	50.14	1
103	2	75.24	1
104	2	78.60	1
105	2	76.95	1
106	3	97.24	1
107	3	97.24	1
108	2	76.95	1
109	2	81.05	1
110	2	78.48	1
111	2	83.36	1
112	2	82.06	1
Level 2			
201	2	76.51	1
202	1	50.14	1
203	2	75.24	1
204	2	78.60	1
205	2	76.95	1
206	3	97.24	1
207	3	97.24	1
208	2	76.95	1
209	2	81.05	1
210	2	78.48	1
211	2	83.36	1
212	2	82.06	1
Level 3			
301	2	76.51	1
302	2	77.62	1
303	3	97.26	1
304	3	97.26	1
305	2	77.66	1
306	2	81.05	1

In summary, the proposed apartment sizes are:

Unit Type	Size	No. of Units	Type	%
1 bedroom	50m <sup>2</sup> - <65m <sup>2</sup>	6	Type 1	12%
	65m <sup>2</sup> -- <75m <sup>2</sup>	1	Type 2	0%
	75m <sup>2</sup> and above	0	Type 3	0%
2 bedroom	70m <sup>2</sup> - <90m <sup>2</sup>	34	Type 1	71%
	90m <sup>2</sup> - <110m <sup>2</sup>	0	Type 2	0%
	110m <sup>2</sup> and above	0	Type 3	0%
3 bedroom	95m <sup>2</sup> - <120m <sup>2</sup>	8	Type 1	17%
	120m <sup>2</sup> - <135m <sup>2</sup>	0	Type 2	0%
	135m <sup>2</sup> and above	0	Type 3	0%

All units proposed are within the Type 1 apartment size category. Therefore, the proposal exceeds the 30% maximum allowed in Type 1 apartment size category for 1 bedroom, 2 bedroom and 3 bedroom units.

The objectives of Clause 3.11 Unit Layout and Design are:

- (i) *To ensure that individual units are of a size suitable to meet the needs of residents.*
- (ii) *To ensure the layout of units is efficient and units achieve a high level of residential amenity.*
- (iii) *To provide a mix of residential flat building types and sizes to accommodate a range of household types and to facilitate housing diversity.*
- (iv) *Address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*
- (v) *To ensure designs utilise passive solar efficient layouts and maximum natural ventilation.*

Clause 4.6 Residential Flat Building – Apartment Size of the Carlingford DCP are:

- (vi) *To provide a diversity of residential flat building/apartment types, which cater for different household requirements now and in the future; and*
- (vii) *To maintain equitable access to new housing by cultural and socio-economic groups.*

Notwithstanding, Clause 6A of the SEPP (ARH) 2009 provides that development control plans cannot be inconsistent with the Apartment Design Guide and applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:

- (a) *visual privacy,*
- (b) *solar and daylight access,*
- (c) *common circulation and spaces,*
- (d) *apartment size and layout,***
- (e) *ceiling heights,*
- (f) *private open space and balconies,*
- (g) *natural ventilation,*
- (h) *storage.*

The proposal provides the following range of unit sizes:

Unit Type	Size	ADG Size Requirement
1 bedroom	50.14sqm – 63.87sqm	50m <sup>2</sup>
2 bedroom	75.24sqm – 84.41sqm	70m <sup>2</sup> + 5m <sup>2</sup> for additional bathroom
3 bedroom	97.24sqm - 99.89sqm	90m <sup>2</sup> + 5m <sup>2</sup> for additional bathroom

The proposal provides a diversity of apartment types including 10% adaptable units and complies with the minimum internal unit size requirements under the Apartment Design Guide and therefore cannot be refused on the basis of unit size.

## 7. Issues Raised in Submissions

The application was notified to adjoining property owners for 14 days and advertised in the local newspaper. Two (2) submissions were received during the notification and exhibition period. Issues raised in the submissions are addressed in the table below.

ISSUE/OBJECTION	COMMENT	OUTCOME
Traffic impact within the Carlingford Precinct.	<p>The proposed development is consistent with the density objectives of the LEP, including the anticipated traffic generation potential of the site which has been considered as part of the planning process for the Carlingford Precinct as a whole.</p> <p>Council's Principal Traffic and Transport Coordinator has reviewed the application and concurs with the findings outlined in the traffic report submitted with the application.</p> <p>The proposed 48 residential units, based on the RMS Guide to Traffic Generating Developments rates, will generate in the vicinity of 6 additional peak hour trips being distributed to the surrounding road network.</p>	Issue addressed.
Concern is raised that the existing infrastructure is unsuitable to handle the proposed development and future growth within the Carlingford Precinct, resulting in traffic congestion and severely constrained road network	<p>The proposal is consistent with the desired development outcome for the Carlingford Precinct which has been identified by Council as appropriate for high density residential flat development. As outlined within the traffic report the traffic impacts associated with the proposal are considered to be reasonable and will not result in excessive traffic congestion within the locality.</p>	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	This has been examined by Council's Principal Traffic and Transport Coordinator who concurs with the findings of the report.	
Location of driveway is too close to adjoining southern property.	The proposed vehicular access and driveway is located between 1m - 4m from the southern property boundary. Adequate landscape screening has been provided along the southern property boundary to alleviate visual and amenity impacts to the adjoining southern property. The proposal is consistent with Council's vehicular access controls and is supported.	Issue addressed.
Devaluation of adjoining low density dwellings	This is not a matter for consideration under Section 79C of the Environmental Planning & Assessment Act, 1979.	Issue addressed.

#### **SUBDIVISION ENGINEERING COMMENTS**

No objection is raised to the proposal subject to conditions.

#### **TRAFFIC MANAGEMENT COMMENTS**

Council's Principal Coordinator Road and Transport has assessed the application and concurs with the findings of accompanying traffic report. The proposed 48 residential units, based on the RMS guideline rates, will generate a net increase of 6 additional peak hour trips being distributed to the surrounding road network. The eastern section of Moseley Street according to the Residential Development and Traffic Study undertaken by TAR Technologies on behalf of Council in 2005 indicates that Moseley Street (east) currently sustains around 785 peak hour vehicle movements. This existing volume exceeds the Environmental Capacity of 235 vehicles per hour by a substantial margin resulting in an Environmental Deficiency Index of 3.3. In this regard, the additional traffic from the proposed development has been considered as part of the planning process for the Carlingford precinct as a whole.

Vehicular access is proposed via a single combined 6.0m wide entry/exit driveway adjacent to the side boundary of 2 Tanderra Avenue. The proposed new driveway is located to provide satisfactory sight distance for vehicles entering and leaving the property exceeding the minimum safe intersection sight distance requirements specified for vehicles traveling at 50km/h.

Transport facilities improvement works have been identified in the Section 94 Contributions Plan No. 14 - Carlingford Precinct (such as upgrade to Jenkins/Pennant Hills Road Intersection, traffic signals at Post Office Street/Jenkins Road Intersection and Moseley Street/Pennant Hills Road Intersection, roundabouts at the intersections of Boundary Road/Post Office Street, Young Road/Post Office Street, Moseley Street/Tanderra Avenue and Moseley Street/Young Road, pedestrian paths and cycleways, bus shelters and upgrade of the existing pedestrian bridge over the railway line) and will be implemented and funded on a priority basis.

No objection is raised on traffic grounds.

#### **TREE MANAGEMENT COMMENTS**

No objection is raised to the proposal subject to conditions.

#### **HEALTH & ENVIRONMENTAL PROTECTION COMMENTS**

No objection is raised to the proposal subject to conditions.

#### **WASTE MANAGEMENT COMMENTS**

No objection is raised to the proposal subject to conditions.

#### **POLICE COMMENTS**

No objection is raised to the proposal subject to conditions.

#### **CONCLUSION**

The application has been assessed against Section 79C of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy the Hills Local Environmental Plan 2012 and Development Control Plan 2012 and is considered satisfactory.

Overall, the application is consistent with the aims and objective of the Carlingford Precinct Plan and is in keeping with the future desired character envisaged for the area. The proposal provides a high quality apartment development and is conveniently located to public transport, amenities and community services.

The application was notified for 14 days and placed on exhibition for public comments and received two submissions. The issues are addressed in the body of the report and do not warrant refusal of the application.

The application is recommended for approval subject to conditions.

#### **IMPACTS:**

##### **Financial**

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

##### **The Hills Future - Community Strategic Plan**

The 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 (as amended)**

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent. No work (including excavation, land fill or earth reshaping) shall be undertaken prior to the issue of the Construction Certificate, where a Construction Certificate is required

The amendments in red include: -

- Brick wall along driveway to be deleted.

- All residential units are to be allocated a minimum of one parking space.

## REFERENCED PLANS

DRAWING NO	DESCRIPTION	SHEET	REVISION	DATE
A1010	Site Plan	-	A	1/2/2016
A1101	Demolition Plan	-	A	1/2/2016
A1200	Basement Plan	-	C	21/6/2016
A1201	Lower Ground Floor Plan	-	E	27/7/2016
A1202	Ground Floor Plan	-	E	27/7/2016
A1203	Typical Level 1-2 Floor Plan	-	C	27/7/2016
A1204	Level 3 Floor Plan	-	C	27/7/2016
A1205	Roof Plan	-	C	27/7/2016
A1500	North and South Elevation	-	B	13/4/2016
A1501	East and West Elevation	-	C	21/6/2016
A1600	Material Schedule	-	B	1/2/2016
A1601	Material Schedule	-	B	1/2/2016
A1054	Affordable Housing	-	B	13/4/2016
A1053	Units Storage Diagram	-	B	27/7/2016
A1700	Sections	-	C	21/6/2016
A1800	Ramp Detail		C	21/6/2016
A1801	Bin Area Detail	-	A	13/4/2016
A1802	Fence Detail	-	A	13/4/2016
LPDA 16-321	Landscape Plan – Ground/Lower Ground	1	E	28/7/2016
LPDA 16 - 321	Landscape Plan – Level 3	2	D	17/5/2016

## **2. Compliance with SEPP (Affordable Housing) 2009**

The following units are required to be dedicated to affordable rental housing:

- Lower Ground Level - LG01, LG02, LG03, LG04, LG05 & LG06
- Ground level - G01, G02, G03, G04, G06, G07, G09 & G12
- Level 1 – 101, 102, 103, 104, 105, 106, 107, 108 & 112

The affordable housing component of the approved development is required to comply with the following requirements pursuant to SEPP (Affordable Housing) 2009 –

- The household / occupants have a gross income that is less than 120 per cent of the median household income for the time being for the Sydney Statistical Division (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or
- The household occupants are eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would

be charged if the household were to occupy rental accommodation under that scheme.

- (c) For 10 years from the date of the issue of the occupation certificate:
- i. the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and
  - ii. all accommodation that is used for affordable housing will be managed by a registered community housing provider.

### **3. External Finishes**

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

### **4. Provision of Parking Spaces**

The development is required to be provided with 50 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

### **5. 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.

### **6. 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.

### **7. Adherence to Waste Management Plan**

All requirements of the Waste Management Plan submitted to and approved by Council must be implemented during the construction and/or demolition phases of the development, as well as the ongoing management phase. 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](http://www.wastelocate.epa.nsw.gov.au).

### **8. 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](http://www.wastelocate.epa.nsw.gov.au).

#### **9. Demolition Inspections**

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

#### **10. Property Numbering**

The responsibility for property numbering is vested solely in Council.

The property address for this development is: - 30 Donald Street Carlingford

Approved unit numbering is as per Architectural Plans submitted marked as Project number 81.15 Issue 'A' Date 1/02/2016. These numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances.

Unit numbering signage is also required on all lift wells, stairway access doors and 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. Clear and accurate external directional signage is also to be erected on site at driveway entry points and on buildings and external entrance doors.

#### **11. Acoustic Requirements**

The recommendations of the *Noise Assessment – Development Application Phase; proposed residential development 28-32 Donald Street, Carlingford*, prepared by Acoustic Consulting Engineers Pty Ltd referenced as 150698-01L-DD, dated Monday 14 December 2015 and submitted as part of the Development Application are to be implemented as part of this approval.

#### **12. Control of early morning noise from trucks**

Trucks associated with the construction of the site that will be waiting to be loaded must not be brought to the site prior to 7am.

#### **13. Control of Noise from Trucks**

The number of trucks waiting to remove fill from the site must be managed to minimise disturbance to the neighbourhood. No more than one truck is permitted to be waiting in any of the streets adjacent to the development site.

#### **14. Secure Properties and Maintain Vegetation**

The houses that are currently located on the development site are to be made secure so that the public cannot access the house or dump rubbish on the land. The vegetation (excluding live trees, live shrubs and plants under cultivation) on the properties is to be maintained and controlled so that the properties do not become overgrown and thus creating an unsafe and / or unhealthy environment.

#### **15. 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.

#### **16. Street Trees**

Street trees must be provided along Donald Street and Tanderra Avenue in the verge, between the footpath and the road. Trees are to be surrounded with a 75mm deep mulch zone for an area with a minimum radius of 450mm from the tree trunk of the tree. Timber edging is to define this mulch zone.

These trees are to be spaced between 7m and 10m apart and with a minimum of one tree per lot frontage. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species, pot size and location of street trees is to be in accordance with *The Hills Development Control Plan 2012- Part C Section 3*. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

Where existing street trees are being retained driveways are to be located a minimum of 3m from the trees.

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

#### **17. 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:

Where conflict exists the Australian Standard must be used.

The following must be provided:

- a) One way traffic movement must be maintained within the development (basement carpark). 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.
- b) All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- c) 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.
- d) All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

#### **18. 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.

#### **19. Protection of Public Infrastructure**

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

#### **20. Excavation/ Anchoring Near Boundaries**

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

- Written owner's consent for works on adjoining land must be obtained.

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

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

### **21. Tree Removal**

Approval is granted for the removal of four (4) trees within the private property of the site as shown on the Landscape Plan – Ground/Lower Ground prepared by Conzept Landscape Architects, dated 17.05.16.

Street trees fronting the subject site may be removed if required for new footpaths or for driveway access clearance. If street trees are removed new street trees are to be installed in accordance with Council's **Street Trees** condition.

All other trees, especially those on adjacent properties, are to remain and are to be protected during all works.

### **22. Retention of Trees**

All trees not specifically identified on the approved Landscape Plans for removal, including all trees on adjacent lots, are to be retained and protected in accordance with Council's Protection of Existing Trees condition.

### **23. Planting Requirements**

For planting on slab and planter boxes allow for adequate planting depth. Minimum soil depths required are 1.2m for large trees, 800 for small trees, 600mm for shrubs, 450-300mm for groundcovers, 200mm for turf. Note: this is the soil depth alone and *not* the overall depth of the planter.

### **24. Entry Path Treatment**

Walls adjacent to pedestrian entry paths off Donald Street are not to be 1.8m high brick walls. If full height walls are required they are to be consistent with the property boundary treatment (Innowood screen on glazed brick) and set back 800mm to allow planting in front.

### **25. 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.

### **26. Commencement of Domestic Waste Service**

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

## **27. Construction of Bin Storage Room**

The bin storage room must be designed and constructed in accordance with the following requirements:

1. The bin storage room must be of adequate size to comfortably store and manoeuvre a minimum of 25 x 240L garbage bins, 25 x 240L recycling bins and 2 x 240L garden organics bins.
2. The layout of the bin storage room must ensure that each bin is easily accessible and maneuverable in and out of the bin storage room with minimal or no manual handling of other bins.
3. The walls of the bin storage room must be constructed of brickwork that is a minimum height of 1.5m.
4. The floor of the bin storage room must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
5. The bin storage room must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by caretakers and or collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors.
6. The bin storage 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. In some situations, the resident access door can double up as the waste servicing door provided that it meets the purpose of both doors.
7. All doors of the bin storage room, when fully opened, must be flush with the **outside wall** and must not block or obstruct the driveway or footway. All doors must be able to be fixed in position when fully opened.
8. The bin storage room must be adequately ventilated (mechanically). Ventilated bin storage rooms should not be connected to the same ventilation system supplying air to the units.
9. The bin storage room must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the bin storage room, it is not to conflict with the space designated for the placement of bins.
10. The bin storage room must be provided with an internal light (artificial).
11. The bin storage 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 storage room are to complement the design of the development.

## **28. Construction of Temporary Bin Pickup Area**

The temporary bin pickup area must be designed and constructed in accordance with the following requirements:

1. The temporary bin pickup area must be of adequate size to comfortably store and manoeuvre a minimum of 50 x 240L bins. The layout of the area must ensure that each bin is reasonably accessible by collectors.
2. The walls of the temporary bin pickup area must be constructed of brickwork that is a minimum height of 1.5m (for bin screening purposes).

3. The floor of the temporary bin pickup area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer or landscape areas. Note that the temporary bin pickup area must be roofed if drained to sewer.
4. The temporary bin pickup area must have a clear wall opening, with a minimum clear floor width of 1.5m. The opening must be located to allow the most direct access to the bins by waste collection contractors. Note a rear loading waste collection vehicle is likely applicable. A sliding door or similar door may be installed in the clear wall opening provided that the use of the door does not interfere with the area designated for placement of bins or truck maneuvering and loading.
5. The temporary bin pickup area must be adequately ventilated (naturally or mechanically). Ventilated temporary bin pickup areas should not be connected to the same ventilation system supplying air to the units.
6. The temporary bin pickup area must be provided with an internal light (artificial).
7. Finishes and colours of the temporary bin pickup area are to complement the design of the development.

### **29. Provision of Bulky Goods Area**

A separate room or caged area must be provided in the basement for the interim storage and management of unwanted bulky items. The minimum floor area for this area shall be 4 cubic metres.

### **30. Access and Loading for Waste Collection**

Minimum vehicle access and loading must be designed and constructed in accordance with AS2890.2-2002 for the standard 8.8m long MRV. All manoeuvring areas of waste collection vehicles must have a minimum clear vertical clearance of 3.5m. Waste collection vehicles must be able to enter and exit the site in a forward direction with minimal or no need for reversing to collect waste. Reversing is restricted to a single reverse entry movement into a loading bay.

### **31. Safety and Crime Prevention**

#### **Surveillance**

- During the construction phase security sensor lights be used and security guards are to monitor the site.
- Paint the basement white to reflect light.
- CCTV is required to be installed at entry/exit points to the carpark, within the basement carparking and common areas. Height stickers are also required on entry/exit doors.
- Vegetation is to be maintained at all times to allow natural surveillance and reduce opportunities for concealment.

#### **Lighting and Technical Supervision**

- Lighting is to be utilised within the site in accordance with Australian Standards.

#### **Environmental Maintenance**

- Materials chosen are to have regard to the potential for graffiti.

#### **Access Control**

- The lower ground and ground floor units are required to have upgraded security measures, such as alarmed doors and windows, thickened glass and sensor lights.
- Signage is to be erected to ensure that people are aware they are entering private property. The signage is also required to include details of what security treatment has been implemented.

- Ensure that the section of the security roller shutter near the manual door release is solid, that garage shutter doors are strong and that good-quality locking mechanisms are used.
- Letterboxes and caged storage areas are to have good-quality locking mechanisms and be secure.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **32. Section 94 Contribution – Carlingford**

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

Payments comprise of the following: -

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 bedroom units: 5	No. of 2 bedroom units: 35	No. of 3 bedroom units: 8	No. Of Credits: 4	Total S94
Open Space - Land	\$ 3,888.19	\$ 4,991.22	\$ 5,680.62	\$ 9,375.77	\$ 19,440.95	\$ 174,692.70	\$ 45,444.96	\$ 37,503.08	\$ 202,075.53
Open Space - Capital	\$ 488.28	\$ 626.80	\$ 713.37	\$ 1,177.41	\$ 2,441.40	\$ 21,938.00	\$ 5,706.96	\$ 4,709.64	\$ 25,376.72
Transport - Capital	\$ 2,287.27	\$ 2,936.14	\$ 3,341.69	\$ 5,515.41	\$ 11,436.35	\$ 102,764.90	\$ 26,733.52	\$ 22,061.64	\$ 118,873.13
Administration	\$ 301.25	\$ 386.72	\$ 440.13	\$ 726.42	\$ 1,506.25	\$ 13,535.20	\$ 3,521.04	\$ 2,905.68	\$ 15,656.81
Stormwater Management	\$ 2,745.45	\$ 3,524.30	\$ 4,011.08	\$ 6,620.24	\$ 13,727.25	\$ 123,350.50	\$ 32,088.64	\$ 26,480.96	\$ 142,685.43
Community Facilities	\$ 1,500.31	\$ 1,925.92	\$ 2,191.93	\$ 3,617.74	\$ 7,501.55	\$ 67,407.20	\$ 17,535.44	\$ 14,470.96	\$ 77,973.23
<b>Total</b>	<b>\$ 11,210.75</b>	<b>\$ 14,391.10</b>	<b>\$ 16,378.82</b>	<b>\$ 27,032.99</b>	<b>\$ 56,053.75</b>	<b>\$ 503,688.50</b>	<b>\$ 131,030.56</b>	<b>\$ 108,131.96</b>	<b>\$ 582,640.85</b>

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. 14.

Council's Contributions Plans can be viewed at [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au) or a copy may be inspected or purchased at Council's Administration Centre.

### **33. 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
- Erosion control practices
- Sediment control practices
- 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).

### **34. Updated Acoustic Report**

Prior to the construction certificate being issued the submitted *Noise Assessment – Development Application Phase; proposed residential development 28-32 Donald Street, Carlingford*, prepared by Acoustic Consulting Engineers Pty Ltd referenced as 150698-01L-DD, dated Monday 14 December 2015 is to be updated. The updated acoustic report is to detail the type of mechanical ventilation selected for the basement car parking and any recommended acoustic attenuation measures. The updated acoustic report is to be submitted to Council's Manager – Environment and Health for review and approval.



### **35. Works in Existing Easement**

All adjoining properties either benefited or burdened by the existing easement must be notified of the proposed works within the easement in writing, including commencement and completion dates, before a Construction Certificate is issued.

### **36. 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.

### **37. Engineering Works and Design**

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

Engineering works can be classified as either "subdivision works" or "building works" as categorised below:

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

The following engineering works are required:

#### **i. Public Domain Plan**

Activities on all streets including Donald Street and Tanderra Avenue frontages must be designed and constructed in accordance with Public Domain Plan – Carlingford Precinct.

Works shall include new footpath paving, new kerb and gutter, cycle way, footpath verge formation, street name signs, street trees, landscape works and the undergrounding of electricity and telecommunication services along on all road frontages within Council's road reserve.



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.

## **ii. Driveway Requirements**

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's driveway specifications which can be found on Council's website:

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

The proposed driveway must be built to Council's heavy duty standard, and the design profile must comply with the requirement for Medium Rigid Vehicle proposed to be used for waste collection.

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

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

## **iii. 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.

## **iv. Stormwater Drainage – Pipe Extension**

The street drainage fronting the site must be extended from the existing pit downstream at Paul Place in accordance with the Stormwater Concept Design Project No 20150433 Lower Ground Floor SW 03 and Stormwater Extension Plan SW 03a both Revision C dated 07/04/2016 prepared by SGC consultants.

Detailed design and construction drawings must be supported by adequate hydrology and hydraulic calculation to confirm the pipes size and number of pits.

The street drainage must include minimum three new kerb inlet pits, two at the corner of Donald Street and Tanderra Avenue and one in the vicinity of the driveway as per the approved concept plan.

The pipe extension must be located under the existing kerb requiring the removal and reconstruction of the kerb and gutter and road shoulder.

## **38. Stormwater Management OSD and WSUD**

### **A. Detention – Upper Parramatta River Catchment Area**

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Upper Parramatta River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook.

The set of Stormwater Concept Design plans Project Ref: 20150433 prepared by SGC Consulting Engineers is for development application purposes only and is not to be used for construction. The detailed design must reflect the following concept drawings:

Drawing	Reference	Revision	Date
Stormwater Concept Design – Lower Ground Plan	SW03	C	07/04/2016
Stormwater Concept Design – Basement	SW02	C	07/04/2016
Stormwater Concept Design – Details	SW07	C	07/04/2016

The detailed design must incorporate the following necessary changes:

- a) Onsite Detention storage tank must be located under the driveway opposed to various other drawing incorrectly shows a tank within the western setback area.
- b) The OSD tank must include a separate chamber of rainwater tank to collect roof water, and to reuse them within the development.

Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer and submitted with:

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

The design and construction of the OSD system must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate.

A Design Compliance Certificate (DCC) certifying the detailed design of the OSD system can be issued by Council subject to the following being provided:

- i. A completed application form;
- ii. Four copies of the design plans and specifications;
- iii. Payment of the applicable application and inspection fees.

## **B. Water Sensitive Urban Design Elements**

Water sensitive urban design elements, consisting of two Enviropods 200 and four Stormfilters (460mm Psorb) are to be located generally in accordance with the plans and the MUSIC model dated 22/06/2016 submitted with the application.

The design must be accompanied, informed and supported by detailed water quality and quantity modelling to reflect the final landscape details and correct representation of impervious/pervious fractions.

The modelling must be revised for 10year rainfall period, and to 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, the following:

- 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/>

## **39. Security Bond – Road Pavement and Public Asset Protection**

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$229,000.00 is required to be submitted to Council to guarantee

the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the rate of \$85.00 per square metre based on the road frontage of the subject site plus an additional 50m on either side (Donald Street 122m and Tanderra Avenue 147m) multiplied by the width of the road (10m).

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

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

#### **40. Security Bond – External Works**

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

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

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

#### **41. 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.

#### **42. Draft Legal Documents**

Where an encumbrance on title is required to be created as part of this consent, draft copies of all legal documents must be submitted to Council for checking before a Construction Certificate is issued.

#### **43. Internal Pavement Structural Design Certification**

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

#### **44. Adaptable Units**

The details of the fit-outs of all accessible and adaptable units must be provided with the Construction Certificate Plans.

#### **45. 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 SEPP 65.

## **PRIOR TO WORK COMMENCING ON THE SITE**

### **46. Sydney Water Building Plan Approval**

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

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

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

### **47. 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.

### **48. Consultation with Service Authorities**

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

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

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

### **49. Principal Certifying Authority**

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

### **50. 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.

### **51. Approved Temporary Closet**

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

### **52. 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).

### **53. 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.

#### **54. 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.

#### **55. 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.

#### **56. Traffic Control Plan**

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

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

#### **57. Public Infrastructure Inventory Report**

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

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

#### **58. Adjoining Property Dilapidation Report**

A dilapidation report must be prepared and submitted by a structural engineer recording the condition of any dwelling or ancillary structures on adjoining properties including No. 2 Tanderra Ave and Nos. 22, 24 and 26A Donald Street within the likely zone of influence from any excavation, dewatering or construction induced vibration.

#### **59. 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.

#### **60. Trenching within Tree Protection Zone**

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

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

#### **61. Demolition Works and Asbestos Management**

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

#### **62. 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.

#### **63. Construction and Demolition Waste Management Plan Required**

A Waste Management Plan for construction and demolition has not been approved as part of this Development Consent. Prior to the commencement of works, a Waste Management Plan for the construction and demolition must be submitted to and approved by Council. The plan should be prepared in accordance with The Hills Development Control Plan 2012 Appendix A. The plan must comply with the waste minimisation requirements in the relevant Development Control Plan. All requirements of the approved plan must be implemented during the construction and/ or demolition phases of the development.

### **DURING CONSTRUCTION**

#### **64. Hours of Work**

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

**Monday to Saturday - 7.00am to 5.00pm;**

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

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

#### **65. Compliance with Critical Stage Inspections and Other Inspections Nominated by the Principal Certifying Authority**

Section 109E(3)(d) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as "Critical Stage Inspections" to be carried out for



building work. Prior to permitting commencement of the work, your Principal Certifying Authority is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

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

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

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

#### **66. Survey Report**

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

#### **67. Compliance with BASIX Certificate**

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No.699896M are to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

#### **68. Roof Water Drainage**

Gutter and downpipes to be provided and connected to an approved drainage system upon installation of the roof covering.

#### **69. Rock Breaking Noise**

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

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

#### **70. Construction Noise**

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

#### **71. 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.

#### **72. 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](http://www.wastelocate.epa.nsw.gov.au).

### **73. 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.

### **74. 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.

## **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

### **75. 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.

### **76. Works as Executed Plans**

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

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

### **77. 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.

#### **78. 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.

#### **79. 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.

#### **80. Confirmation of Pipe Locations**

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

#### **81. 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.

#### **82. Public Asset Creation Summary**

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

#### **83. 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.

#### **84. 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.

#### **85. Adjoining Property Dilapidation Report Post Construction**

Before a Subdivision Certificate is issued, an updated dilapidation report must be prepared and submitted to Council. The updated report must identify any damage to adjoining properties at No. 2 Tanderra Ave and Nos. 22, 24 and 26A Donald Street and the means of rectification for the approval of Council.

#### **86. Creation of Restrictions / Positive Covenants**

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

##### **a) Restriction – Bedroom Numbers**

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

**b) Restriction – Affordable Rental Housing**

Units LG01, LG02, LG03, LG04, LG05 & LG06, G01, G02, G03, G04, G06, G07, G09, G12, 101, 102, 103, 104, 105, 106, 107, 108 & 112 on the subject site must be burdened with a restriction using the “SEPP Affordable Rental Housing 2009” terms included in the standard recitals.

**c) Restriction/ Positive Covenant – Onsite Stormwater Detention**

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

**d) Restriction/ Positive Covenant – Water Sensitive Urban Design**

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

**e) Positive Covenant – Stormwater Pump**

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

**f) Positive Covenant – Onsite Waste Collection**

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

**87. Landscaping Prior to Issue of Occupation Certificate**

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

**88. Internal Pavement Construction**

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

**89. Final Inspection of Waste Storage Areas**

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

**90. Agreement for Onsite Waste Collection**

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

**THE USE OF THE SITE**

**90. 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*.

**91. Offensive Noise - Acoustic Report**

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

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

Any noise attenuation measures directed by Council's Manager - Environment and Health must be implemented.

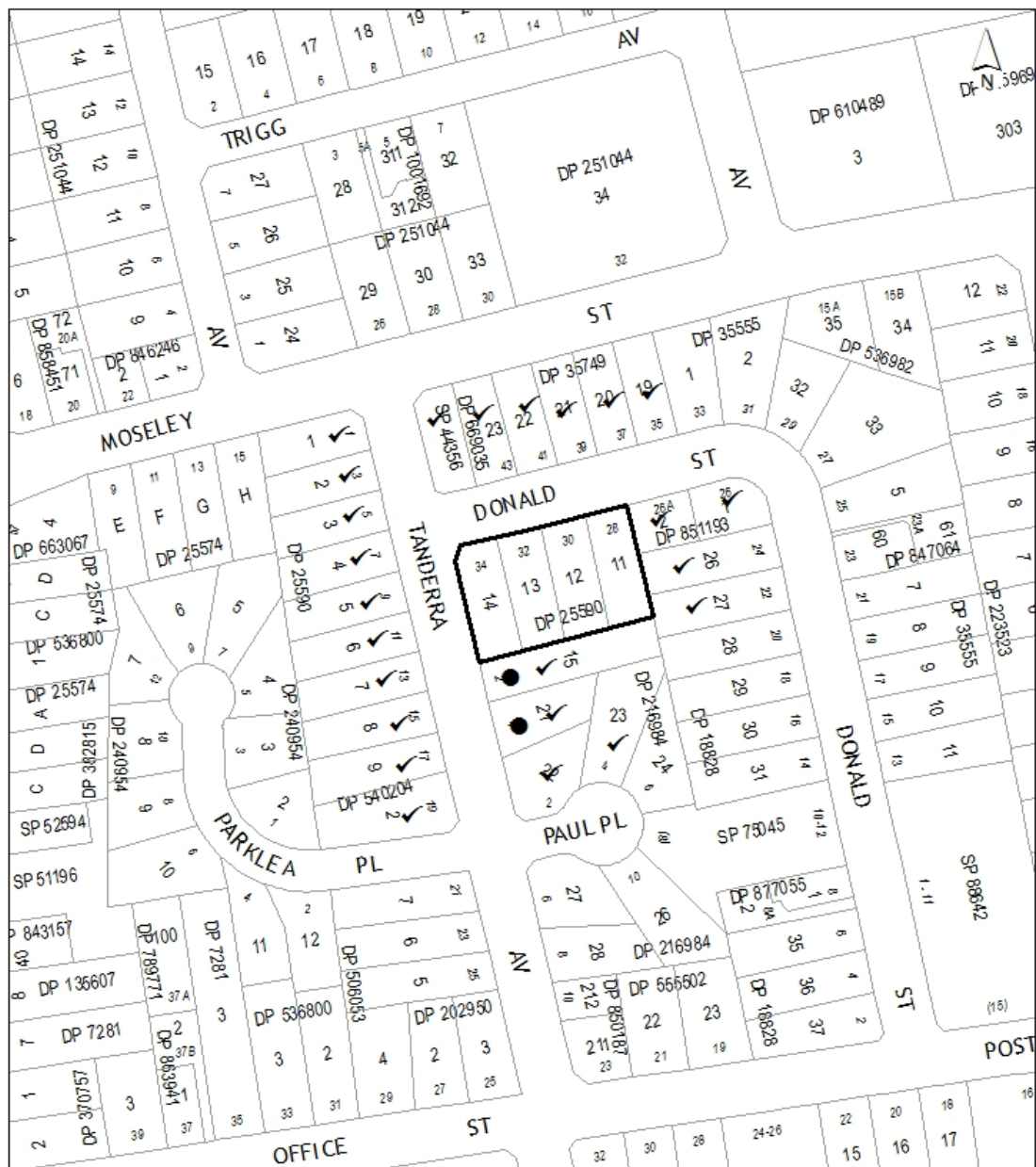
## **92. Waste and Recycling Management**

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

### **ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. Site Plan
4. LEP 2012 Zoning Map
5. LEP 2012 Floor Space Ratio Map
6. LEP 2012 Building Height Map
7. Carlingford Precinct DCP Potential Site Amalgamation Guide Plan
8. Carlingford Precinct DCP Illustrative Master plan
9. Carlingford Precinct DCP Setback Controls Map
10. Structure Plan – Public Domain
11. Floor Plans (4 pages)
12. Elevations (2 pages)
13. Section
14. Perspective
15. Shadow Diagram (3 pages)
16. Landscape Plan (2 pages)
17. 3D Building Envelope options for complaint FSR scheme (2 pages)

## ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
  - ☒ PROPERTIES NOTIFIED
  - ☒ SUBMISSIONS RECEIVED

**THE HILLS**  
Sydney's Garden Shire

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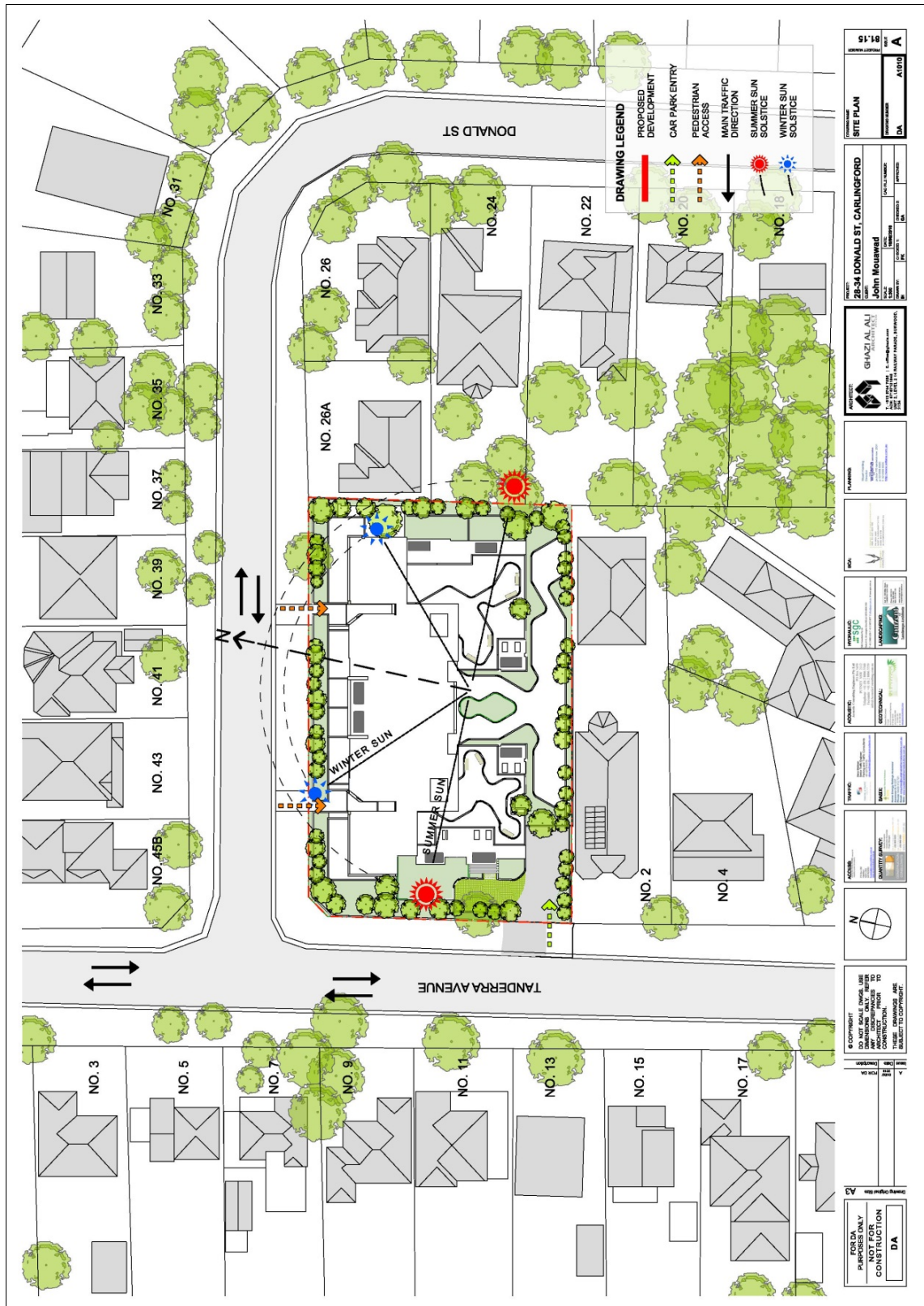


## ATTACHMENT 2 – AERIAL PHOTOGRAPH



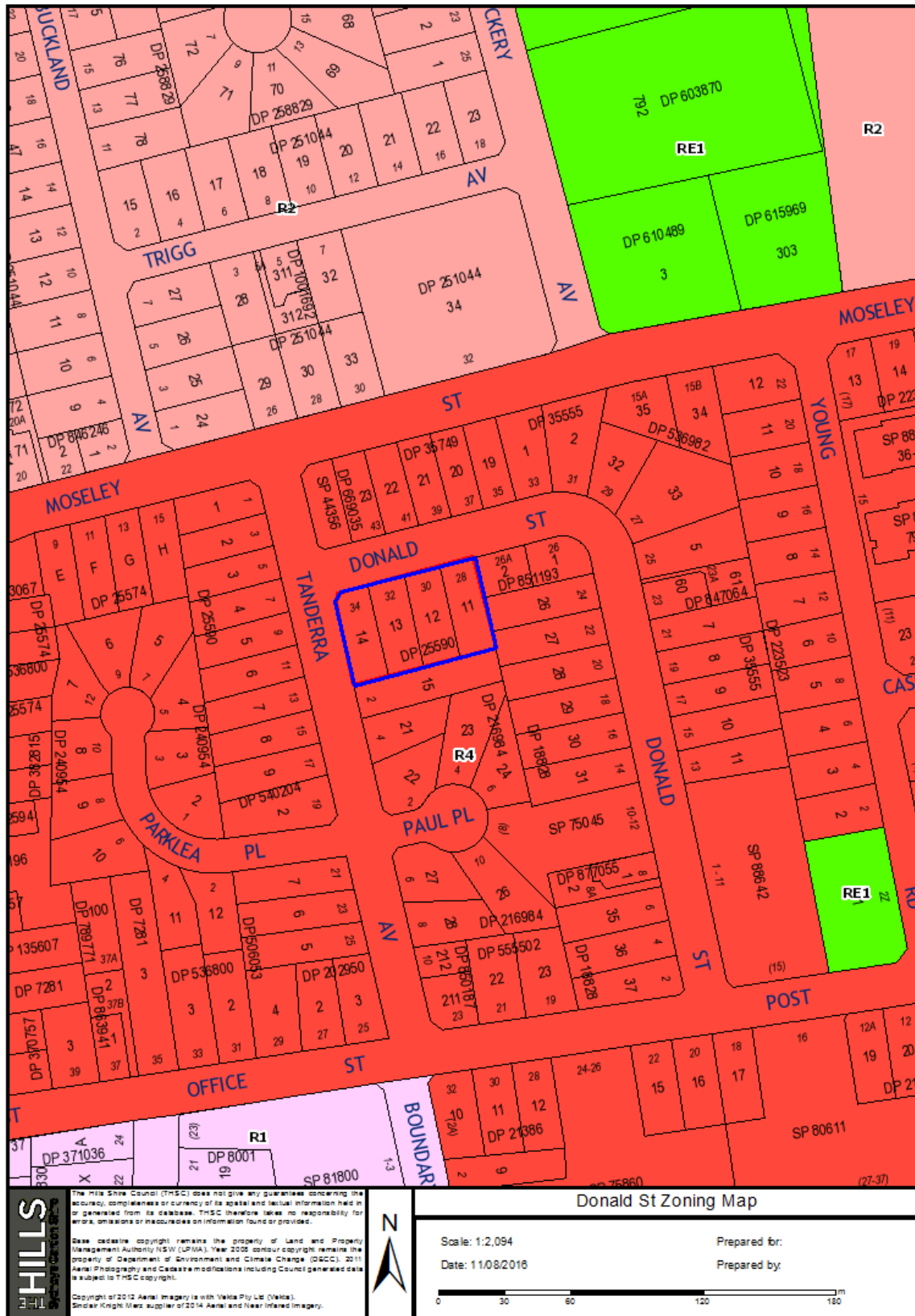


## ATTACHMENT 3 – SITE PLAN





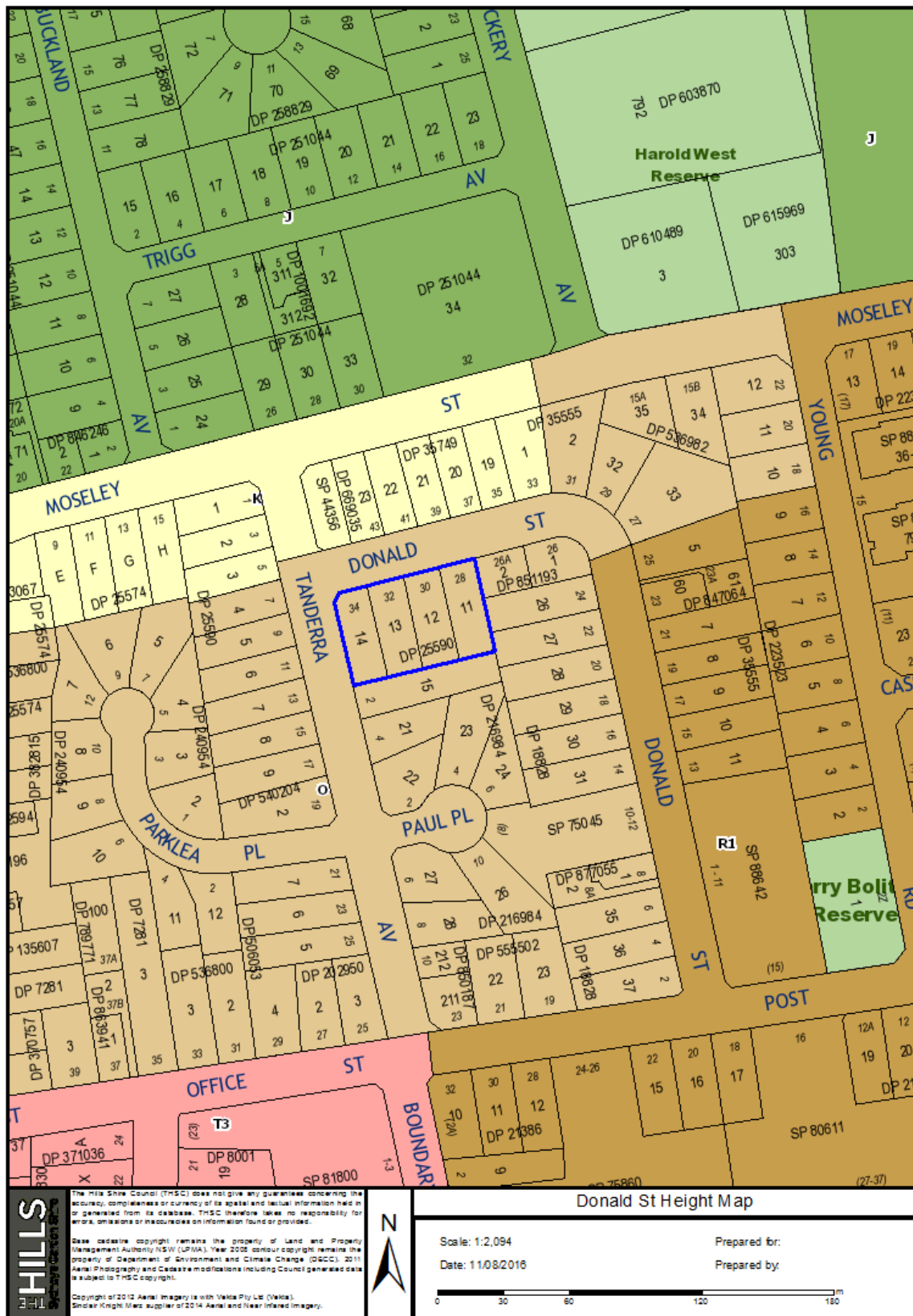
# ATTACHMENT 4 – LEP 2012 ZONING MAP



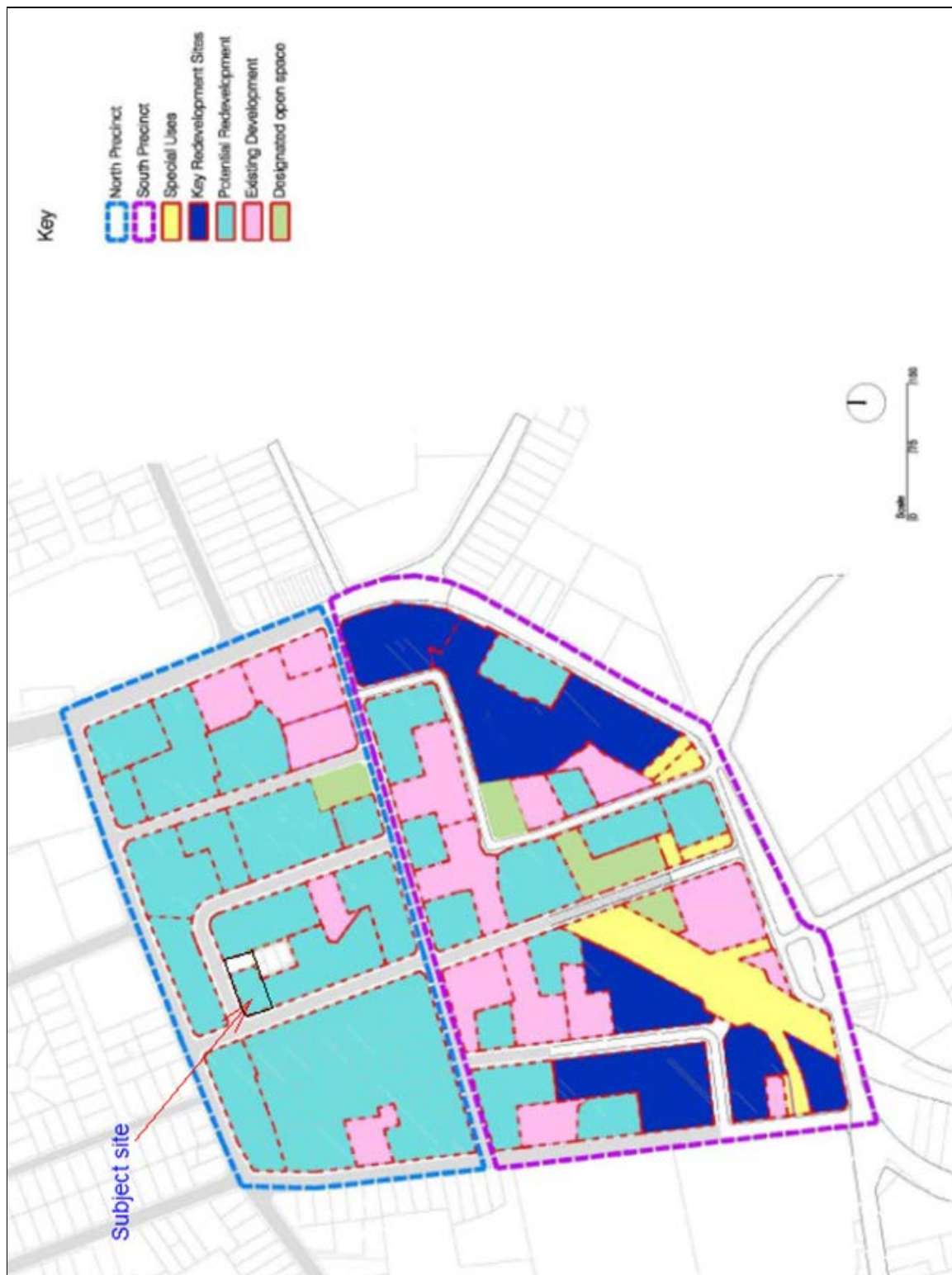
# ATTACHMENT 5 – LEP FLOOR SPACE RATIO MAP



# ATTACHMENT 6 – LEP 2012 BUILDING HEIGHT MAP



# ATTACHMENT 7 – CARLINGFORD DCP POTENTIAL SITE AMALGAMATION GUIDE PLAN





## ATTACHMENT 8 –ILLUSTRATIVE MASTERPLAN

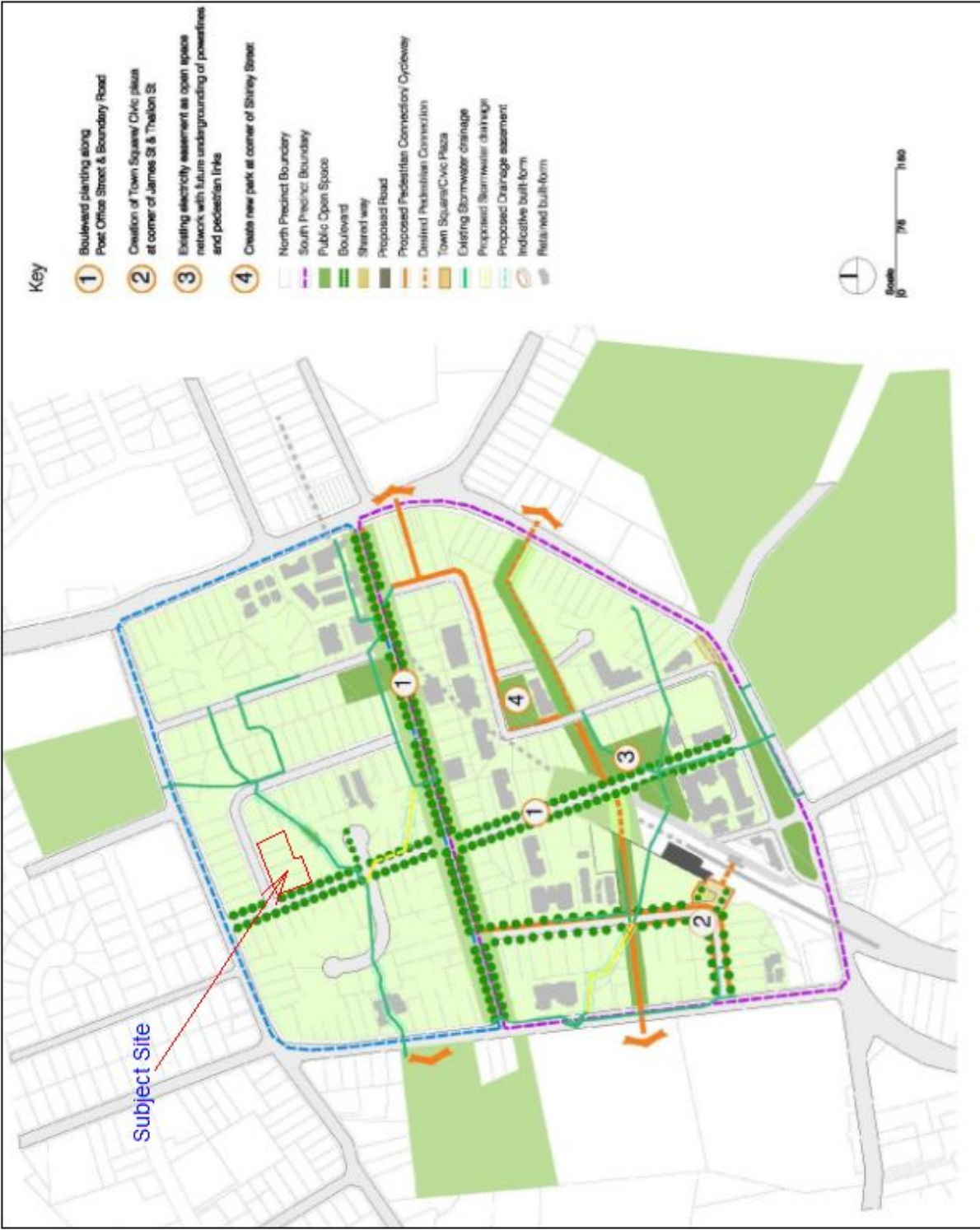


**Figure 7. Illustrative Masterplan**

## ATTACHMENT 9 - CARLINGFORD DCP SETBACK CONTROLS MAP

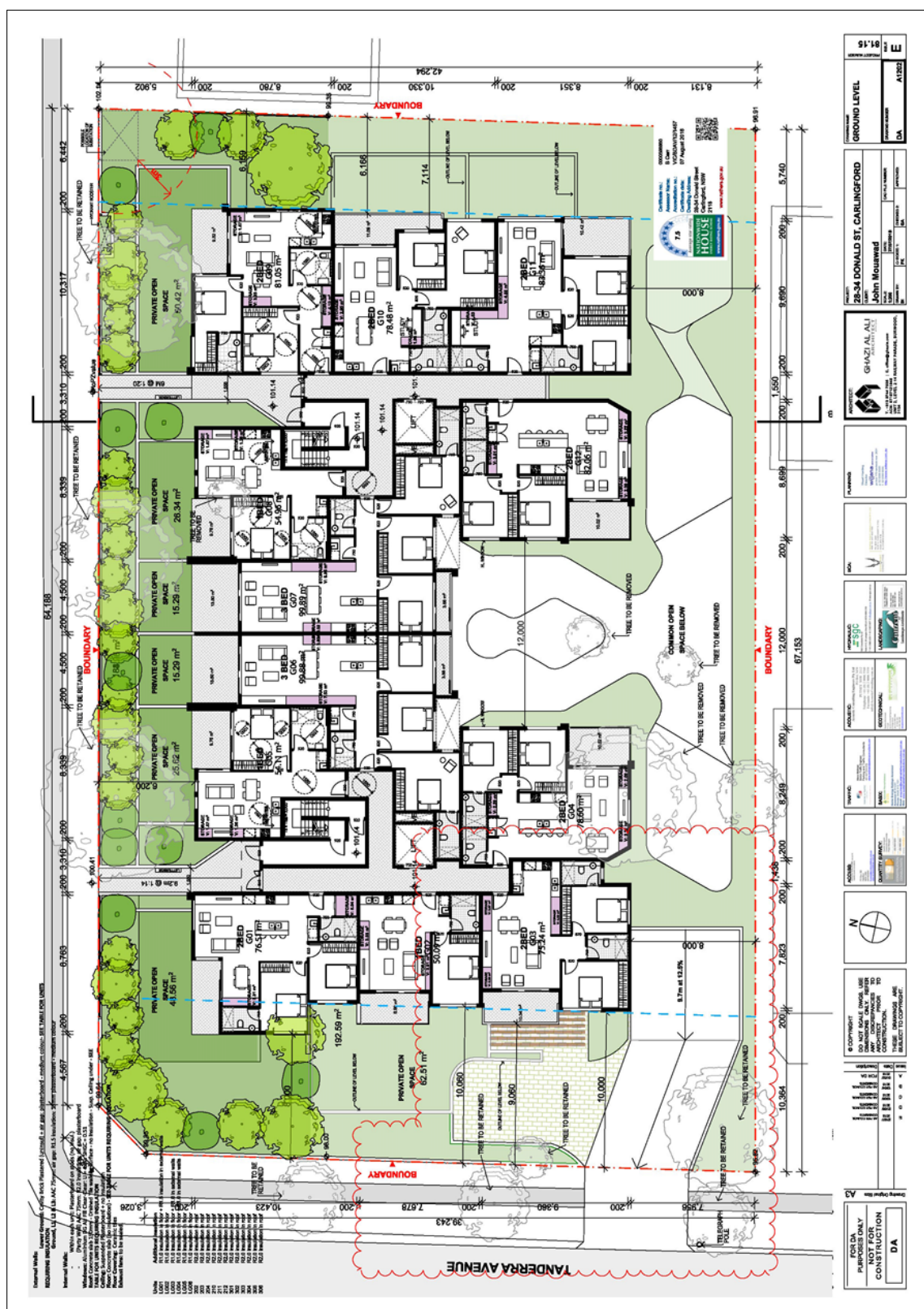


ATTACHMENT 10 –STRUCTURE PLAN – PUBLIC DOMAIN

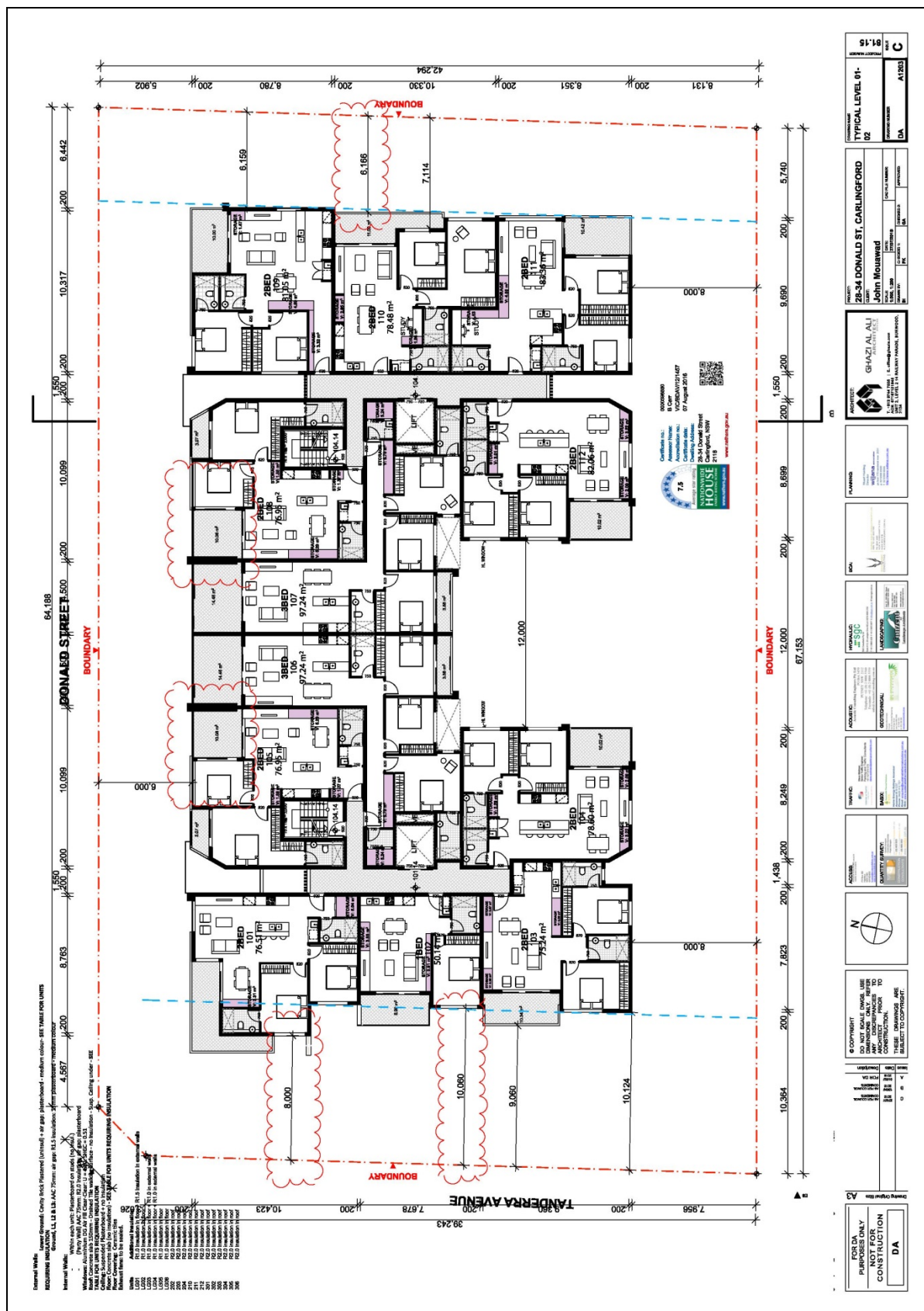




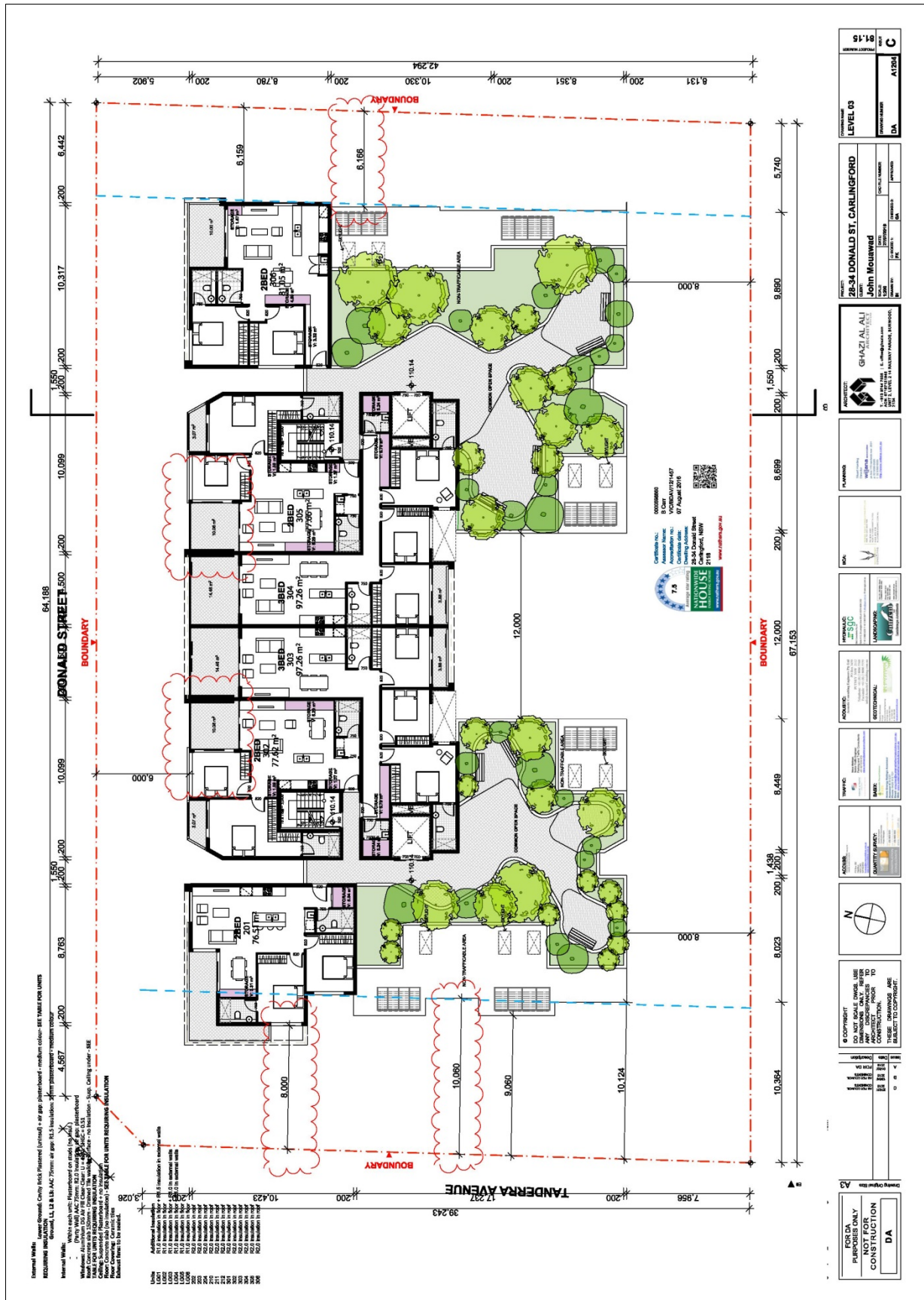








# ATTACHMENT 11 – LEVEL 3 FLOOR PLAN (page 4)

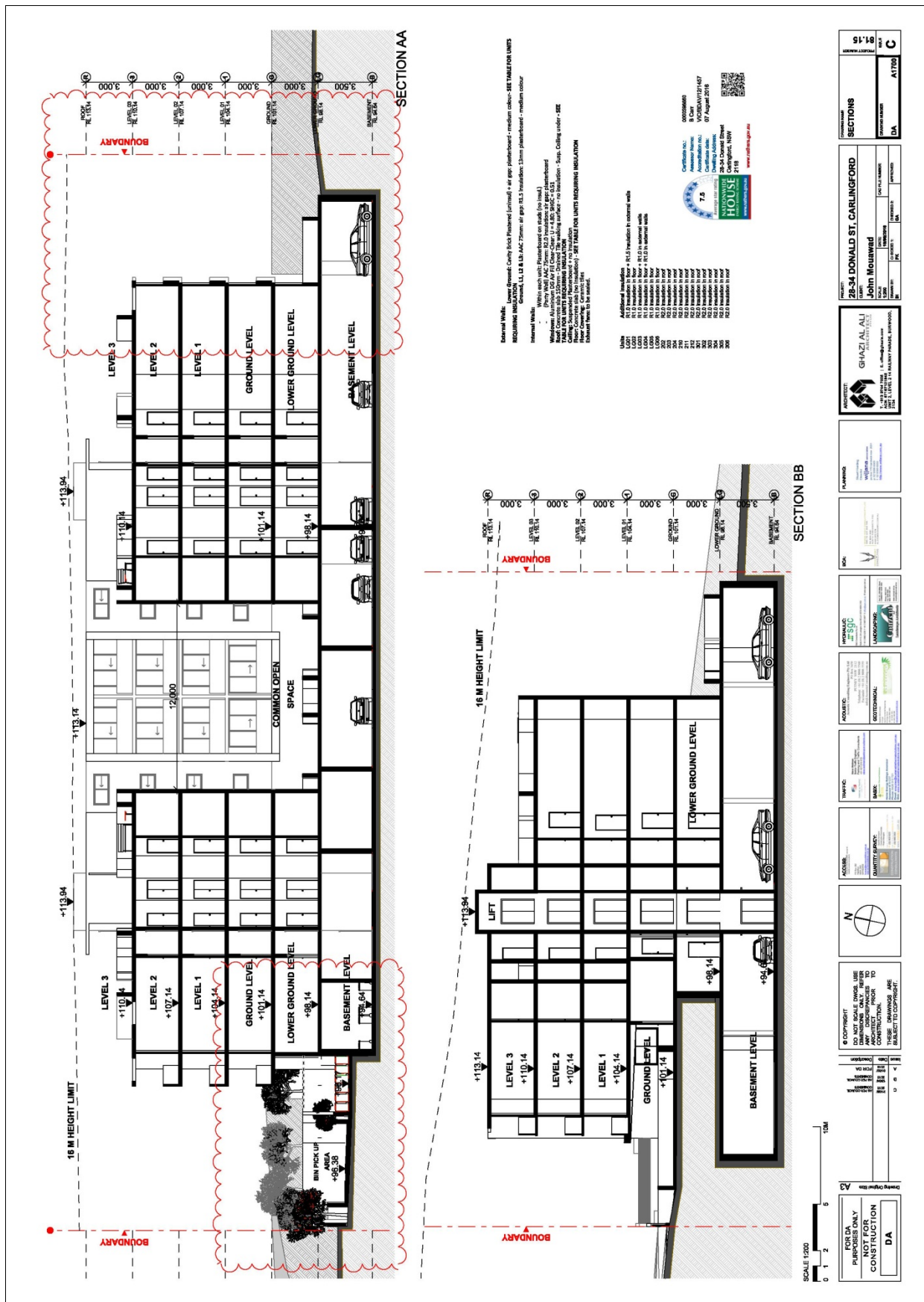










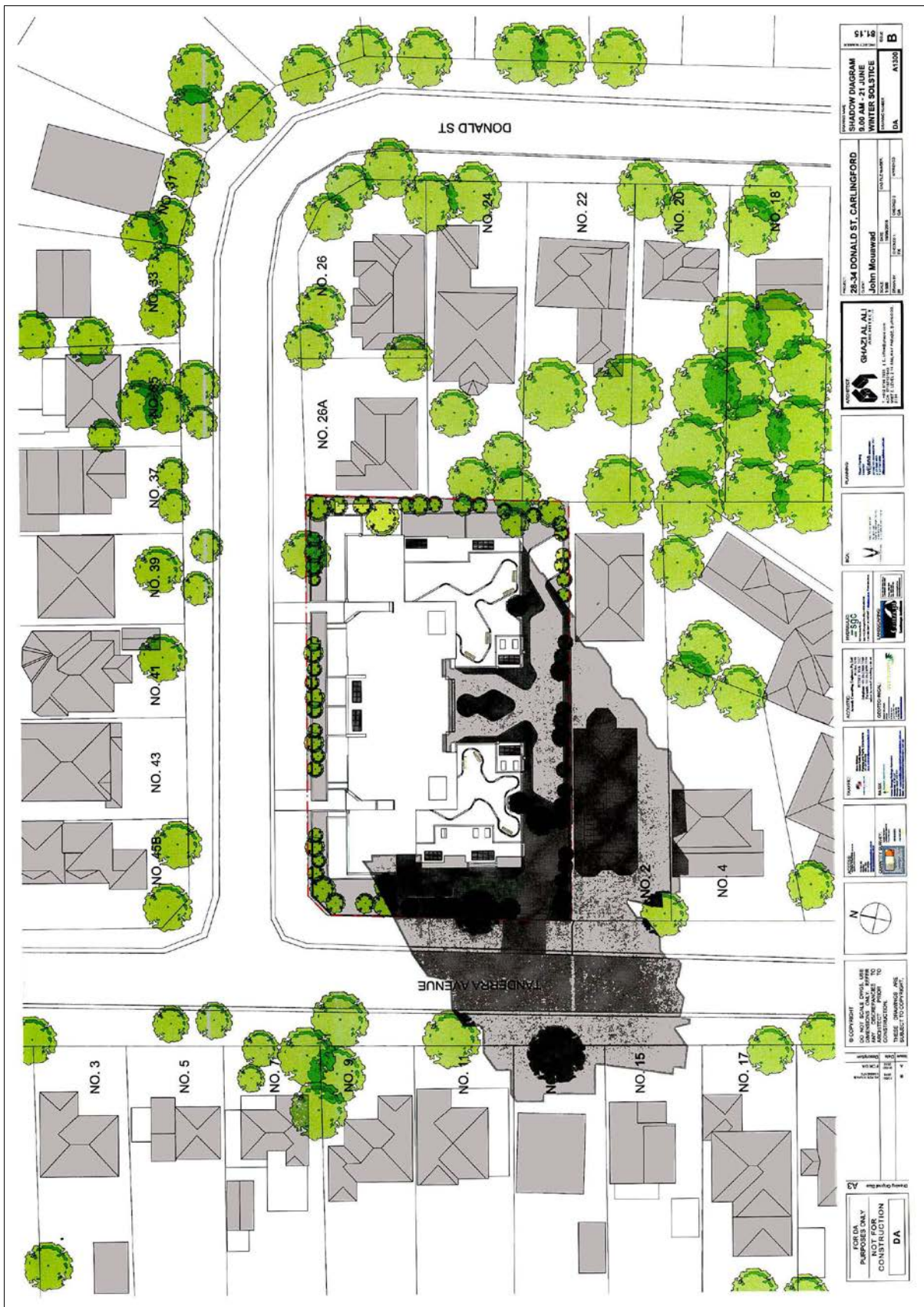




**ATTACHMENT 14 – PERSPECTIVE**

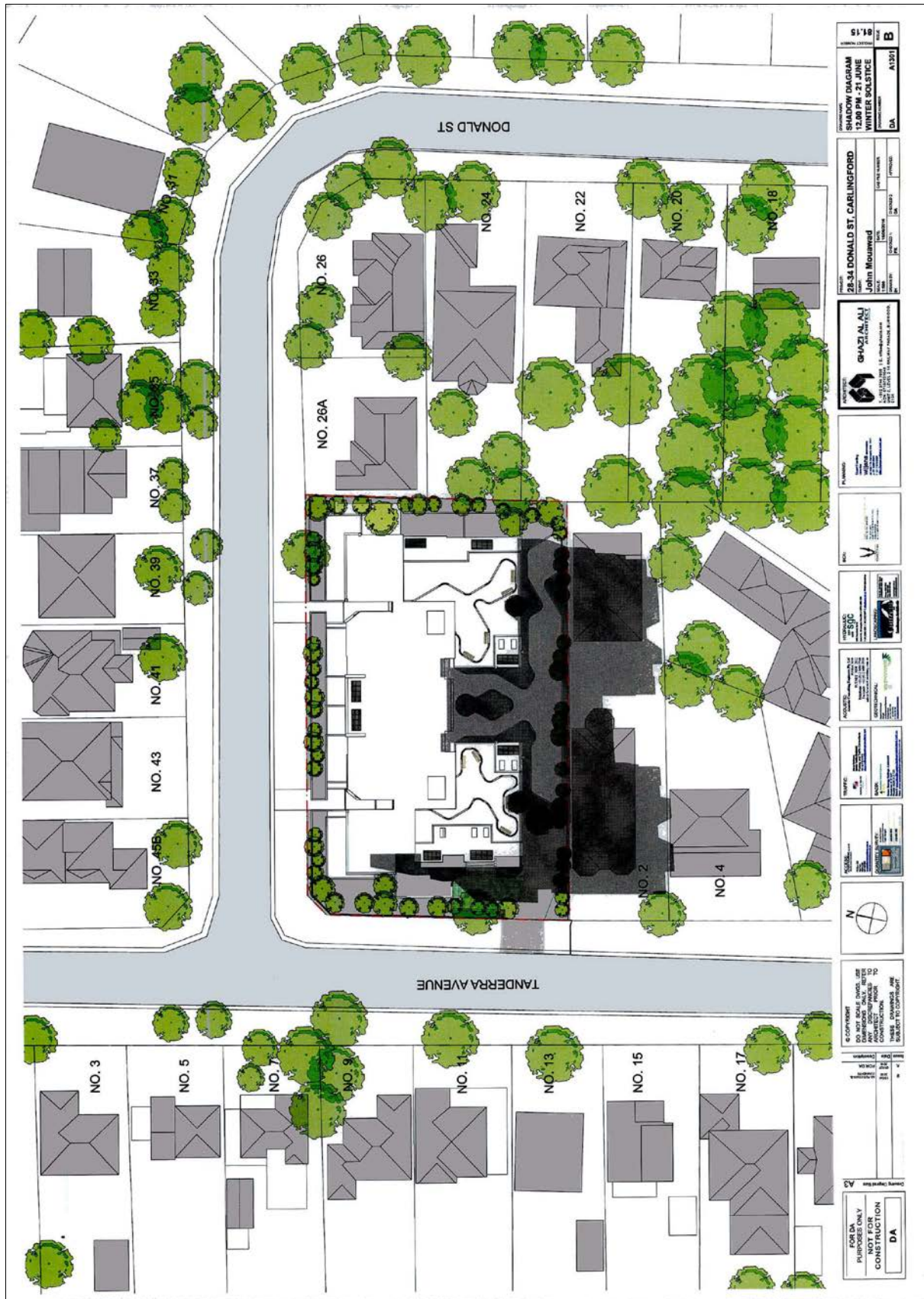


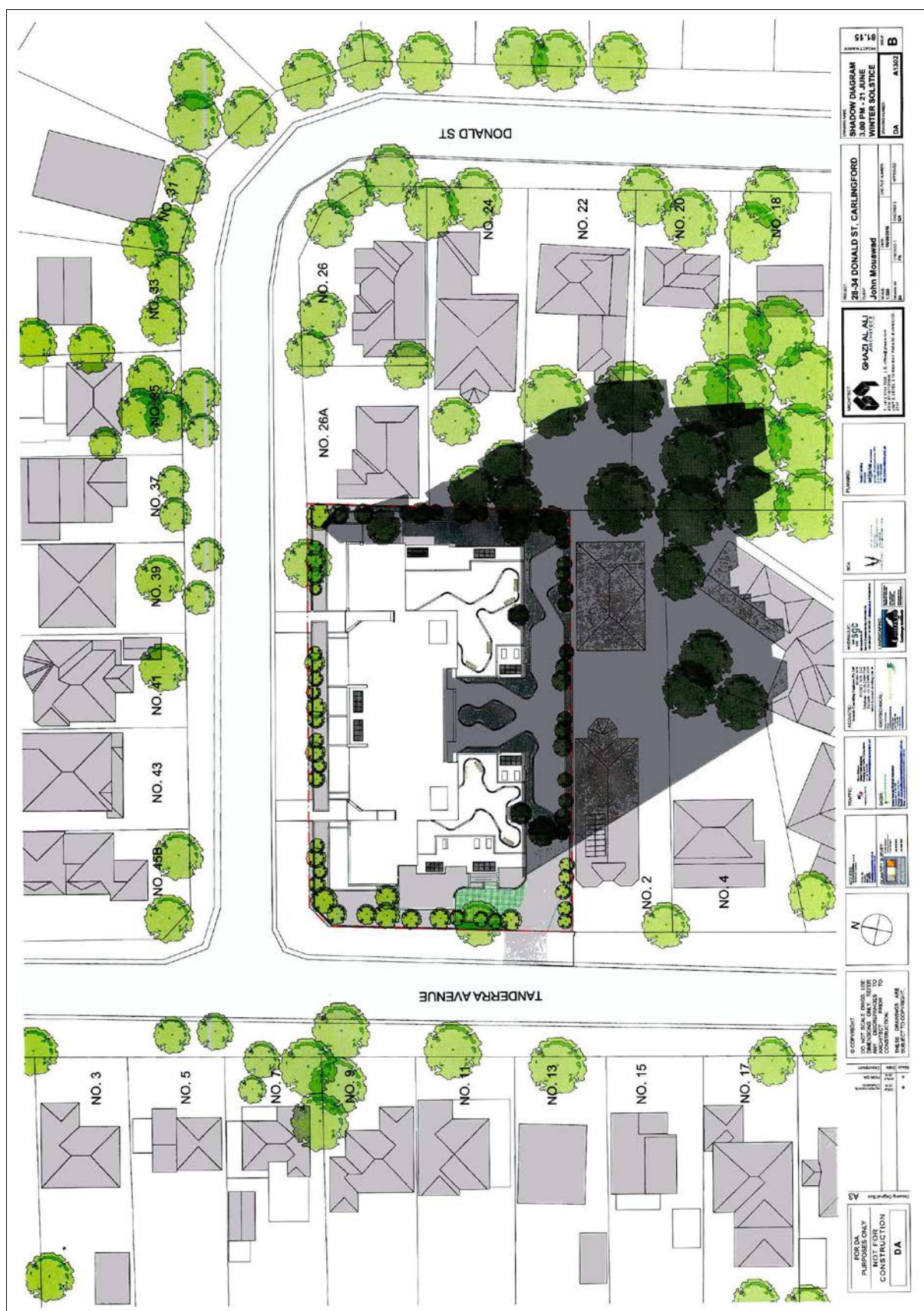
**ATTACHMENT 15 – SHADOW DIAGRAM (page 1)**





# ATTACHMENT 15 – SHADOW DIAGRAM (page 2)







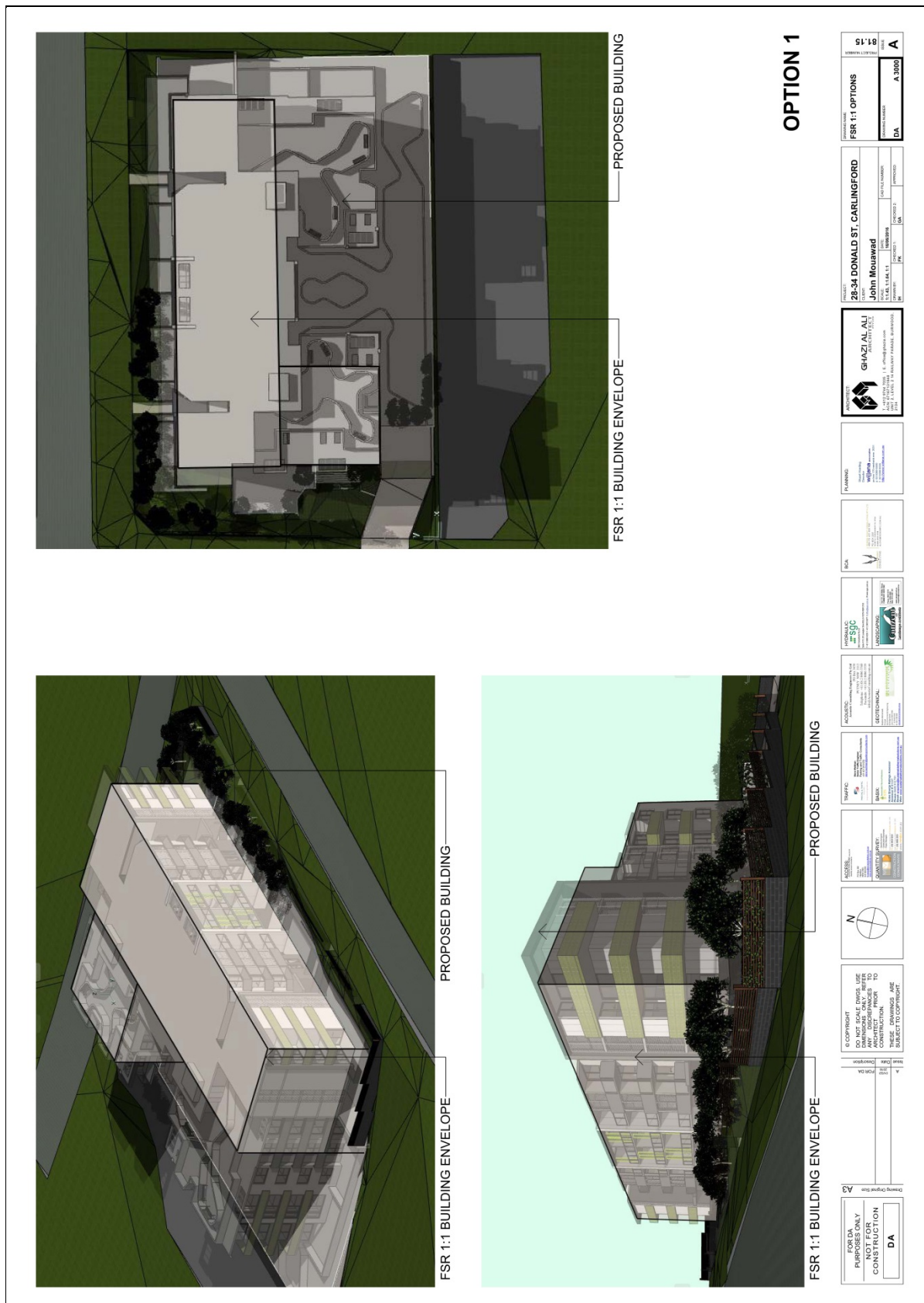








**ATTACHMENT 17 – 3D BUILDING ENVELOPE OPTIONS FOR COMPLIANT FSR  
SCHEME (page 1)**



**ATTACHMENT 17 – 3D BUILDING ENVELOPE OPTIONS FOR COMPLIANT FSR  
SCHEME (page 2)**

