

SYDNEY CENTRAL CITY PLANNING PANEL

Panel Reference	2016SYW178
DA Number	337/2017/JP
LGA	THE HILLS SHIRE COUNCIL
Proposed Development	DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A MIXED USE DEVELOPMENT, INCLUDING SHOP TOP HOUSING AND CHILD CARE CENTRE
Street Address	LOT 1 DP 131341, NO. 17 NELSON ROAD, BOX HILL
Applicant/Owner	THINK PLANNERS / NELSON ROAD VILLAGE INVESTMENT PTY LTD
Date of DA lodgement	31 AUGUST 2017
Number of Submissions	NIL
Recommendation	APPROVAL
Regional Development Criteria (Schedule 4A of the EP&A Act)	GENERAL DEVELOPMENT WITH A CAPITAL INVESTMENT VALUE IN EXCESS OF \$20 MILLION
List of all relevant s79C(1)(a) matters	<p>Relevant environmental planning instruments: s79C(1)(a)(i)</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Sydney Region Growth Centres) 2006. • State Environmental Planning Policy (State and Regional Development) 2011. • State Environmental Planning Policy No 55 — Remediation of Land. • State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development. • State Environmental Planning Policy Educational Establishments and Child Care Facilities 2017 <p>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)</p> <ul style="list-style-type: none"> • Draft Amendments State Environmental Planning Policy (Sydney Region Growth Centres) 2006: • North West draft exhibition package • Shop-top Housing (11/2016/PLP) • Floor Space Amendments (6/2017/PLP) <p>Relevant development control plan: s79C(1)(a)(iii)</p> <ul style="list-style-type: none"> • Box Hill DCP 2014. • THDCP 2012 Part B Section 6 – Business. • THDCP 2012 Part C Section 1 – Parking. • THDCP 2012 Part C Section 3 – Landscaping.
List all documents submitted with this report for the Panel's consideration	Nil
Report prepared by	ROBERT BUCKHAM DEVELOPMENT ASSESSMENT CO-ORDINATOR
Report date	Electronic Determination

Summary of S.79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Yes
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

The Development Application as amended is for a mixed use development comprising part of the Nelson Road Village local centre. The proposal includes demolition of existing structures and construction of a building comprising retail floor space including a supermarket, child care centre and residential units. The retail component will have a gross floor area of 1,029m², with 155 apartments above. Basement and at-grade parking is provided for 420 vehicles.

The site is zoned part B2 Local Centre, R4 High Density Residential and SP2 Infrastructure and is within the Nelson Road Village Centre as shown in the indicative layout plan in the Box Hill Precinct DCP.

The proposal seeks to vary the building height of 16 metres identified in SEPP Sydney Region Growth Centres 2006 under Clause 4.6 of the SEPP. The proposal has a maximum height of 17.6m being an encroachment of 1.6m (10%) above existing ground level. The development is compliant with the permitted floor space ratio and the variation to the height is attributed to changes to road levels associated with filling in and around the site and a redistribution of built form to provide for a varied building mass. The applicant's Clause 4.6 Variation request is well founded and the proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R4 High Density Residential and B2 Local Centre zone objectives.

The application seeks to utilise Clause 5.3 of the SEPP to enable a portion of the proposed supermarket to be located on land zoned R4 High Density. Clause 5.3 of the SEPP allows a use allowed on the other side of a zone boundary provided that it would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. The proposed supermarket encroaches 20m into the R4 zoned portion of the site. The encroachment of the supermarket into this zone allows for both a full sized supermarket to be provided and an appropriately sized plaza area to be provided that will be a focal point. The supermarket is sleeved on its southern boundary by apartments and a childcare centre and will not be visible from the R4 zoned land. The use of Clause 5.3 is supported as it will assist with the efficient and

timely development of land in accordance with the intent of the planning controls for the site.

Currently, the site is affected by three proposed amendments relating to SEPP Growth Centres. Two of the amendments relate to shop top housing controls for the B2 Local centre zone, the other density for the R4 High Density Zone. Each of the amendments are at various stages. The amendments are discussed in further detail in this report. However, it is considered that the amended design appropriately responds to each of the proposed SEPP amendments.

A number of DCP variations are proposed including general precinct controls pertaining to the Nelson Road Centre and the location of the child care centre play area. The proposal is consistent with the future character envisaged for the Release Area and is considered to be appropriately designed.

The Development Application has the potential to impact on the orderly development of Nos. 15 and 15Z Nelson Road as outlined in the DCP. While ideally these sites would be aggregated with the subject site, supporting documentation has been provided by the applicant which satisfies the planning principle established in Grech vs. Auburn Council [2004] which indicates that reasonable attempts have been made to purchase both properties and how the sites could be developed independently in the future and that orderly development can still occur.

The proposal was notified to adjoining and surrounding properties and no submissions were received.

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

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Nelson Road Village Investment Pty Ltd.	1.	<u>SEPP Sydney Region Growth Centres (Box Hill) 2006</u> - Variation required, see report.
Zoning:	B2 Local Centre, R4 High Density Residential and SP2 Infrastructure	2.	<u>SEPP 65 Design Quality of Residential Apartment Development</u> - Satisfactory.
Area:	1.88 Ha	3.	<u>SEPP Building Sustainability Index BASIX 2004</u> - Satisfactory.
Existing Development:	Dwelling and Outbuildings	4.	<u>SEPP 55—Remediation of Land</u> - Satisfactory
		6.	<u>SEPP Educational Establishments and Child Care Facilities 2017</u> - Satisfactory
		7.	<u>Section 79C (EP&A Act)</u> - Satisfactory.
		8.	<u>Box Hill DCP</u> - Variations, see report.
		9.	<u>THDCP 2012</u> - Complies
		10.	<u>Section 94 Contribution</u> - Yes, currently \$4,595,640.21

SUBMISSIONS

REASON FOR REFERRAL TO SCCPP

1. Exhibition:	Not Required	1.	Capital Investment Value in Excess of \$20 million (\$55,152,121).
2. Notice Adj Owners:	Yes 14 days		
3. Number Advised:	13		
4. Submissions Received:	Nil		

BACKGROUND

The subject Development Application was lodged 31 August 2016. On the 23 September 2016 and 26 October 2016 letters were sent to the applicant requesting additional information in relation to acoustics, engineering, waste, landscaping, heritage and compliance with the planning controls.

On the 13 December 2016 Council resolved to adopt amendments in part to the SEPP (Growth Centres) and Box Hill DCP relating to shop top housing and mixed use developments (Planning Proposal 11/2016/PLP). The key changes within the amendment for the subject site include a limitation on the maximum height and residential floor space for the B2 Local Centre zoned portion of the site. The matter was sent to the Department of Planning for finalisation however the amendment is yet to be made.

On the 15 December 2016 the then Sydney West Central Planning Panel was briefed on the proposal.

Additional information was lodged on 20 December 2016 in response to the issues raised by Council staff.

Council staff wrote to the Applicant on 15 February 2017 raising a number of matters with the application. The key issues related to the implication of the draft amendments relating to shop-top housing and the orderly development of adjoining properties.

A meeting between Council staff and the Applicant was held on 27 February 2017 where the Applicant indicated that they were willing to consider a modified design that would sit between the current SEPP controls and proposed controls primarily in relation to height and floor space ratio.

The amended proposal was lodged on 25 July 2017. The amendments made to the proposal included a reduced building height and reduced residential floor area including the deletion of 30 units, primarily reducing building A to three storey rather than 4 storey. The amendments provide a development closer in scale to what is anticipated by the new controls.

During the assessment of this application Council staff have been undertaking necessary detailed design work of The Water Lane and Nelson Road to cater for actual population projections. The road widths catered for by the SP2 zoned land were not sufficient to provide for adequate infrastructure and required additional land from the development site, which has resulted in a redesign of the proposal. This is an issue common across the release area.

The detailed design concept for The Water Lane has only just been finalised which has clarified the extent of land to be acquired from the site. The design for Nelson Road has not yet been finalised, however it is now considered that there is a level of certainty that it will not further affect the development site. As such, we are now moving forward with the determination of the application.

PROPOSAL

The Development Application as amended is for a mixed use development comprising part of the Nelson Road Village local centre. The proposal includes demolition of existing structures and construction of a building comprising retail floor space including a supermarket, child care centre and residential units. The retail component will have a gross floor area of 1,029m², with 155 apartments above. Basement and at-grade parking is provided for 420 vehicles.

Subdivision and Civil Works

The proposal includes the construction or reconstruction either in part or full and dedication to Council of three new roads adjacent to the development site. The Water Lane to the east of the site is captured by the Contributions Plan however, in order to facilitate the development proposal, it is likely that these works will be constructed by the applicant as Works-in-Kind given Council is unlikely to be in a position to construct this road prior to the development commencing. Nelson Road and will be partially reconstructed and a new DCP road (Terrain Street) will be partially constructed. Both roads will be dedicated to Council at no cost by the Applicant.

Built Form

The proposal includes bulk earthworks and excavation for a single level basement car park with access from the Nelson Road through the at-grade carpark and Terrain Street. A total of 420 car spaces are provided including 164 resident spaces, 31 resident visitor spaces, 198 retail spaces and 27 spaces for the child care centre.

Construction of 1,029m² of retail floor space comprising 19 specialty tenancies and a supermarket with entry at grade with The Water Lane the new sub-arterial road and Nelson Road.

Construction of a residential component of the development providing 155 apartments distributed between 5 buildings ranging from heights between 3 and 4 storeys. The application includes 60 x 1 bedroom units (38.7%), 77 x 2 bedroom units (49.7%) and 18 x 3 bedroom (11.6%).

Land Use

The application seeks approval for the supermarket and liquor store with this application. The supermarket proposes to operate between 6am and 12 midnight, 7 days and the liquor store proposes to operate 9am to 10pm, 7 days.

Approval is sought to construct a childcare tenancy as part of the proposal, but not the internal fitout of the centre or the fitout of the outdoor area. The childcare centre proposes to operate 7am – 7pm Monday to Friday and incorporate the following breakdown of children:

0 -2 years old: 12
2 -3 years old: 20
3 -6 years old: 48

It is noted that first uses (with exceptions) are able to be approved as Complying Development under the provision of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. First uses are limited to hours of operation if there are no conditions on a development consent of 7.00 am to 7.00 pm Monday to Saturday and no operation on a Sunday or a public holiday where a development adjoins or is opposite a residential lot within a residential zone or in any other case 7.00 am to 7.00 pm Monday to Saturday and 9.00 am to 6.00 pm on a Sunday or a public holiday. In this regard any alteration to the Codes SEPP hours of operation will require further approval.

ISSUES FOR CONSIDERATION

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

a. Permissibility

The subject site is located within the Box Hill Precinct, and is zoned pursuant to SEPP (Sydney Region Growth Centres) 2006. The development site is located on land zoned B2 Local Centre, R4 High Density Residential and SP2 Infrastructure (refer Attachment 3).

The proposal is located on land zoned B2 Local Centre and R4 High Density Residential and comprises uses defined as the following:

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

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

“residential flat building” means a building containing 3 or more dwellings, but does not include an attached dwelling, a manor home or multi dwelling housing.

“shop” means retail premises that sell groceries, personal care products, clothing, music, homewares, stationery, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

“Centre-based child care facility” means:

- a) a building or place used for the education and care of children that provides any one or more of the following:
 - (i) long day care,
 - (ii) occasional child care,
 - (iii) out-of-school-hours care (including vacation care),
 - (iv) preschool care, or
- b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note. An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.
but does not include:

- c) a building or place used for home-based child care or school-based child care, or
- d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or
- e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children’s parents are using the facility, or
- g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

The application also relies on the provision of Clause 5.3 – Development Near Zone Boundaries, which is addressed below.

b. Development Standards

The following addresses the principal development standards of the SEPP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1B Residential Density	Min 20 dwelling per hectare	80.4 dwelling per hectare provided.	Yes
4.3 Height of buildings	16 metres	17.6 metres.	No – see comments below.
4.4 Floor space ratio 4.4A Development of certain land within Zone R1 General Residential or Zone B2 Local Centre—additional floor space ratio	As shown on the floor space ratio map (0.5:1 B2 and 1:1 R4) Despite clause 4.4 (2), the maximum floor space ratio for the shop top housing component of a building containing shop top housing on land shown hatched red and lettered “C” on the Floor Space Ratio Map, is 1.25:1.	B2 – 1.04:1 R4 – 0.98:1	Yes
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	Variations proposed to height are addressed below.	Refer below.

c. Variation to Height

The proposal seeks to vary the building height of 16 metres identified in SEPP Sydney Region Growth Centres 2006 under Clause 4.6 of the SEPP. The proposal has a maximum height of 17.6m being encroachment of 1.6m (10%) above existing ground level.

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

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

The applicant has provided a Clause 4.6 Variation to vary Clause 4.3 of the SEPP which is provided at Attachment 18.

Clause 4.6 Exceptions to Development Standards states as follows:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

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

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

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

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4.

The proposal seeks to vary the building height of 16 metres identified in SEPP Sydney Region Growth Centres 2006 under Clause 4.6 of the SEPP. The proposal has a maximum height of 17.6m being encroachment of 1.6m (10%) above existing ground level. The development is compliant with the permitted floor space ratio and the variation to the height is attributed to site topography and lift over-runs. The applicant's Clause 4.6 Variation request is well founded and the proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R4 High Density Residential and B2 Local Centre zone objectives.

The urban form is considered to be appropriate for the intended character of the area given the planning controls in place. The proposal incorporates a variety of finishes and colours and will result in an appropriate urban outcome. It is considered that the variation to the building heights results in a better planning outcome than a complying proposal as it facilitates increased floor to ceiling heights for residential units resulting in improved amenity for residents.

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

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

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

It is also noted that in accordance with the Departments Circular PS 08-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

d. Clause 5.3 Development Near Zone Boundary

The applicant is reliant on Clause 5.3 of the SEPP to enable a portion of the proposed supermarket to be located on land zoned R4 High Density.

Clause 5.3 of the SEPP states:

(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary

would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone

- (2) *This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.*
- (3) *This clause does not apply to:*
- (a) land in Zone E2 Environmental Conservation, or*
 - (b) land within the coastal zone, or*
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.*
- (4) *Despite the provisions of this Precinct Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:*
- (a) the development is not inconsistent with the objectives for development in both zones, and*
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*
- (5) *This clause does not prescribe a development standard that may be varied under this Precinct Plan.*

In accordance with this clause the proposed supermarket encroaches 20m into the R4 zoned portion of the site. The encroachment of the supermarket into this zone allows for both a full sized supermarket to be provided and an appropriately sized plaza area to be provided that will be a focal point.

The supermarket is sleeved on its southern boundary by apartments and a childcare centre and will not be visible from the R4 zoned land.

The proposal is not inconsistent with the R4 zone objectives which state:

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

The proposal will facilitate the provision of a facility to meet the day to day needs of residents and will assist with the efficient and timely development of land in accordance with the intent of the planning controls for the site.

e. Other Provisions

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

- 5.9 Preservation of trees or vegetation
- 5.10 Heritage Conservation;
- 6.1 Public utility infrastructure; and
- 6.6 Active Street Frontages

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

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

The required Design Verification Statement was prepared by Kevin Driver of Turner Architects (Registration No. 7347).

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

Principle 1: Context and neighbourhood character

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

Principle 2: Built form and scale

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

Principle 3: Density

The permissible FSR for the retail/commercial component on the B2 zoned land is 0.5:1 and 1.25:1 for the residential component. A floor space ratio of 1:1 is applicable for the R4 zoned part of the site. The proposed FSR for the retail/commercial and shop-top housing component is 1.04:1 on the B2 zoned portion of the site. This comprises a retail/commercial FSR of 0.32:1 and a residential component 0.72:1. The R4 part of the site provides a compliant density of 0.98:1. The density therefore complies and is appropriate for the site and precinct.

Principle 4: Sustainability

The design achieves natural ventilation and solar access as required the Apartment Design Guidelines. The incorporation of insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

Principle 5: Landscape

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

Principle 6: Amenity

The building design has been developed to provide for the amenity of the occupants as well as the public domain. The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas and laundries have been provided for each unit. The proposal would provide convenient and safe access to lifts connecting the basement and all other levels.

Principle 7: Safety

The development has been designed with safety and security concerns in mind. The common open spaces are within direct view of occupants to allow passive surveillance.

Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened.

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations. Compliance with NSW Police recommendations will be recommended as a condition of consent.

Principle 8: Housing diversity and social interaction

Under the provisions of clause 1.3 of the Box Hill Development Control Plan, The Hills Development Control Plan 2012 Part B Section 5 Residential Flat Buildings does not apply to the subject site. However the proposal has been reviewed against Section 3.11 Unit Layout and Design. The DCP requires that no more than 25% of the dwelling yield is to comprise of one bedroom apartments and no less than 10% of the units comprise 3 or more bedrooms. The development comprises 60 x 1 bedroom units (38.7%), 77 x 2 bedroom units (49.7%) and 18 x 3 bedroom (11.6%).

Although the development exceeds the maximum percentage of 1 bedroom units, the location of this development above a retail centre means a different unit mix can be supported in this instance.

Principle 9: Aesthetics

The proposal integrates a number of recesses and projections into the facades of the structure to articulate the overall mass and form into smaller segments. The bulk of the overall building works and height is reduced by the articulation of the facades, creating smaller segments in order to minimise the overall bulk and scale of the development. The design is modern in style and appropriate for the area.

Apartment Design Guidelines

In accordance with Clause 30(2) of SEPP 65, a consent authority in determining a Development Application for a residential flat building is to take into consideration the Apartment Design Guidelines. The following table is an assessment of the proposal against the Design Criteria provided in the Apartment Design Guidelines.

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Yes 34.7% of site area (6,543m ²). The communal open space area will receive at least 50% direct sunlight for 2 hours at during midwinter.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes The site provides 9.3% true deep soil zones as defined within the ADG given the location of basement within the entire development site. However 23% of

		the site area at the podium level is landscaped which includes landscaping on structure consistent with Section 4P – Planting on Structures of the ADG.
Separation	For habitable rooms, 6m for 4 storeys.	Yes
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Yes The visual privacy of the development has been duly considered with the placement of windows and balconies. Separation distances between habitable / non habitable spaces are considered to be adequate. Screening devices set at oblique angles have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties.
Carparking	<p>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</p>	Not Applicable - Not located within a metropolitan sub-regional centre.
Designing the Building		
Solar and daylight access	1. Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	Yes 77.4% of apartments receive 2 hours direct sunlight between 9am and 3pm

	2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	midwinter. Yes 14.8% of apartments receive no direct sunlight between 9am and 3pm at mid-winter.
Natural ventilation	<p>1. At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Yes A total of 63.8% of units will meet the cross ventilation requirements (i.e. with openings on orthogonal or opposite aspects).</p> <p>Yes The maximum overall depth is 18 metres for a cross through apartment.</p>
Ceiling heights	<p>For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope.</p> <p>If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p>	<p>Yes Floor to ceiling height approx. 2.7 metres for all apartments.</p> <p>Ground floor retail – 3.3 metres</p>
Apartment size	<p>1. Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total</p>	<p>Yes</p> <p>1 bedroom – 50m² 2 bedroom – 75m² 3 bedroom – 120m²</p> <p>Where additional bathrooms are proposed, an additional 5m² has been provided.</p> <p>NA</p> <p>Yes</p>

	<p>minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p>All habitable rooms have windows greater than 10% of the floor area of the dwelling.</p>
Apartment layout	<p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts</p>	<p>Yes</p>
Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.</p>	<p>Yes</p> <p>All balcony sizes and depths comply.</p>
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Yes</p> <p>NA</p>
Storage	<p>Storage is to be provided as follows: Studio – 4m³ 1 bedroom – 6m³ 2 bedroom – 8m³ 3+ bedrooms – 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>Yes</p> <p>Each unit contains the minimum storage area.</p> <p>No – Storage requirements provided with basement areas.</p>
Apartment mix	<p>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.</p>	<p>Yes</p> <p>The apartment mix is satisfactory.</p>

3. State Environmental Planning Policy No. 55 Remediation of Land

This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspects of the environment.

Clause 7 of the SEPP states:-

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

Comment:

A detailed Contamination Assessment Report has been prepared by EI Australia to determine whether historical land uses have the potential to contaminate the site and affect the viability of the proposed development. The report finds no evidence of potential contamination on the site as a result of the previous land uses. As demonstrated in the report, the subject site is suitable for the proposed development including commercial and residential development.

Council's Environmental Health Section has reviewed the proposal and concurs with the findings and recommendations, particularly given the extent of excavation that will occur on site. Accordingly, appropriate conditions of consent have been recommended to ensure that the recommendations of the reports are implemented during the course of construction.

In this regard, it is considered that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP 55.

4. SEPP (Infrastructure) 2007

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

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

- (1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*
 - (a) *new premises of the relevant size or capacity, or*
 - (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*
- (2) *In this clause, relevant size or capacity means:*
 - (a) *in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*

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

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

(a) give written notice of the application to the RTA within 7 days after the application is made, and

(b) take into consideration:

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

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

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

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

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

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

Comment:

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP requires development to be referred to the NSW Roads and Maritime Service where the development results in 200 or more vehicles with access to any road. The proposed development comprises of 420 car spaces.

The Development Application was referred to the NSW Roads and Maritime Service for review. The NSW Roads and Maritime Service raised no objections to the proposal in their letter dated 30 September 2016.

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

5. State Environmental Planning Policy Educational Establishments and Child Care Facilities 2017

The new SEPP for child care centres came into force on 1 September 2017 and the subject Development Application was lodged on 31 August 2016. The savings provision below, specifically subclause 2 requires that for any existing Development Applications, that Part 4 of the new guide must be considered.

Schedule 5 Savings and transitional provisions

1 Savings provision

(1) This Policy does not apply to or in respect of the determination of a development application made under Part 4 of the Act, but not finally determined before the commencement of this Policy.

(2) Despite subclause (1), before determining a development application referred to in that subclause for development for the purpose of a centre-based child care facility, the consent authority must take into consideration the regulatory requirements and the National Quality Framework Assessment Checklist set out in Part 4 of the Child Care Planning Guideline, in relation to the proposed development.”

The Development Application has been assessed against the National Quality Framework Assessment Checklist and the design of the child care development is considered to be satisfactory in relation to SEPP Educational Establishments and Child Care Facilities 2017.

6. Box Hill Development Control Plan 2016

The proposal has been assessed against the requirements of the Box Hill Development Control Plan. Section 8.1.5 of the DCP provides a set of site specific controls for the Nelson Road Village Centre. The controls relate to the provision of active street frontages, awnings, signage, parking and site servicing. The proposed development has active street frontages which promote pedestrian activity and casual surveillance. The design incorporates a number of features to provide an attractive street address with awnings and shop fronts provided to ensure passive and active use. The application does not include any signage and as such a condition of consent has been recommended requiring a further application for signage. Adequate parking and servicing arrangements have also been provided for the development. A variation is proposed to this section of the DCP which is addressed in detail below.

a. Nelson Road Village- Indicative Layout

The Nelson Road Village Centre indicative layout plan is shown in the Box Hill DCP (Refer Attachment 6). The subject site is 1 of 3 sites that comprise the centre site, No. 17 Nelson Road being the largest land holding.

Council staff requested a concept design for the entire Nelson Road Village incorporating No. 15Z, a Council property, and the portion of No. 15 Nelson Road to demonstrate how orderly development is likely to be achieved. It is noted that the applicant initially made offers to both Council and the owner of No. 15 Nelson Road in order to facilitate a complete centre.

In relation to the adjoining Council land, the process relating to the sale, reclassification of land (to community land) and relocation of the community centre would likely impact on the applicant being able to develop in a reasonable timeframe in conjunction with the subject site. In relation to No. 15 Nelson Road, the owner of that land has also been approached by the Applicant however has indicated an intention to develop their land separately.

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

b. Function and Uses

This clause specifies that the town centre will provide up to a maximum of 6,000m² of retail and commercial floor space.

The proposal incorporates 21 tenancies including a future supermarket and various smaller retail tenancies flanking external streets and the internal mall areas.

c. Built Form

The DCP also requires that development provide a range of building heights up to three storeys. The Development Application proposes primarily three and four storey built form. As identified in Section 1 of this report the variation to height has been assessed against the site specific opportunities and constraints, impacts and is considered to be reasonable.

d. Heritage

The development is proposed to be located adjacent to a local heritage item, known as 'Marklye' which is located on the northern side of Nelson Road. It is considered that the proposal is unlikely to impact on the visual curtilage or setting of the heritage item or obstruct any important views to and from the heritage item based on the following:

- There is a 25 metre separation between the heritage item and proposed development,
- The two are separated by a busy road,
- This area is an urban release area and will be undergoing a character transformation, and
- The proposed development is proposed to use materials and finishes that are considered to be sympathetic to the heritage item.

A Heritage Impact Statement was prepared by the Applicant, which has been assessed. No objection to the proposed development based on heritage grounds

7. Compliance with The Hills Development Control Plan 2012

The proposal has been against the following provisions of The Hills Development Control Plan 2012:

- Part B Section 6 – Business;
- Part C Section 1 – Parking; and
- Part C Section 3 – Landscaping;

The proposal has been assessed against the development standards within the DCP and the following variation has been identified:-

DEVELOPMENT STANDARD	DCP PART B SECTION 6 – BUSINESS REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Clause E2.6 - External Areas	No play areas are permitted in the front setback except rural areas where they are permitted a minimum of 30m from the front property boundary.	The proposed external play area is located within the setback of the site.	No, however the proposal is consistent with the objectives for Child Care Centres under The Hills DCP Part B Section 6 – Business.

The variation to The Hills DCP Part B Section 6 – Business is addressed below:

a. External Play Areas

Clause E2.6 of The Hills DCP Part B Section 6 – Business prescribes that the location of child play areas in the front setback area is not permitted.

The relevant objectives of the DCP are as follows:-

- "(ii) To ensure that external play areas are located and designed to minimise potential noise and privacy impacts on any adjoining properties.*
- (iii) To ensure that external play areas are an adequate size, are useable, and located to provide a safe environment for children."*

Comment:

The proposed external play area is located within the setback of the site from The Water Lane and Terrain Street. It is considered that the location of the external play is located and designed to minimise potential noise and privacy impacts on any adjoining properties. The external play area is adequate in size, and is a flat area located to provide a safe environment for children.

A condition of consent (Condition No. 50) is recommended that requires further details be submitted prior to the issue of a Construction Certificate that require a suitably qualified person to design / certify a crash barrier that extends the entire length of the childcare centre outdoor play area fronting The Water Lane and Terrain Street. The crash barrier is to be designed to prevent a vehicle entering the outdoor play area in the event of a motor vehicle incident. The details are to be submitted to the Principal Certifying Authority for inclusion on the final construction plans.

In view of the above, the variation to the location of the external plan area is considered to be consistent with the objectives of Clause E2.6 of The Hills DCP Part B Section 6 – Business, is considered satisfactory and not sufficient grounds for refusal.

8. Draft Amendments to SEPP for Shop Top Housing and Densities

Currently, the site is affected by three proposed amendments relating to SEPP Growth Centres. Two of the amendments relate to shop top housing controls for the B2 Local centre zones, the other density for residential zones. Each of the proposed amendments are at various stages.

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

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

The amendments are discussed in further detail below however it is considered that the amended design appropriately addresses each of the amendments.

Shop Top Housing 11/2016/PLP

Council has resolved to prepare planning proposals to amend both The Hills Local Environmental Plan 2012 and SEPP Growth Centres (North Kellyville and Box Hill). The planning proposal was initially exhibited between 28 June 2016 and 29 July 2016 however re-exhibited until the 11 November 2016. At its meeting of 13 December 2016, Council resolved to forward planning proposal (11/2016/PLP) to the Department of Planning and Environment for finalisation. The amendment has not to date been made. The subject application was lodged on 31 August 2016 prior to the re-exhibition of the proposed amendment.

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

Maximum permitted Height		Minimum required non-residential uses	
Existing	Proposed	Existing	Proposed
16m	10m	No minimum	50%

In July 2017 although the applicant did not consider the amendments imminent or certain, the application was amended to address the amended controls by providing a reduced building height and reduced residential floor area including the deletion of 30 units, primarily reducing building A to three storey rather than 4 storey. The amendments provide a development closer in scale to what is anticipated by the new controls.

SEPP Floor Space Amendments 6/2017/PLP

The planning proposal and supporting material was publicly exhibited from 12 October 2017 to 10 November 2017. At its meeting of 12 December 2017, Council resolved to forward the planning proposal (6/2017/PLP) to the Department of Planning and Environment for finalisation. The proposed amendments remove the 'bonus' floor space ratio of 1.25:1 and amend the floor space ratio map for both centres from 0.5:1 to 1:1. Whilst this will actually increase the mapped floor space ratio, the total allowable floor space ratio for the site would decrease from 1.75:1 to 1:1. This application proposes Floor Space Ratios that are generally in accordance with this planning proposal.

North West draft exhibition package

The Department of Planning exhibited amendments to the Growth centres Sepp in July 2017 that seeks to impose a maximum residential density of 80 dwellings per hectare of the R4 zoned portion of the site.

The current development application is consistent with this control with a dwelling density of 80.4 dwellings per hectare proposed on the R4 portion of the site.

ROADS & TRAFFIC AUTHORITY COMMENTS

The application was referred to RMS in accordance with Schedule 3 of SEPP Infrastructure 2007. No objection was raised to the proposal.

ENGINEERING COMMENTS

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

The proposal includes the construction or reconstruction either in part or full and dedication to Council of three new roads adjacent to the development site. The Water Lane to the east of the site is captured by the Contributions Plan. However, in order to facilitate the development proposal, it is likely that these works will be constructed by the applicant as Works-in-Kind given Council is unlikely to be in a position to construct this road prior to the development commencing. Nelson Road will be partially reconstructed and a new DCP road, Terrain Street will be partially constructed. Both roads will be dedicated to Council at no cost by the Applicant.

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

TRAFFIC COMMENTS

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

TREE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

ENVIRONMENT AND HEALTH COMMENTS

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

Contamination

A detailed Contamination Assessment Report has been prepared by EI Australia to determine whether historical land uses have the potential to contaminate the site and affect the viability of the proposed development. The report finds no evidence of potential contamination on the site as a result of the previous land uses. As demonstrated in the report, the subject site is suitable for the proposed development including commercial and residential development.

Acoustics

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

Acoustic assessment at this stage is difficult as the acoustic environment now is significantly different from what is expected in the future.

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

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

RESOURCE RECOVERY COMMENTS

No objection is raised to the proposal subject to condition

CONCLUSION

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

The variations to the SEPP Height control and the DCP variations are addressed in the report and are considered satisfactory.

In relation to the Clause 4.6 Variation request, it is considered that the Applicant's request is well founded, and the proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the B2 Local Centre and R4 High Density Residential zone objectives, compliance with the standard are unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report.

The issues raised in the submissions have been addressed in the report. Further amendment or refusal of the application is not warranted.

Accordingly approval subject to conditions is recommended.

IMPACTS

Financial

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

The Hills Future Community Strategic Plan

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

RECOMMENDATION

The Development Application be approved subject to the following conditions of consent.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	SHEET	REVISION	DATE
DA-110-007	LOWER GROUND OVERALL	-	S3	29/06/2017
DA-110-008	GROUND OVERALL	-	S3	29/06/2017
DA-110-009	UPPER GROUND OVERALL	-	S3	29/06/2017
DA-110-010	LEVEL 01 OVERALL	-	S3	29/06/2017
DA-110-020	LEVEL 02 OVERALL	-	S3	29/06/2017
DA-110-030	LEVEL 03 OVERALL	-	S3	29/06/2017
DA-110-040	ROOF OVERALL	-	S3	29/06/2017
DA-111-007	LOWER GROUND NORTH	-	S3	29/06/2017
DA-111-008	GROUND SOUTH	-	S3	29/06/2017
DA-111-009	UPPER GROUND NORTH	-	S3	29/06/2017
DA-111-010	LEVEL 01 NORTH	-	S3	29/06/2017
DA-111-020	LEVEL 02 NORTH	-	S3	29/06/2017
DA-112-007	LOWER GROUND SOUTH	-	S3	29/06/2017
DA-112-008	GROUND SOUTH	-	S3	29/06/2017
DA-112-009	UPPER GROUND SOUTH	-	S3	29/06/2017
DA-112-010	LEVEL 01 SOUTH	-	S3	29/06/2017
DA-112-020	LEVEL 02 SOUTH	-	S3	29/06/2017
DA-112-030	LEVEL 03 SOUTH	-	S3	29/06/2017
DA-210-001	NORTH ELEVATION – NELSON ROAD	-	S3	29/06/2017
DA-210-002	EAST ELEVATION – WATER LANE	-	S3	29/06/2017

DA-210-003	SOUTH ELEVATION - LOCAL NEW ROAD	-	S3	29/06/2017
DA-210-004	WEST ELEVATION - NEW ROAD	-	S3	29/06/2017
DA-250-001	NORTH ELEVATION / SECTION BLDG B & C	-	S3	29/06/2017
DA-250-002	WEST ELEVATION / SECTION BLDG A, B & D2	-	S3	29/06/2017
DA-250-003	SOUTH ELEVATION / SECTION BLDG B & C	-	S3	29/06/2017
DA-250-004	EAST ELEVATION / SECTION BLDG C & D2	-	S3	29/06/2017
DA-250-005	NORTH ELEVATION / SECTION BLDG D1 & D2	-	S3	29/06/2017
DA-250-006	SOUTH ELEVATION / SECTION BLDG A	-	S3	29/06/2017
DA-810-002	RAMP SECTIONS	-	S3	29/06/2017
1705	LANDSCAPE PLAN GROUND NORTH	101	E	14/06/2017
1705	LANDSCAPE PLAN GROUND SOUTH	102	E	14/06/2017
1705	LANDSCAPE PLAN PODIUM	103	E	14/06/2017
1705	LANDSCAPE PLAN PODIUM NORTH	105	E	14/06/2017
1705	LANDSCAPE SECTION AND DETAILS	301	E	14/06/2017
1705	LANDSCAPE SECTION AND DETAILS	302	E	14/06/2017
1705	LANDSCAPE PRODUCTS AND FINISHES	303	E	14/06/2017

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

2. External Finishes

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

3. Provision of Parking Spaces

The development is required to be provided with 420 off-street car parking spaces are provided including 164 resident spaces, 31 resident visitor spaces, 198 retail spaces and 27 spaces for the child care centre. These car parking spaces shall be available for off street parking at all times.

4. Separate application for signs

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

5. Separate Development Application for Occupations

A separate development application is required for the occupation of the approved non-residential tenancies unless allowed by the provisions of State Environmental Planning

Policy (Exempt and Complying Development Codes) 2008. Where a Development Application is required, the application should specifically address the following:

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

6. Separate Development Application - Child Care Centre

A separate Development Application is required for the internal fitout and fitout of the external play area of the child care centre.

This consent approves the use of the tenancy as an 80 place childcare centre operating 7am – 7pm Monday to Friday. The Development Application shall demonstrate compliance with the relevant legislation and guidelines for an 80 place centre. If adequate internal and external areas are not provided, a reduced number of children may result dependent on legislation/guidelines at that time. The subsequent application is also required to address parking requirements based on staff and child numbers in accordance with the Box Hill DCP 2008.

7. Subdivision Works Scope

The concept engineering plan Revision 4 dated 07/07/2017 prepared by Sparks relies on the separate detailed concept designs prepared by Jem for The Water Lane and JWP for Nelson Road on behalf of Council.

In the case of Nelson Road specifically, the detailed concept design prepared for Council by JWP is to assist the orderly development of land along Nelson Road. Nelson Road is a collector road and its partial width reconstruction fronting the development site must be provided for by the developer at no expense to Council in accordance with the DCP and Contribution Plan 15. The proposal includes a driveway on Nelson Road. The traffic report prepared by Thompson Stanbury Associates submitted with the development application proposes a concrete median island in Nelson Road to limit access to left in and out only. The detailed concept design prepared for Council by JWP does not include a concrete median island here. The lane configuration on this approach to the intersection with The Water Lane cannot be altered and the road cannot be moved north because of the heritage item opposite. This means that any road widening required to accommodate this concrete median island associated with the proposed driveway will need to be provided from within the subject site.

Terrain Street at the rear of the site is a local road. The construction and dedication of the portion of this road within the development site must be provided for by the developer at no expense to Council in accordance with the DCP and Contribution Plan 15. The proposal seeks to move this road across 0.65m further into the site so that a minimum carriageway of 6m can be provided as per the DCP requirements for two way travel/ partial width construction. This change is supported, however at the western site boundary with 15 Nelson Road the road reserve width must transition back from 9.65m to 9m in order to facilitate the eventual orderly development of adjoining properties (noting that Terrain Street extends west all the way to Driftwood Street between 3 and 4 Nelson Road further west). The transition must extend across the width of the planned driveway/ temporary turning head in this bottom corner.

Conversely, The Water Lane is a sub-arterial road and is covered by a combination of Contribution Plan 15 and the SIC payable to the Department. Because of the nature of this development and the unformed nature of The Water Lane now, the reconstruction of the section of The Water Lane between Nelson Road and Terrain Street must occur before or with this development. If The Water Lane has not been reconstructed, or arrangements

are not in place for its reconstruction within a timeframe that fits with the development, by the time a Construction Certificate is sought for this development, then these works must be included as part of the subdivision works for the development. A separate works in kind, material public benefit or voluntary planning agreement will be required to facilitate this, as conditioned later in the consent.

The detailed concept design prepared by Jem for The Water Lane includes a set of traffic signals at the intersection of The Water Lane/ Nelson Road fronting the site as per the DCP and Contribution Plan 15. The warrants for these traffic signals are not met yet. Unless these warrants are met by the time a Construction Certificate is sought for this development, the detailed design must provide for an appropriate level of priority control informed by a traffic engineer at this intersection. If the fourth leg of this intersection/ the extension of The Water Lane north beyond Nelson Road is constructed in this time is relevant also. This signage/ line-marking will need to be approved by the Local Traffic Committee because it relates to existing public roads. The detailed design needs to allow for conduits for the planned traffic lights, save the need to excavate the new road pavement later.

The concept engineering plan Revision 4 dated 07/07/2017 prepared by Sparks only considers the management of stormwater runoff from the development site. As part of the detailed design for the subdivision works listed above, the stormwater design for the street drainage network must consider the upstream catchment and eventual development of those upstream properties, as per Council's Design Guidelines Subdivisions/ Developments. The detailed concept designs prepared by Jem for The Water Lane and JWP for Nelson Road on behalf of Council consider this already.

Because of the nil setback and ground floor retail the footpath verge levels in Nelson Road and The Water Lane set by the subdivision works will dictate the final finished floor level of the ground floor units/ tenancies adjacent.

The detailed concept designs prepared by Jem for The Water Lane and JWP for Nelson Road on behalf of Council relate to the entire length of both roads. The portion of these works linked to this development (above) will require a detailed design at the Construction Certificate stage that accounts for this reduced scope, including suitable transitions at either end with respect to both roadworks and drainage.

8. Separate Application for Subdivision

The subdivision of the development was not included with the application made.

A separate development application is required for the subdivision required to support the subdivision works outlined in the condition titled "subdivision works scope". Specifically, that separate plan/ development application must include:

- The dedication of the portion of Terrain Street within the subject site at no cost to Council in accordance with the road formation set by this consent (9.65m transitioning back to 9m at the western boundary along the length of the driveway/ temporary turning head). A splay corner at Terrain Street/ The Water Lane is also required. The site plan provided with the development application does not show this required splay corner.
- The creation of a separate lot containing the road widening along The Water Lane site frontage based on the SP2 zoned land extent widened to account for the detailed concept design for The Water Lane prepared by JEM for Council, particularly at the intersection between The Water Lane/ Nelson Road.
- The dedication at no cost to Council of any additional road widening in Nelson Road required to accommodate the concrete median island in Nelson Road required by the traffic report prepared by Thompson Stanbury Associates submitted with the development application to limit access to the proposed driveway to left in and out only (not shown on the site plan).
- The creation of a single development lot containing the remainder of the subject site.

A separate development application or complying development certificate application is required for any planned strata subdivision of the development/ development lot referred to above.

9. Protection of Public Infrastructure

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

10. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.
- The driveway on Nelson Road must be designed to comply with the above documents. Specifically, a swept path analysis for an AV and a HRV must be prepared by a traffic engineer and overlaid onto the architectural plans showing entry and exit from the site in a forward direction from the westbound trafficable lane in Nelson Road. This swept path analysis will dictate the final layout, width and splays associated with the roundabout. This analysis must accompany the detailed design/ Construction Certificate and the separate driveway crossing application (vehicular crossing request) required to be submitted to Council.
- The above swept path analysis will also dictate the final location of the padmount substation and signage pylon adjacent to the last parking space and within this driveway area.
- The detailed design/ Construction Certificate must be accompanied by a more detailed set of drawings for the parking areas prepared to a scale no less than 1:200 inclusive of parking space dimensions, parking aisle dimensions, circulation roadway and ramp dimensions, ramp grades, ramp transition lengths, ramp radii (inside and outside) and headroom clearances, all complying with the above documents.
- The retail and child care centre parking spaces must be 2.5m wide (minimum).
- The residential parking spaces must be 2.4m wide (minimum).

- Where parking aisles, circulation roadways and ramps front a wall or other vertical obstruction higher than 0.15m the width must be increased by a further 0.3m above the minimum width set by the above documents. For example, most of the child care centre parking spaces are located opposite a wall requiring a wider (6.1m wide) parking aisle.
- The parking aisle fronting the row of retail parking spaces on the ground floor in front of the entrance to the loading area needs to be as wide as shown on the plan (wider than the minimum parking aisle width of 6.1m otherwise required here) to provide sufficient room for cars to turn around in this area, noting that when the loading dock entrance is closed this is a publically accessible blind aisle.
- The actual loading areas/ bays within the loading dock need to be shown on a plan with the detailed design/ Construction Certificate, demonstrating compliance with the above documents.
- The set down space included at the end of the child care centre parking area must be removed and replaced with a turning area, noting this blind aisle is very long and includes a blind corner along its length. This turning area must be clearly signposted and line-marked.
- The large void area at the end of the residential parking area on the lower ground level needs to be clearly signposted and line-marked so that is not used informally as additional parking and possibly impacting upon manoeuvring for the adjacent disabled parking spaces or turning at the end of this blind aisle.
- The inside and outside radii of the series of angled ramps connecting the two residential parking areas on the lower and upper ground levels must be shown on a plan with the detailed design/ Construction Certificate demonstrating compliance with the above documents. This extends to the ramp grades and associated transitions, which must be measured on the inside bend (shortest length) of each.
- The second driveway to/ from Terrain Street which leads to the two parking areas is limited to 13m wide at the kerb splayed to 14m at the boundary, as per the concept engineering design Revision 4 dated 07/07/2017 prepared by Sparks, amended to account for the angled carriageway here called for earlier in the "subdivision works scope" condition.

11. Service Vehicles – Access Requirements

All service vehicles, defined as a vehicle classified by AS 2890.2 rather than AS/ NZS 2890.1; must access and service the site via Nelson Road. Service vehicles cannot access any of the three basement levels or service the development directly from any of the existing or proposed fronting public roads.

12. 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.

13. Approved Street Naming

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

14. Street Trees

Street trees must be provided for the section of Nelson Road, The Water Lane (only if not constructed by others already) and Terrain Street within or fronting the development site spaced between 7m and 10m apart and with a minimum of one tree per lot frontage. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. This includes the Box Hill Street Tree Masterplan available from our website. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

The establishment of street tree planting is included in the maintenance bond required to be paid (conditioned below).

15. WSUD Handover Process

An operations and maintenance plan must be prepared for all water sensitive urban design (WSUD) proposals. The operations and maintenance plan must include:

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

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

16. 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.

17. Subdivision Works Construction Certificate

Before any subdivision works are carried out a subdivision works Construction Certificate must be obtained. The plans and accompanying information submitted with the subdivision works Construction Certificate must comply with the conditions included with this consent.

18. 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.

19. Demolition Notification

Both Council and any adjoining properties must be notified in writing five days before demolition works commence.

20. 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.

21. Imported 'Waste Derived' Fill Material

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

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

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

22. Construction of Separate Garbage Rooms

The development must incorporate separate garbage rooms (also referred to as garbage holding rooms and garbage discharge rooms), constructed in accordance with the requirements below, to facilitate the separation of commercial waste and recycling from residential waste and recycling. Minimum storage facility for the residential garbage holding room is required for 21 x 660 litre garbage bins (containing compacted garbage contents) and 38 x 660 litre recycling bins. The commercial garbage holding room must be of an adequate size to accommodate all commercial garbage bins and recycling bins associated with the commercial component.

1. The layout of the rooms must ensure that each bin is easily accessible and manoeuvrable in and out of the rooms with minimal or no manual handling of other bins.
2. The walls of the rooms must be constructed of brickwork.
3. The floor of the rooms must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
4. The rooms must have a waste servicing door, with a minimum clear floor width of 1.5m. The doors must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors. Note commercial bins may require a wider door opening than 1.5m (e.g. 2m>).

5. The rooms must also have a suitable resident access door (applicable when the room is accessible to residents), which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors.
6. All doors of the rooms, when fully opened, must be flush with the **outside wall** and must not block or obstruct vehicle aisles or footways. All doors must be able to be fixed in position when fully opened.
7. All doors must be lockable to ensure the rooms are only accessible to permitted users (e.g. commercial tenants must not be able to access any residential garbage bin area).
8. The rooms must be adequately ventilated (mechanically). Note ventilated rooms should not be connected to the same ventilation system supplying air to the units.
9. The rooms must be provided with a hose tap (hot and cold mixer), connected to a water supply, to facilitate bin washing. If the tap is located inside the rooms, it is not to conflict with the space designated for the placement of bins.
10. The rooms must be provided with an internal light (automatic sensor lights are recommended).
11. The maximum grade acceptable for moving bins from the garbage holding rooms and the designated garbage truck loading area is 5%. Under no circumstance is this grade to be exceeded. They are to allow safe manoeuvring and servicing of the full bins by waste collection operators.
12. The rooms must have appropriate signage, provided by Council (residential only), mounted in a visible location on an internal wall and is to be maintained by the Owners Corporation.
13. Finishes and colours of the rooms are to complement the design of the development.

Residential Bin Measurements (mm)

660L: 850 (d) 1370 (w) 1250 (h) **1100L:** 1245 (d) 1370 (w) 1470 (h)

23. Adherence to Waste Management Plan

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

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

24. Communal Composting Areas

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

25. 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.

26. 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.

27. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council for the residential units. The service is to be arranged no earlier than two weeks prior to occupancy and no later than two days after occupancy. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

28. Property Numbering and Mailboxes

The responsibility for property numbering is vested solely in Council.

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

Council's Land Information Section has prepared marked plans to reflect the correct numbering. Plans relating to this development must be renumbered by applicant so that any reference to a particular unit for any purpose, including marketing, will reflect the approved numbering.

The use of the Property number 17 Nelson Road Box Hill is NOT to be used for this development. The re-numbering of Nelson Road will be required as development progresses within this road & a new property number will be applied in the future.

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

	Building A Lift 1	Building A Lift 2	Building B Lift 3	Building B Lift 4
First	101-108	109-113	114-118	119-121
Second	201-208	209-214	215-225	226-230
Third	-	-	301-311	312-316
Fourth	-	-	-	-

	Building C Lift 5	Building D Lift 6	Building E Lift 7
First	122-124	125	
Second	231-238	239-246	247-258
Third	317-324	325-332	333-344
Fourth	401-408	409-416	417-428

- Numbering applied to Retail units is approved as shown on submitted plans dated 29 June 2017.

Plans detailing the positioning of letterboxes are also to be submitted and approved prior to issue of Construction Certificate. This will determine the street address for each particular building once plans are received. Australia Post contact is Graeme O'Mullane at the Seven Hills Delivery Centre – email Graham.OMullane@auspost.com.au or phone 02 9674 4027.

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

29. Commercial Waste and Recycling Contract

There must be a contract with a licenced contractor for the removal of all commercial waste generated on site. Written evidence of a valid and current collection contract must be held on site at all times and produced in a legible form to any authorised officer of the Council who asks to see it.

30. Garbage Chute System

Each building must have a dual chute with openings on each residential level to enable chute disposal of both domestic garbage and recycling. The chute openings must be accessible to all units on that floor level. The chutes must terminate in chute discharge rooms located on either the ground or lower ground levels. The rooms must contain linear tracks for at least two 660 litre bins for both garbage (compacted at a required ratio of 2:1) and recycling (no compaction permitted). Additional space must also be available to store spare bins in the room to easily exchange with full bins. Other room design specifications required to be complied with are listed in the Condition titled 'Construction of Separate Garbage Rooms'

31. Access and Loading for Domestic Waste Collection

Minimum vehicle access and loading facilities must be provided and designed in accordance with Australian standard 2890.2-2002 for the standard 12.5m long Heavy Rigid Vehicle. The following additional requirements are applicable:

1. All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
2. Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
3. The requirement for reversing is limited to inside the loading dock. The service bay must allow additional space for access and loading and have appropriate signage such as no parking at any time.
4. The loading area must have a sufficient level of lighting.
5. Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of medium and heavy vehicles, remote access or other measure to ensure there is no requirement for collection

contractors to exit the cab. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

32. Construction of Residential Bulky Waste Room

The bulky waste room in the loading dock must be designed and constructed in accordance with the requirements below. A minimum floor area of 18m² must be provided. The room is strictly for residential use only and must not be accessible to commercial tenants.

1. The walls of the room must be constructed of brickwork.
2. The floor must be level and constructed of concrete with a smooth non-slip finish.
3. The room must have a door (lockable), with a minimum clear floor width of 2m. The door must be located to allow the most direct access to the room by collection contractors. Acceptable doors are single or double swinging doors.
4. The door, when fully opened, must be flush with the **outside wall** and must not block or obstruct vehicle aisles or footways. All doors must be able to be fixed in position when fully opened.
5. The room must be adequately ventilated. Note ventilated rooms should not be connected to the same ventilation system supplying air to the units.
6. The room must be provided with an internal light (automatic sensor lights are recommended).
7. The room must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Owners Corporation.
8. Finishes and colours of the rooms are to complement the design of the development.

33. Bin Travel Path Requirement

There must be no requirement for bins to be moved outside of the property boundary for collection purposes. The path to move bins from storage point and collection point must be wholly within the lot boundaries.

34. Tree Removal

Approval is granted for the removal of all trees to site within the footprint of proposed works.

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

35. Planting Requirements

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

For all planting on slab and planter boxes allow the following minimum soil depths:

- 1.2m for large trees or 800mm for small trees;
- 650mm for shrubs;
- 300-450mm for groundcover; and
- 200mm for turf.

Note: this is the soil depth alone and *not* the overall depth of the planter.

36. Compliance with NSW Police Force Requirements

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

Surveillance:

- CCTV coverage is required to be installed to monitor all common areas and entry/exits points. Use of height indicator stickers on entrance/exit doors is required on entry/exit doors.
- Paint the basement white to reflect light.
- Vegetation to be kept trimmed at all times.
- Installation of a security intercom system is required to access the residential parts of the basement car park and main lobbies. Each unit is to contain an intercom system to enable access for visitors to the basement car park and lobby. Security access is to be utilised at the entrance of the basement.
- Lighting:
- Lighting is to meet minimum Australian Standards. Special attention is to be made to lighting at entry/exit points from the building, the car park and driveways.
- Environmental Maintenance:
- Use of anti-graffiti building materials.
- High fencing during construction is to be used.
- Use of security sensor lights and a security company to monitor the site during construction phase are required.
- Access Control:
- Ground level units are required to have upgraded security measures in place such as doors/ windows being alarmed, thickened glass and sensor lights.
- High quality letter boxes that meet AS ISO9001:2008 are required and are only to be accessed via within the unit complex by residents.
- Lift from car park into the residential part of the building to be used with a fob or pin code is required.
- Entry into car park to be secured by a fob, remote/code access and camera are required.
- Ensure improved strength to security roller shutters/garage doors is used.
- Caged storage units are to be built up to the ceiling with a door with better quality locking mechanism are to be used.
- Fire doors are to be alarmed and a magnetic strip is required so that the door will shut closed.
- External doors that can be used to enter the car park or into the complex are required to have a plate installed to the door.
- Devices are to be fitted to enable windows to be locked at 12.5cm when the devices are engaged.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

37. Special Infrastructure Contribution – Growth Centres

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

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

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

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

38. Section 94 Contribution

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

Payments comprise of the following:-

Residential

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 60	No. of 2 Bedroom Units: 77	No. of 3 Bedroom Units: 18	No. of Credits: 1	Residential S94
Open Space - Land	\$ 5,625.33	\$ 5,956.24	\$ 6,640.98	\$ 6,640.98	\$ 337,519.82	\$ 458,630.13	\$ 119,537.69	\$ 6,640.98	\$ 909,046.66
Open Space - Capital	\$ 7,066.72	\$ 7,482.42	\$ 8,342.61	\$ 8,342.61	\$ 424,003.49	\$ 576,146.00	\$ 150,167.03	\$ 8,342.61	\$ 1,141,973.91
Transport Facilities - Land	\$ 545.27	\$ 577.35	\$ 643.72	\$ 643.72	\$ 32,716.46	\$ 44,455.95	\$ 11,586.94	\$ 643.72	\$ 88,115.63
Transport Facilities - Capital	\$ 4,665.63	\$ 4,940.07	\$ 5,508.00	\$ 5,508.00	\$ 279,937.58	\$ 380,385.45	\$ 99,143.99	\$ 5,508.00	\$ 753,959.03
Water Management - Land (KCP)	\$ 2,073.98	\$ 2,195.97	\$ 2,448.43	\$ 2,448.43	\$ 124,438.56	\$ 169,090.04	\$ 44,071.76	\$ 2,448.43	\$ 335,151.93
Water Management - Capital (KCP)	\$ 5,214.34	\$ 5,521.07	\$ 6,155.78	\$ 6,155.78	\$ 312,860.18	\$ 425,122.12	\$ 110,804.11	\$ 6,155.78	\$ 842,630.62
Administration	\$ 220.64	\$ 233.62	\$ 260.47	\$ 260.47	\$ 13,238.51	\$ 17,988.51	\$ 4,688.49	\$ 260.47	\$ 35,655.03
Total	\$ 25,411.91	\$ 26,906.73	\$ 30,000.00	\$ 30,000.00	\$ 1,524,714.60	\$ 2,071,818.21	\$ 540,000.00	\$ 30,000.00	\$ 4,106,532.81

Non-Residential

Development Category	Rate per M ² of GFA: 5,471	Non-residential S94
Transport Facilities - Land	\$ 6.04	\$ 33,044.84
Transport Facilities - Capital	\$ 59.14	\$ 323,554.94
Administration	\$ 0.90	\$ 4,923.90
Water Management - Land (KCP)	\$ 6.64	\$ 36,327.44
Water Management - Capital (KCP)	\$ 16.68	\$ 91,256.28
Total	\$ 89.40	\$ 489,107.40

The total Section 94 payable is **\$4,595,640.21**

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

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

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

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

39. Design Verification

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

40. Notice of Requirements

The submission of documentary evidence to the Certifying Authority, including a Notice of Requirements, from Sydney Water Corporation confirming that satisfactory arrangements have been made for the provision of water and sewerage facilities.

Following an application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water / sewer extensions can be time consuming and may impact on other services and building, driveway and landscape design.

41. 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.

42. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$150,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The amount payable 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 multiplied by the width of the road. However, this bond amount has been significantly reduced from that figure to account for the subdivision works required to

facilitate this development conditioned earlier, along with the associated maintenance bond relating to the same conditioned below.

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

The bond is refundable upon written application to Council and is subject to all work being 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.

43. 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 calculated and submitted to Council for approval/ confirmation prior to payment.

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

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

44. Engineering Works and Design

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

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

The following engineering works are required:

a) Full Width Road Construction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
The Water Lane	Road Type: DCP Sub-arterial Road 4.5m/ 13m/ 3.5m (21m) Pavement Design: Sub-arterial (Design Guidelines Section 3.12)

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

With respect to the intersection at Nelson Road/ The Water Lane (future traffic signals) specifically, the splays provided must match that required by the detailed concept designs for The Water Lane prepared by Jem and for Nelson Road prepared by JWP on behalf of Council.

The wider 4.5m verge must be located on the eastern side of The Water Lane correlating with the cycleway required at this location. The detailed concept design for The Water Lane prepared by Jem has the wider 4.5m verge on the opposite/ western side fronting the site. This change will need to be reflected on the detailed design submitted as part of this development. The intent behind locating the wider verge and cycleway on the

opposite side of the road is to link the cycleway network to the reserve on the eastern side of The Water Lane further south, and to avoid conflict between the development (ground floor retail with a nil setback) and the cycleway network.

The detailed concept design for The Water Lane prepared by Jem also includes an outdated alignment for Nelson Road at the intersection, which shows land take across the site frontage on the approach the planned traffic signals at Nelson Road/ The Water Lane. The alignment of Nelson Road shown on the detailed concept design for Nelson Road prepared by JWP is the correct alignment. This too much be reflected on the detailed design submitted as part of this development.

Roll kerb is to be used for Terrain Street. Nelson Road and The Water Lane both require barrier kerb.

All roads are to have a two-way cross fall with a crown in the middle of the carriageway.

With respect to The Water Lane and Nelson Road the concept engineering design Revision 4 dated 07/07/2017 prepared by Sparks relies on the detailed concept designs for The Water Lane prepared by Jem and for Nelson Road prepared by JWP on behalf of Council for the grading of both roads, which generally match the existing levels. The detailed design submitted as part of this development must include a road long-section that demonstrates compliance with those designs/ road grading.

The earlier condition titled "subdivision works scope" is relevant here also.

All civil infrastructure (roads, stormwater drainage and the like) should be built for saline soils.

b) Partial Width Road Construction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Terrain Street	Road Type: DCP Local Road 3.5m/ 11m/ 3.5m (18m) Pavement Design: Local/ Access (Design Guidelines Section 3.12)

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

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

Any requirements relating to partial width road construction from the relevant section of Council's DCP must also be complied with.

Roll kerb is to be used for Terrain Street. Nelson Road and The Water Lane both require barrier kerb.

All roads are to have a two-way cross fall with a crown in the middle of the carriageway.

The earlier condition titled "subdivision works scope" is relevant here also.

All civil infrastructure (roads, stormwater drainage and the like) should be built for saline soils.

c) Partial Width Road Reconstruction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Nelson Road	Road Type: DCP Collector Road 3.5m/ 11.6m/ 4.5m (19.6m) Pavement Design: Collector (Design Guidelines Section 3.12)

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

With respect to the intersection at Nelson Road/ The Water Lane (future traffic signals) specifically, the splays provided must match that required by the detailed concept designs for The Water Lane prepared by Jem and for Nelson Road prepared by JWP on behalf of Council.

The wider 4.5m verge must be located on the northern side of Nelson Road correlating with the cycleway required at this location. The detailed concept design for Nelson Road prepared by JWP reflects this.

Where partial width reconstruction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width reconstruction does not exist opposite, you will be responsible for the formation of the footpath verge, kerb and gutter and the reconstruction of 8m of road pavement (minimum). This new road pavement must transition into the existing road pavement opposite.

Any requirements relating to partial width road reconstruction from the relevant section of Council's DCP must also be complied with.

The table above lists the formation of this road mid-block. The formation for the majority of the site frontage is set by the required lane configuration associated with the planned traffic lights at Nelson Road/ The Water Lane as shown on the detailed concept design for The Water Lane/ the traffic lights prepared by Jem.

Roll kerb is to be used for Terrain Street. Nelson Road and The Water Lane both require barrier kerb.

All roads are to have a two-way cross fall with a crown in the middle of the carriageway.

With respect to The Water Lane and Nelson Road the concept engineering design Revision 4 dated 07/07/2017 prepared by Sparks relies on the detailed concept designs for The Water Lane prepared by Jem and for Nelson Road prepared by JWP on behalf of Council for the grading of both roads, which generally match the existing levels. The detailed design submitted as part of this development must include a road long-section that demonstrates compliance with those designs/ road grading.

The earlier condition titled "subdivision works scope" is relevant here also.

All civil infrastructure (roads, stormwater drainage and the like) should be built for saline soils.

d) Temporary Turning Heads

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

A temporary turning head is required at the western end of Terrain Street extending into the proposed driveway area in the bottom corner of the site.

e) Signage and Line Marking Requirements/ Plan

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

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

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

Street name signs and posts must be provided in accordance with the above documents and Standard Drawing 37.

f) Footpath Verge Formation

The grading, trimming, topsoiling and turfing of the Nelson Road and The Water Lane 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.

g) Concrete Footpath

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

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided on the western side of The Water Lane, only for the section fronting the R4 zoned part of the site, in accordance with the DCP and the above documents.

For the sections of Nelson Road and The Water Lane fronting the B2 zoned parts of the site, the full width of the 3.5m wide footpath verge (excepting allowances for street tree planting) must be concreted reflective of the nature/ intended use of this area for ground floor units/ retail. The footpath finish/ detail must be approved by Council via a public domain plan.

h) Concrete Cycleway/ Shared Path

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

This only applies to the section of this road being constructed as part of this development as outlined in the separate condition titled "subdivision works scope".

i) Gutter Crossings

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

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

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

The earlier condition titled "vehicular access and parking" is relevant here also.

j) 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.

k) Service Conduits

Service conduits to the proposed development, laid in strict accordance with the relevant service authority's requirements, are required. Services must be shown on the engineering drawings.

l) Earthworks/ Site Regrading

Earthworks are limited to that shown on the approved plans.

Retaining walls are limited to those locations and heights shown on the concept engineering design Revision 4 dated 07/07/2017 prepared by Sparks.

m) Stormwater Drainage – Additional Requirements

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

At least one tail-out drain will be required on the opposite side of Nelson Road at The Water Lane.

With respect to the drainage along The Water Lane and under Nelson Road, the detailed concept designs for The Water Lane prepared by Jem and for Nelson Road prepared by JWP on behalf of Council need to be considered. There is a large upstream catchment that will be sent to this planned sag in Nelson Road primarily via The Water Lane at this location. The stormwater drainage in The Water Lane will need to be extended across/ under Nelson Road at this location. A decrease in the pipe size in the downstream direction will not be supported, nor will a design that requires the removal of a section of this new road pavement to install a larger pipe/ culvert later.

The earlier condition titled "subdivision works scope" is relevant here also.

Grassed swale drains or temporary piped drainage must be installed to intercept, control and redirect surface stormwater runoff from upstream undeveloped properties.

n) Water Sensitive Urban Design Elements

Water sensitive urban design elements within the development site, consisting of a 30,000 litre rainwater reuse tank, a 266.3 cubic metre detention tank (minimum), 300 square metres of bio-retention swale, two stormfilter cartridges (or an approved, industry tested and accepted equivalent proprietary product) and pit inserts are to be located generally in accordance with the concept engineering design Revision 4 dated 07/07/2017 and the accompanying integrated water cycle management report Revision 2 dated 07/07/2017, both prepared by Sparks.

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

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

All model parameters and data outputs are to be provided.

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

- Water Sensitive Urban Design – Technical Guidelines for Western Sydney, 2004, <http://www.wsud.org/tools-resources/index.html>
- Australian Runoff Quality – A Guide to Water Sensitive Urban Design, 2005, <http://www.ncwe.org.au/arq/>

The water quality measures are permanent features. By virtue of how it has been designed into the development and where it is located the 266.3 cubic metre detention tank (minimum) is also a permanent feature, notwithstanding that it has been provided to ensure there is no impact downstream between the pre-development and post development conditions for a range of storm events, until permanent basin planned to the west at the corner of Terry Road/ Hynds Road is constructed and runoff from the subject site is/ can be connected to the same via the development of the intermediary properties downstream.

45. 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.

46. Separate Approval for WIK/ MPB Agreement

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

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

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

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

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

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

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

- Sediment fencing.
- Barrier fencing and no-go zones.
- Stabilised access.
- Waste receptacles.

- Stockpile site/s.

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

A SWMP is required for this development.

48. Internal Pavement Structural Design Certification

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

49. Acoustic Requirements

Prior to the issue of a Construction Certificate an acoustic statement is to be submitted to Council which confirms that the following recommendations have been included on the final construction plans:

1. *Child Care Centre Noise Assessment* prepared by Renzo Tonin & Associates referenced as TJ278-02F03 Child Care Centre Noise Assessment (r2) and dated 3 July 2017:
 - a. At receiver R1 & R2: Apartments at eastern end of Building C on Levels 1, 2 & 3. Provide winter garden balconies consisting of minimum 6mm standard float glass. In addition, east facing windows of apartments shall be fixed 10.38mm laminated glass.
 - b. At receiver R3: Apartment at southern end of Building B2 on Levels 1, 2 & 3; all south facing windows in the apartment shall be fixed 10.38mm laminated glass.
2. *Mechanical Services External Noise Assessment* prepared by Renzo Tonin & Associates referenced as TJ278-02F01 Mechanical Services Noise Assessment (r2) and dated 3 July 2017:
 - a. Table 6: Recommended Acoustic Treatment for Building Ventilation Fans
 - b. Section 4.1.3 Additional Acoustic Treatment
 - c. Section 4.2.2 Recommended Acoustic Treatment to Air Condition Outdoor Units
3. Any recommended noise attenuation measures to ensure that following LAeq internal noise levels are not exceeded in any residential unit:
 - a. 35 dB (A) in any bedroom between 10pm and 7am.
 - b. 40dB (A) elsewhere (other than garage, kitchen, bathroom and hallway) anytime.
4. In addition, the following are to be implemented:
 - a. Vibration isolated car park / driveway and ramp stormwater grates;
 - b. Vibration isolated loading dock and car park roller doors;
 - c. 1800mm acoustic fence (eg. lapped and capped timber) surrounding the childcare centre outdoor play area in addition to the crash barrier.

Any inconsistencies with the above and the BCA, the BCA takes precedence.

50. Crash Barrier – Child Care Centre

Prior to the issue of a Construction Certificate a suitably qualified person is required to design / certify a crash barrier that extends the entire length of the childcare centre outdoor play area fronting The Water Lane and Terrain Street. The crash barrier is to be designed to prevent a vehicle entering the outdoor play area in the event of a motor

vehicle incident. The details are to be submitted to the Principal Certifying Authority for inclusion on the final construction plans.

51. Irrigation

An Automatic watering system is to be installed as a minimum to all common areas. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council's Manager – Environment and Health or Private Certifier prior to issue of the construction certificate

52. Landscape Plan

A Landscape Plan (to scale) for the landscaping of the Podium to be prepared by a suitably qualified landscape architect or horticulturalist and submitted to the satisfaction of Council's Manager - Environment and Health. The plan is to indicate shrub and groundcover landscaping in addition to proposed trees indicated on Landscape plan-podium Dwg no. Sht-103. Planters are to be indicated where required over basement to achieve the soil depths as stated under 'Planting requirements'.

PRIOR TO WORK COMMENCING ON THE SITE

53. 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.

54. Traffic Control Plan

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

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

55. Erection of Signage – Supervision of Work

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

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

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

56. Contractors Details

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

57. Erosion and Sediment Control/ Soil and Water Management

The approved ESCP or SWMP measures must be in place prior to works commencing and maintained during construction and until the site is stabilised to ensure their effectiveness. For major works, these measures must be maintained for a minimum period of six months following the completion of all works.

58. Service Authority Consultation – Subdivision Works

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

- The provision of electrical services for the non-residue lots created by the subdivision. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.
- The provision of water and sewerage facilities.
- The provision of telecommunication services for the non-residue lots created by the subdivision, typically requiring the installation of pits and pipes complying with the standard specifications of NBN Co current at the time of installation. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. The Telecommunications Act 19978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

59. Principal Certifying Authority

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

60. 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.

61. 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.

62. Site Water Management Plan

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

63. Demolition Works and Asbestos Management

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

64. 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.

DURING CONSTRUCTION

65. Documentation On Site

A copy of the development consent and stamped plans together with the following documents shall be kept during construction.

- Arborist Report
- Waste Management Plan
- Erosion and Sedimentation Control Plan
- Traffic Control Plan

66. Standard of Works

All work must be carried out in accordance with Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works, including public utility relocation, must incur no cost to Council.

67. Critical Stage Inspections – Subdivision Works

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

68. Subdivision Earthworks – Lot Topsoil

Where earthworks are not shown on the engineering drawings, the topsoil within lots must not be disturbed. Where earthworks are shown, a 150mm deep layer of topsoil must be provided, suitably compacted and stabilised in accordance with Council's Works Specification Subdivisions/ Developments.

69. Aboriginal Archaeological Sites or Relics

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

70. National Parks and Wildlife Act 1974

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

71. European Sites or Relics

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

72. Working Hours

All work must be restricted to between the hours of 7:00am and 5:00pm, Monday to Saturday. No work can occur outside the hours specified above on Sundays or public holidays. The contractor must instruct sub-contractors regarding the hours of work.

Upon receipt of justified complaint/s in relation to local traffic impacts arising from roadworks being carried out on existing public roads those roadworks will be restricted to between the hours of 9:00am and 3:00pm, Monday to Friday or as otherwise directed by Council staff. Requests to carry out roadworks on existing public roads during the night in order to avoid local traffic impacts will also be considered based on the circumstances of

the site and must be approved in writing by Council's Manager – Subdivision and Development Certification.

73. 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. 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.

74. Filling of Dam

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

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

75. 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.

76. 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.

77. Removal of Septic Tank and Effluent Disposal Area

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

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

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

78. 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.

79. Dam Dewatering

The *Dam Dewatering Management Plan* for 17 Nelson Road, Box Hill, prepared by EI Australia referenced as E23090 AB_Rev 0 and dated 21 October 2016 is to be complied with as part of this approval. In particular:

- Section 3.4; dam water is to be tested prior to dewatering;
- Sections 4.2.6 and 4.2.7 dam water can be re-used as irrigation (figure 2 – site layout plan) or for earth work activities.

No dam water is permitted to be discharged into the stormwater system or local waterways /creeks

80. Contamination Requirements

As per *Detailed Site Investigation* for 17 Nelson Road, Box Hill prepared by eiaustralia referenced as E23090 AA – Rev 0, dated 29 August 2016 the recommendations are to be complied with as part of this application. In particular:

- a. Decommission and remove the Above Ground Storage Tank (AST), bowser and associated infrastructure at the site in accordance with WorkCover requirements and the UPSS Regulations (2014). Following removal of the AST and associated infrastructure (to the level of natural soils), inspection and soil validation sampling is to be performed to confirm the removal of all refuelling infrastructure and fill materials from beneath the footprint of the AST and refuelling area, prior to ongoing excavation of underlying natural soils. A tank decommissioning letter report is to be prepared by a suitably qualified environmental consultant and submitted to Council's Manager – Environment and Health.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

81. Landscaping Prior to Issue of any Occupation Certificate

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

82. Section 73 Certificate

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Development and Plumbing section of the web site www.sydneywater.com.au and then refer to Water Servicing Co-ordinator under "Developing Your Land" or telephone 13 20 92 for assistance.

83. Provision of Electricity Services

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

84. Provision of Telecommunications Services

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

85. 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.

86. 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.

87. Public Road/ Road Widening Dedication

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

88. 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.

89. 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 or Section 88B instrument associated with a plan or similar. Council's standard recitals must be used.

a) Restriction – Restricted Access

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

b) Restriction – Bedroom Numbers

The residential component of the development must be burdened with a restriction using the "bedroom numbers" terms included in the standard recitals.

c) Restriction/ Positive Covenant – Onsite Stormwater Detention

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

d) Restriction/ Positive Covenant – Water Sensitive Urban Design

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

e) Positive Covenant – 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.

90. 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.

91. 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.

92. 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.

93. Security Bond – Temporary Turning Head

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

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

94. 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.

95. Public Asset Creation Summary

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

96. Validation report

A validation report shall be submitted to Council's Manager – Environment and Health and the Certifying Authority (if not Council). The validation report must include the following:

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

97. Acoustic Compliance Report

Prior to any Occupation Certificate being issued certification is to be provided to Council's Manager – Environment and Health. The certification is to detail that all accepted and conditioned noise attenuation requirements have been appropriately installed and will meet the project specific criteria.

98. Internal Pavement Construction

Prior to any Occupation Certificate being issued, a Certified Practising Engineer (CPEng) must submit a letter to Council confirming that the internal pavement has been

constructed in accordance to the approved plans, and is suitable for use by the approved waste collection vehicle when fully laden.

99. Final Inspection of Waste Storage Areas

Prior to an Occupation Certificate being issued (interim or final), a final inspection of the waste storage areas and management facilities must be undertaken by Council. This is to ensure compliance with design specifications as specified in other conditions of this consent and that necessary arrangements are in place for occupants and for waste collection by Council. The time for the inspection should be arranged with Council at least 48 hours prior to the suggested appointment time.

100. Certification of Crash Barrier

Prior to the issue of any Occupation Certificate documentation is to be submitted to Council's Manager – Environment and Health which certifies that the crash barrier surround the childcare centre outdoor play area has been appropriately designed and installed so that it will prevent a vehicle entering the outdoor play area in the event of an incident.

101. Procurement of Mechanical Bin Mover

Prior to an Occupation Certificate being issued, a mechanical bin mover and trolley attachment, suitable for 660 litre bins must be purchased and delivered to the site. The equipment procured must have capacity to move multiple full bins (containing compacted garbage contents) over all ramps and slopes and around any bends between the waste storage areas and waste collection point. All waste moving equipment must be lawfully handed into the ownership of the Owners Corporation.

THE USE OF THE SITE

102. Shopping Trolley Management

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

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

103. Hours of Operation

The hours of operation being restricted to the following: -

- Supermarket 6.00am to midnight 7 day a week;
- Liquor Store: 9.00am to 10.00pm 7 days a week

Any alteration to the above hours of operation will require the further approval of Council.

104. Hours of operation of the loading dock

The use and operation of the loading dock, including garbage removal is restricted to the following hours;

Monday to Saturday – 7.00am to 6.00pm

Sunday and public holidays – 8.00am – 5.00pm

Only one vehicle is to use the loading dock at any one time.

105. 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*.

106. 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.

107. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area, which includes provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. All waste storage areas must be screened from view from any adjoining residential property or public place. Under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided onsite.

108. Waste and Recycling Collection

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

109. Acoustic and crash barriers

All accepted acoustic attenuation measures installed as part of the development are to be maintained in a manner that is consistent with the accepted acoustic reports, the consent and so that the noise attenuation effectiveness is maintained. They are to be maintained throughout the duration of the occupation of the development. This includes but is not limited to:

- Mechanical plant acoustic barriers;
- Vibration isolated car park / drive way / ramp stormwater grates;
- Vibration isolated roller doors; and
- The certified crash barrier for the child care centre's outdoor play area.

110. Acoustic – Project Specific

The following project specific criterion is to be met at the boundary of any neighbouring residential premises (including those within the subject development) for all mechanical services and the outdoor play area for the childcare centre.

The measured background plus 5dB up to the Amenity Criteria levels detailed in the Industrial Noise Policy for the suburban area being:

- a. 55dB(A) (LAeq 15min) during the day (7am – 6pm);
- b. 45dB(A) (LAeq 10min) during the evening (6pm – 10pm); and
- c. 40dB(A) (LAeq 15 min) during the night (10pm – 7am).

This is unless the measured background noise level is higher than the amenity criterion, in which case the project specific is to be the measured background noise level.

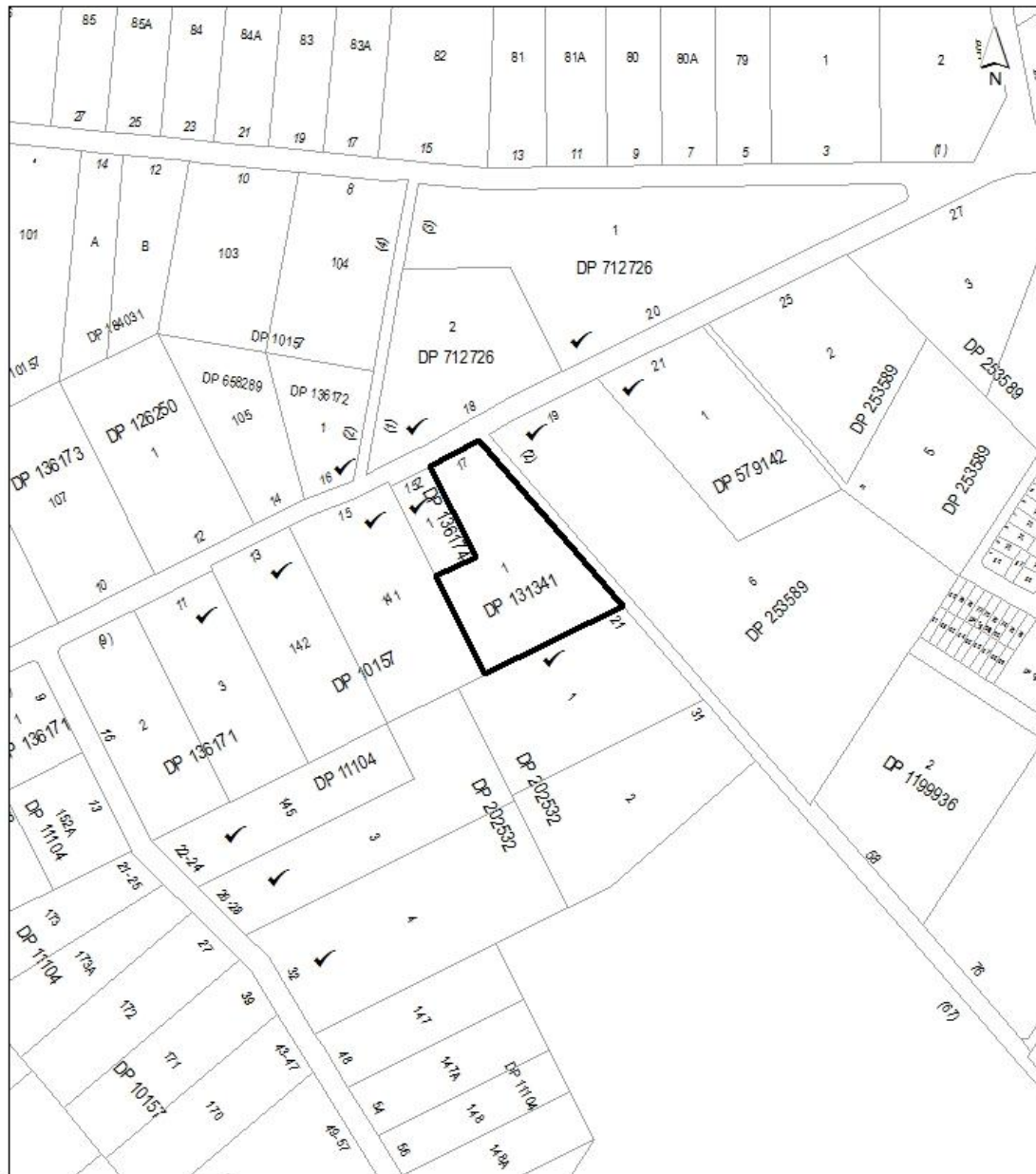
111. Waste and Recycling Caretaker

A caretaker must be appointed by the Owners Corporation to undertake all instructions issued by Council to enable domestic waste collection. This involves but is not limited to moving bins between the garbage rooms and the garbage holding room for waste collection purposes, exchanging full bins with empty bins underneath the dual garbage chutes and attending to any chute blockages or dumped rubbish issues. Additionally, responsibilities for cleaning waste storage areas and bins on a regular basis must be established. The same is required by the commercial tenants for the management of commercial bins where applicable.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. SEPP Zoning Map
4. SEPP Zoning and DCP Road Layout
5. SEPP FSR Map
6. DCP Indicative Layout Plan Nelson Road Village
7. Site Plan
8. Basement Plan
9. Lower Ground Floor Plan
10. Upper Ground Floor Plan
11. Typical Upper Floor Plan
12. North Western (Nelson Road) Elevation
13. North Eastern (The Water Lane) Elevation
14. South Eastern Elevation (Terrain Street) Elevation
15. South Western Elevation/Section
16. Landscape Plans
17. Perspective
18. Applicant's Clause 4.6 Variation Request

ATTACHMENT 1 – LOCALITY PLAN



☐ SUBJECT SITE

☒ PROPERTIES NOTIFIED

THE HILLS
Sydney's Garden Shire

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ATTACHMENT 2 – AERIAL PHOTOGRAPH



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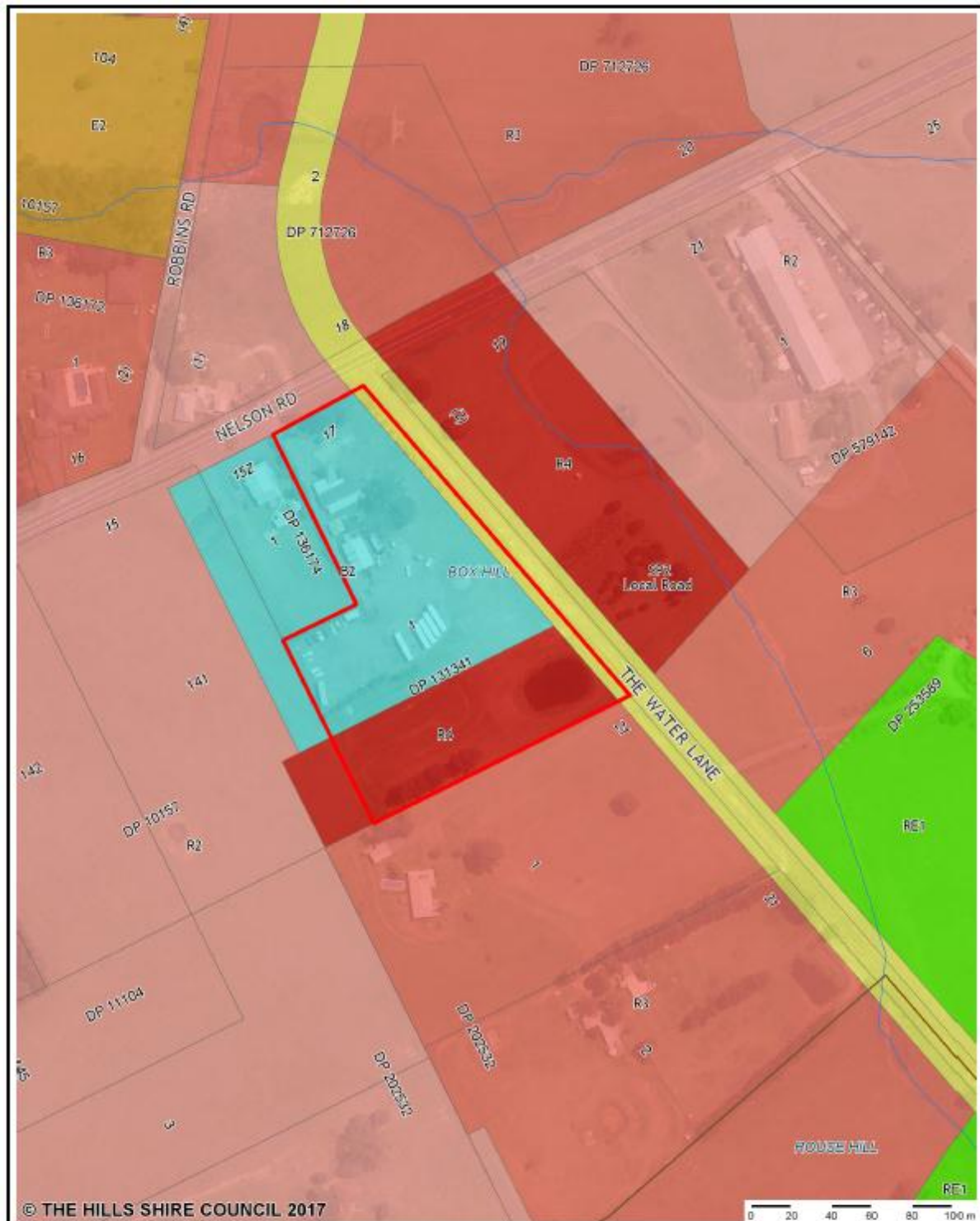
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ATTACHMENT 3 – SEPP ZONING MAP



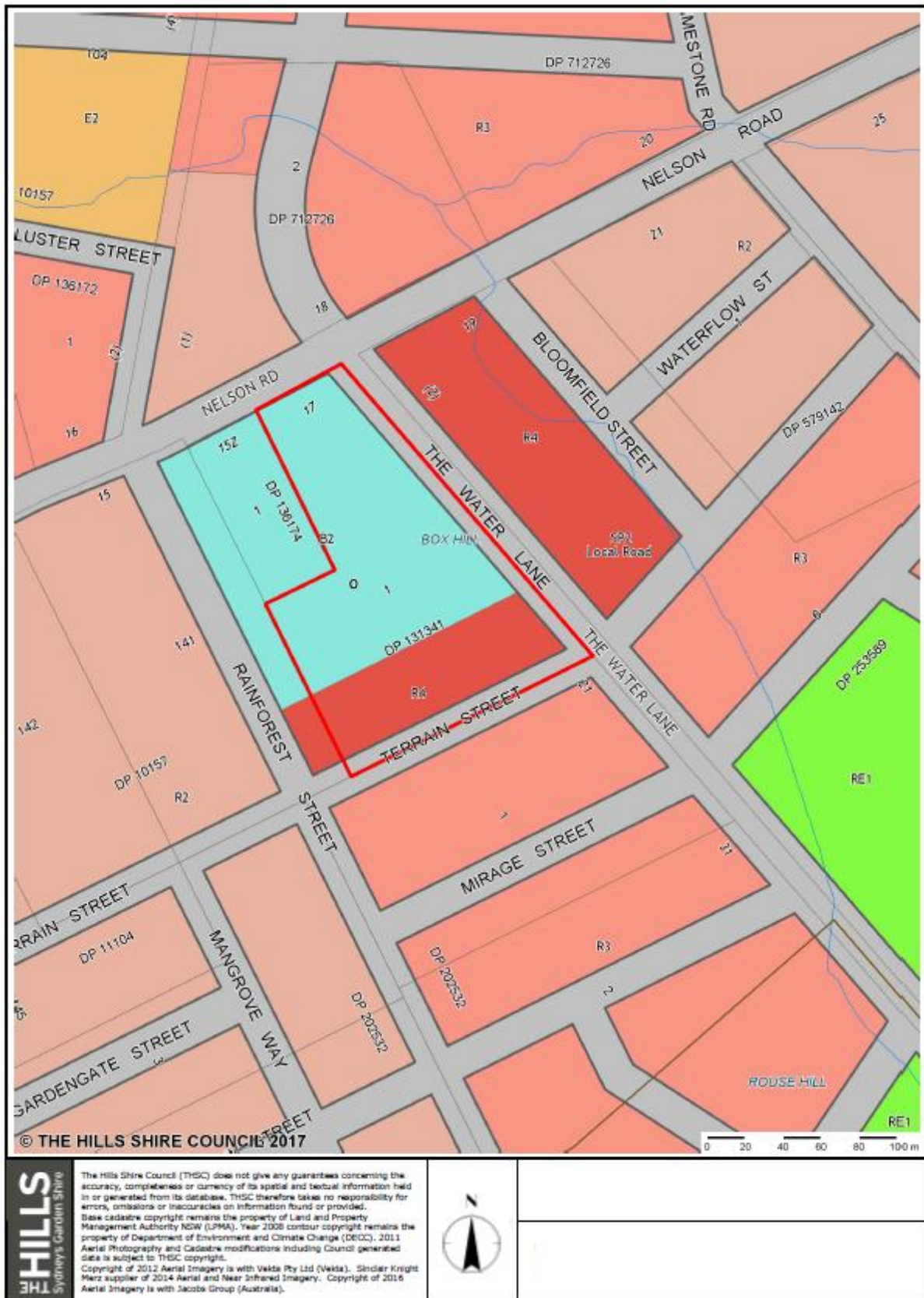
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Sydney's Garden Shire

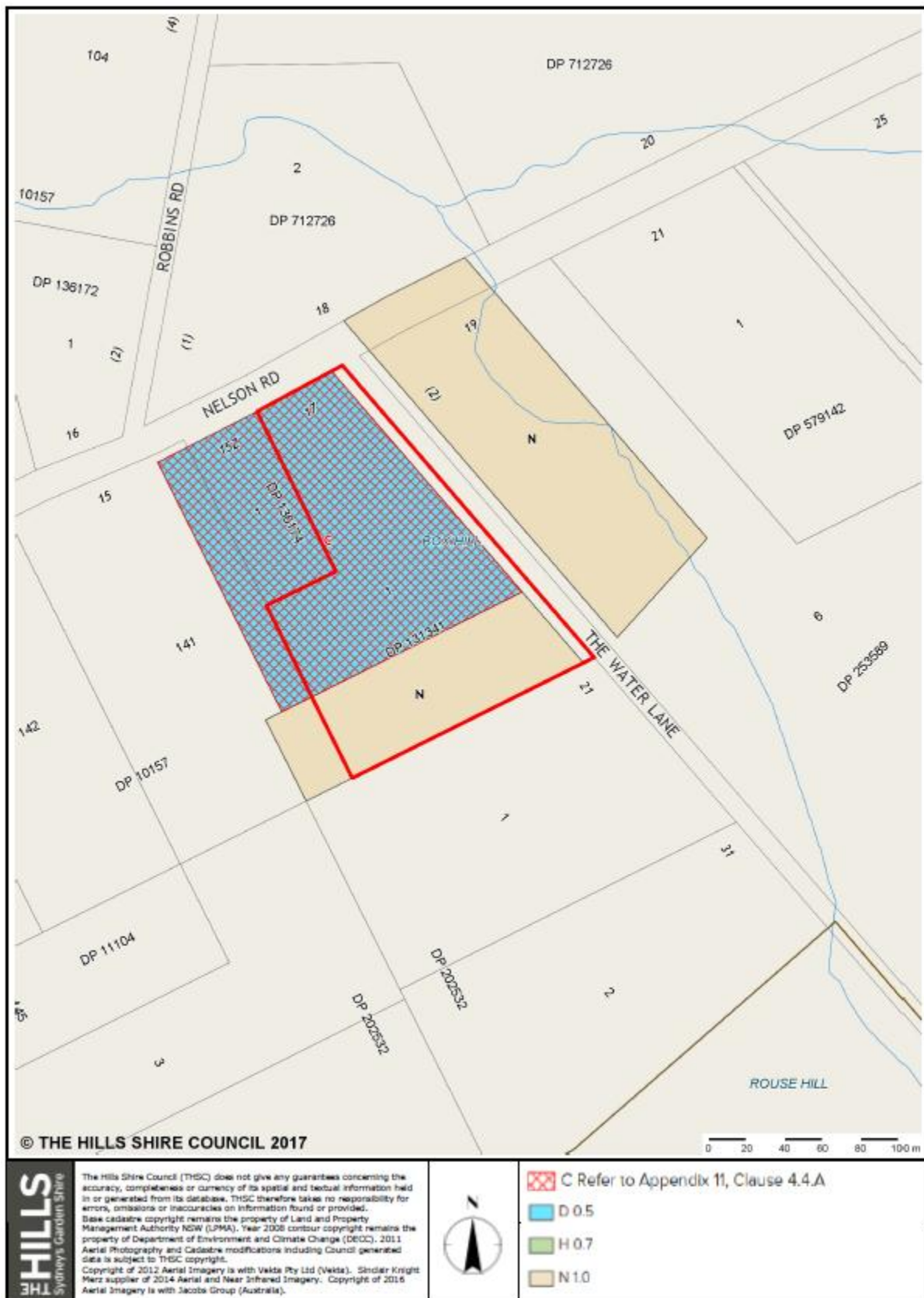
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ATTACHMENT 4 – SEPP ZONING AND DCP ROAD LAYOUT



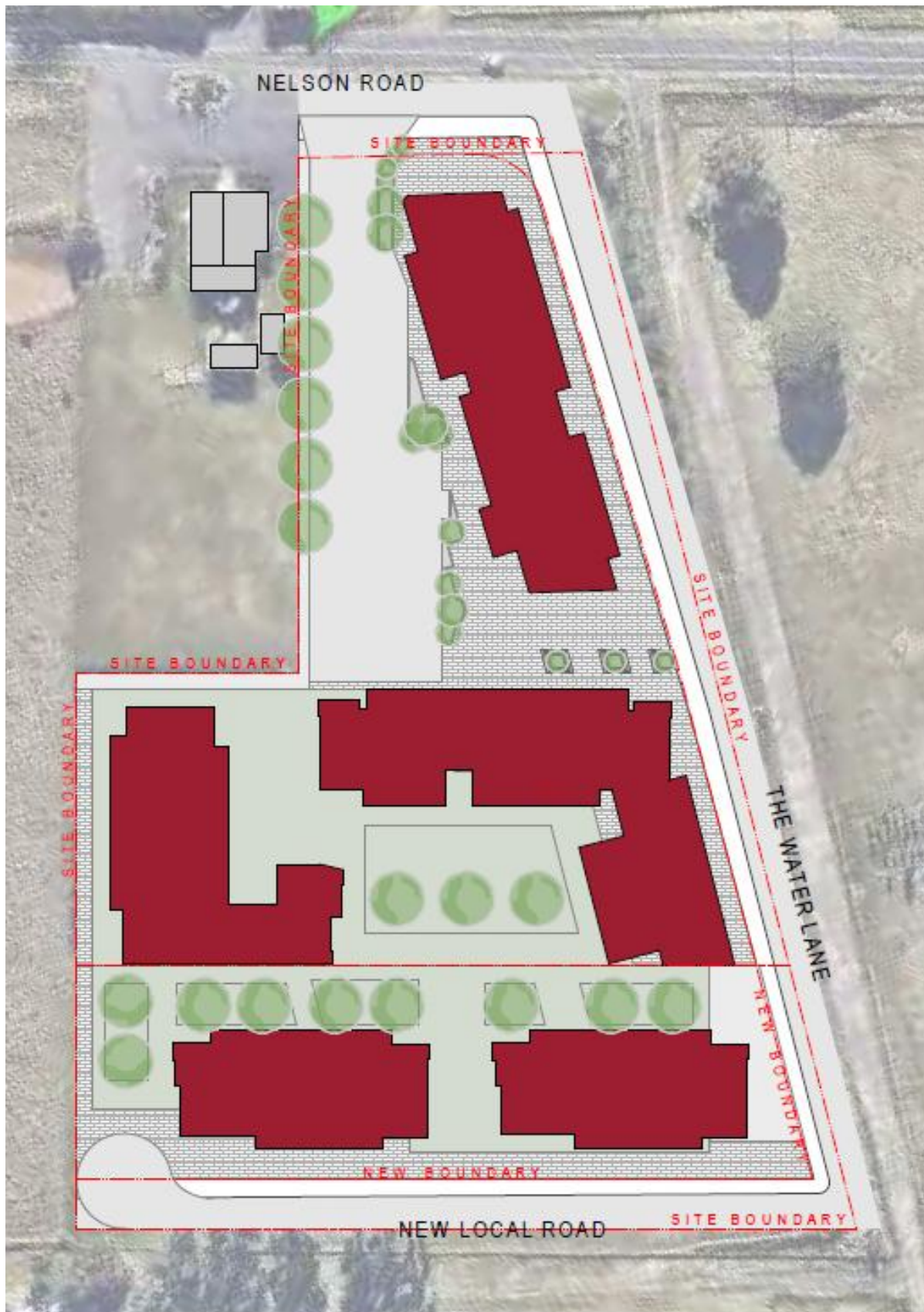
ATTACHMENT 5 – SEPP FSR MAP



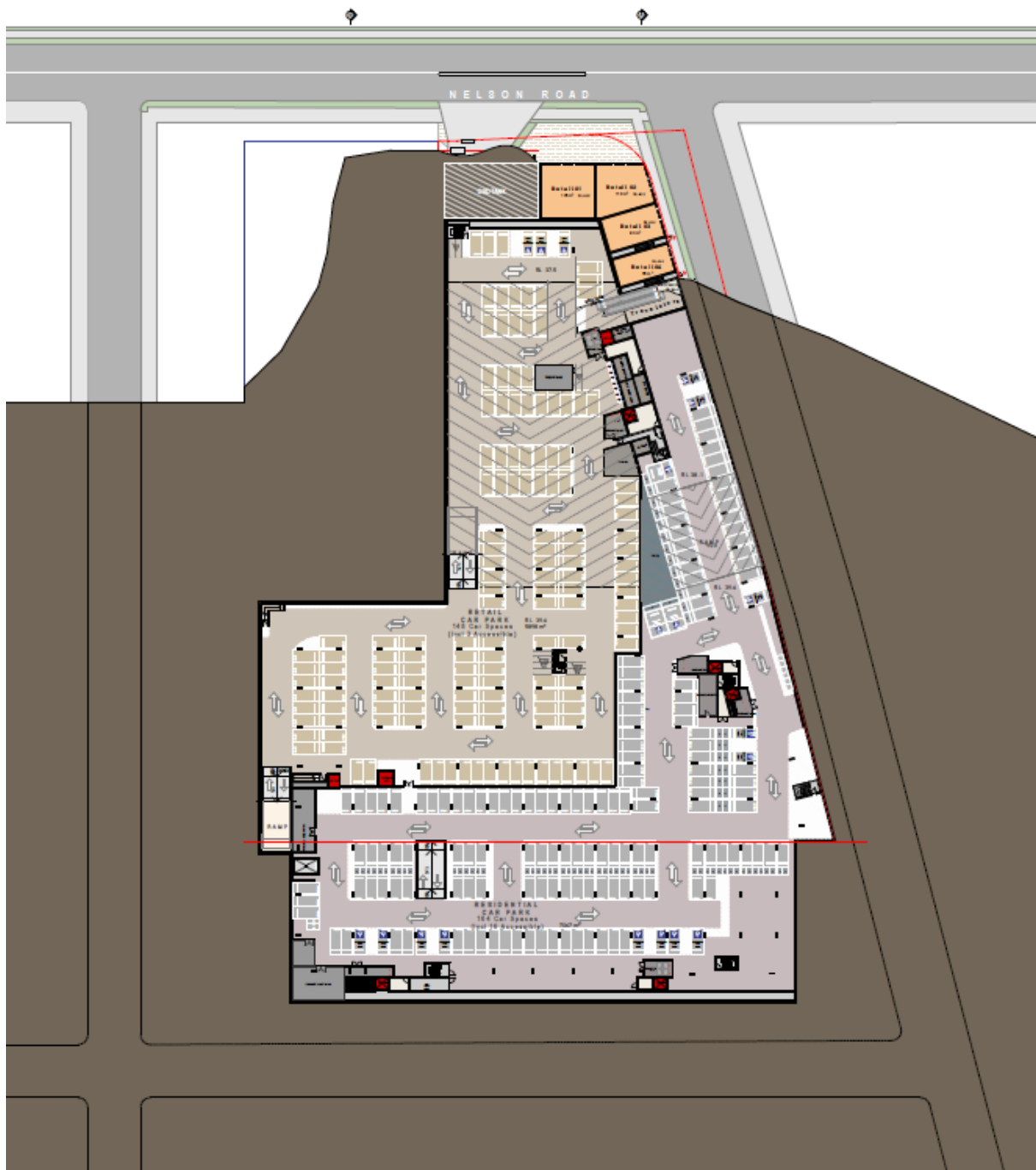
ATTACHMENT 6 – DCP INDICATIVE LAYOUT PLAN NELSON ROAD VILLAGE



ATTACHMENT 7 – SITE PLAN

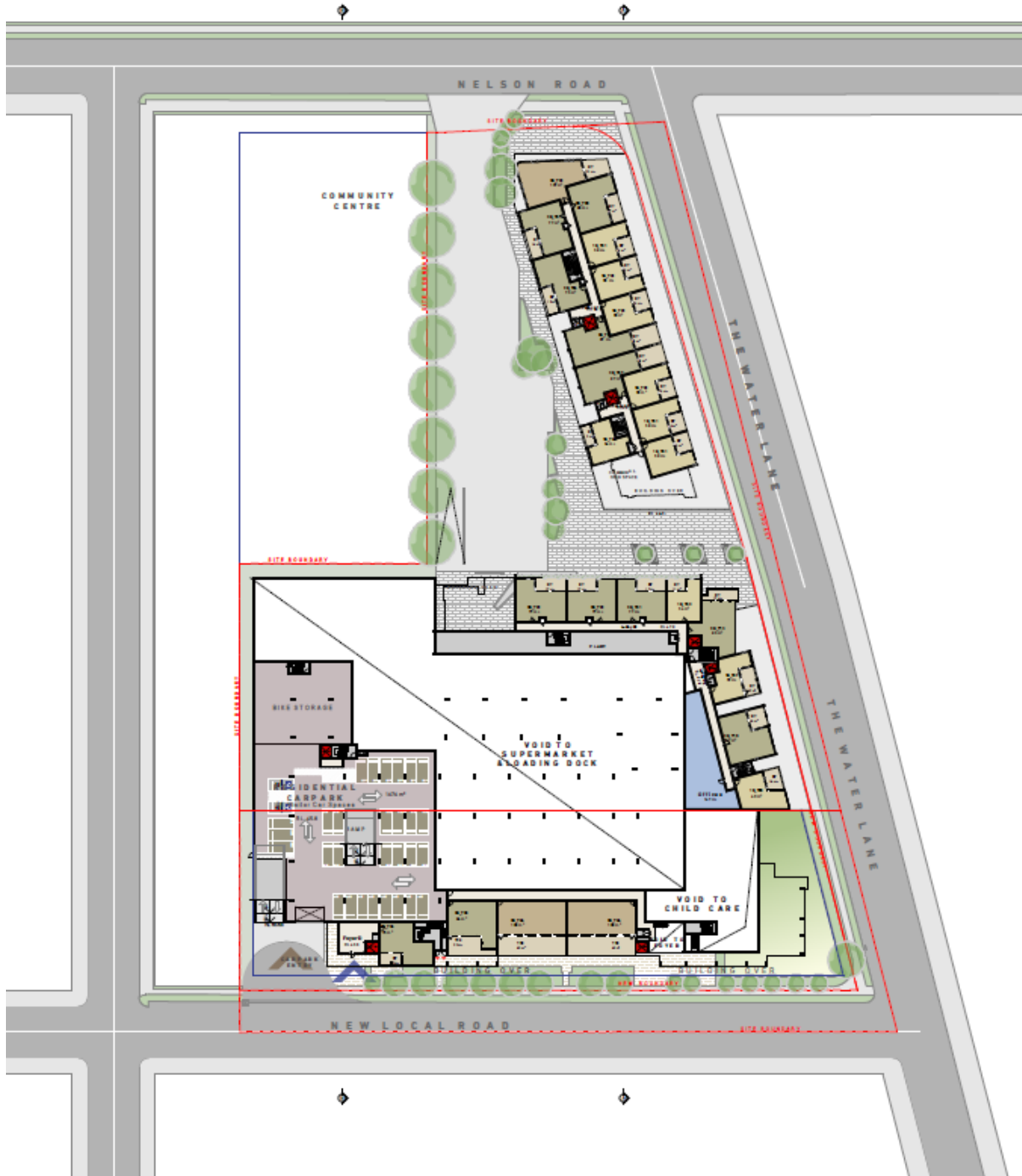


ATTACHMENT 8 – BASEMENT PLAN



The site plan illustrates the proposed development at 100 Nelson Road. The site is bounded by Nelson Road to the north and a residential street to the east. To the west is the Community Centre, and to the south is the existing supermarket and childcare facility. The plan shows a large central building footprint, likely for the supermarket, and several smaller retail units along the eastern boundary. A large parking area is located to the west of the central building. The plan also indicates the location of the existing childcare facility and the proposed childcare carpark. The site is divided into several zones, including the retail zone, the parking zone, and the childcare zone. The plan shows the proposed building footprints, parking spaces, and landscaping. The site is bounded by a red line, which represents the site boundary. The plan also shows the location of the existing supermarket and childcare facility. The plan is a detailed architectural drawing showing the layout of the proposed development.

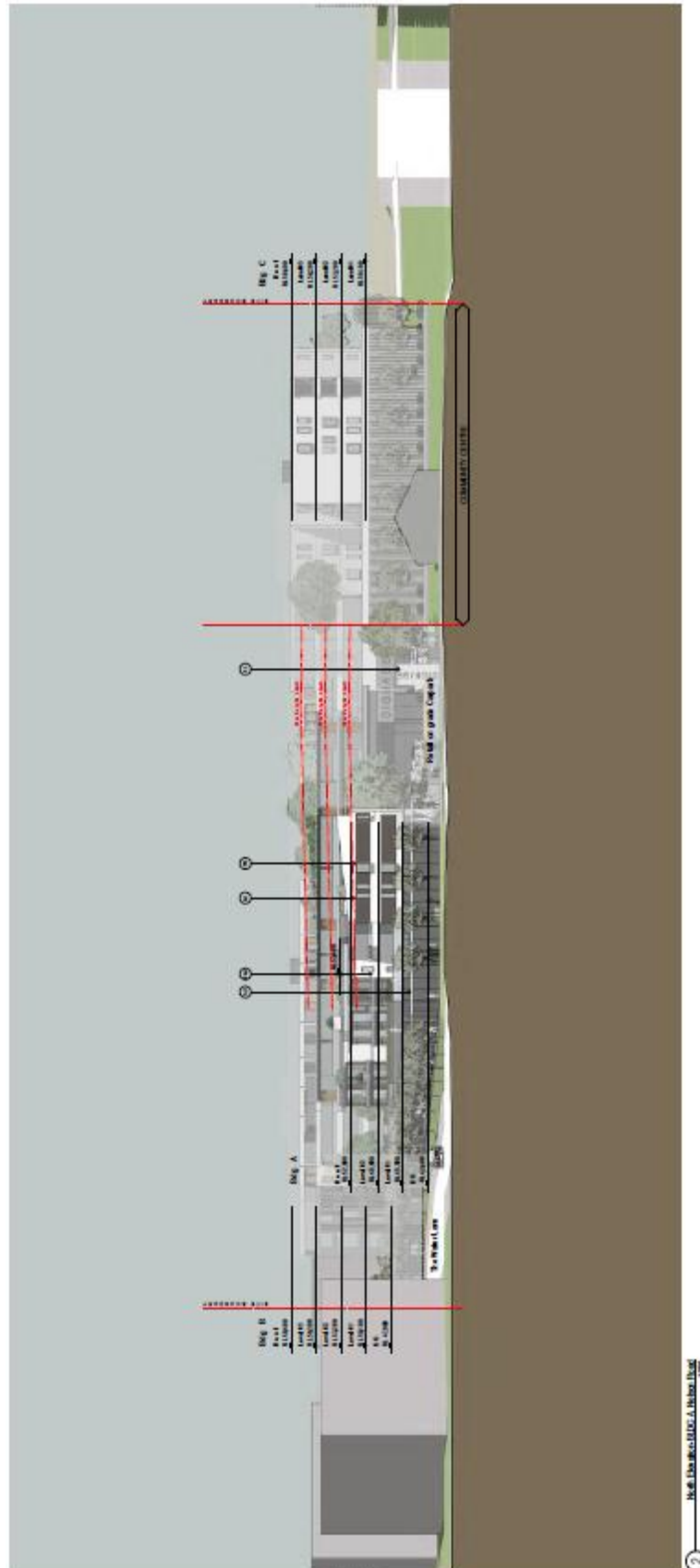
ATTACHMENT 10 – UPPER GROUND FLOOR PLAN



ATTACHMENT 11 – TYPICAL UPPER FLOOR PLAN



ATTACHMENT 12 – NORTH WESTERN (NELSON ROAD) ELEVATION



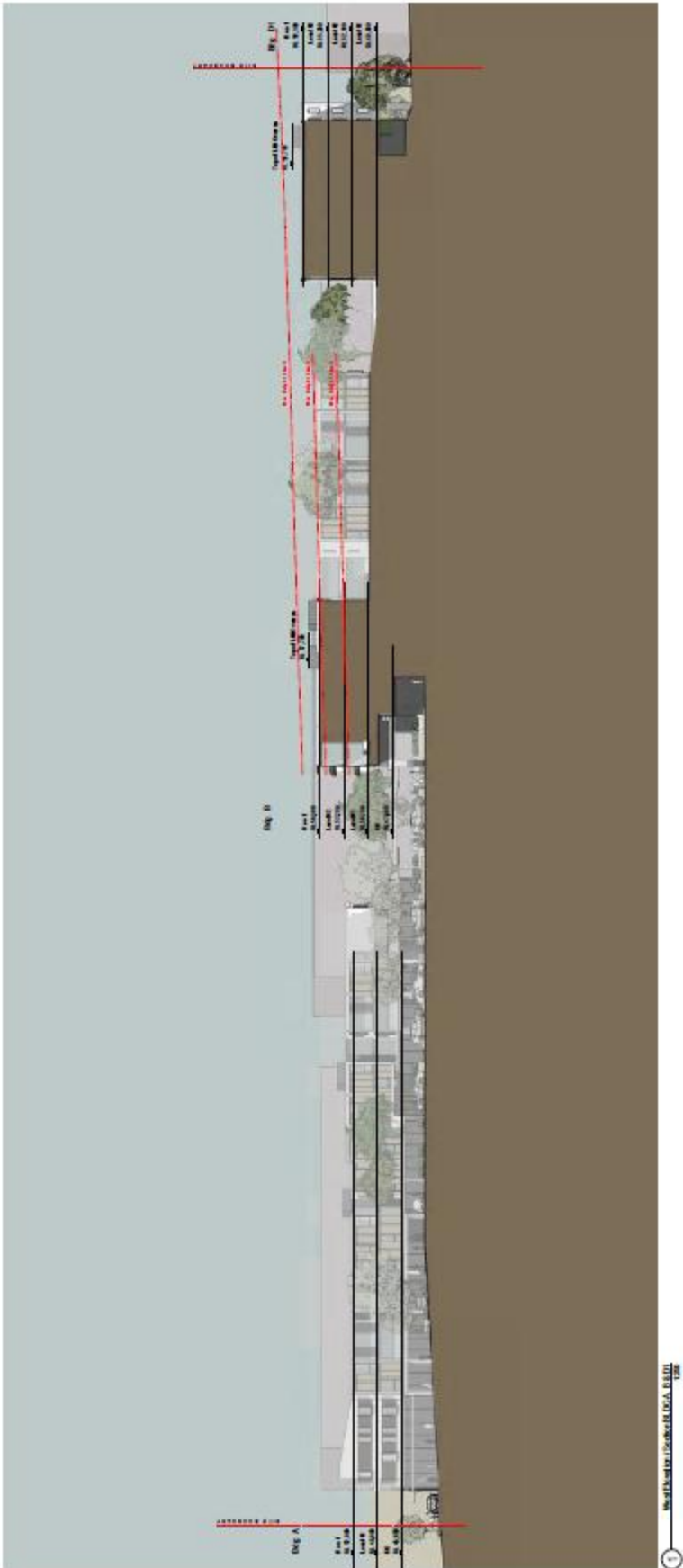
ATTACHMENT 13 – NORTH EASTERN (THE WATER LANE) ELEVATION



ATTACHMENT 14 – SOUTH EASTERN ELEVATION (TERRAIN STREET) ELEVATION



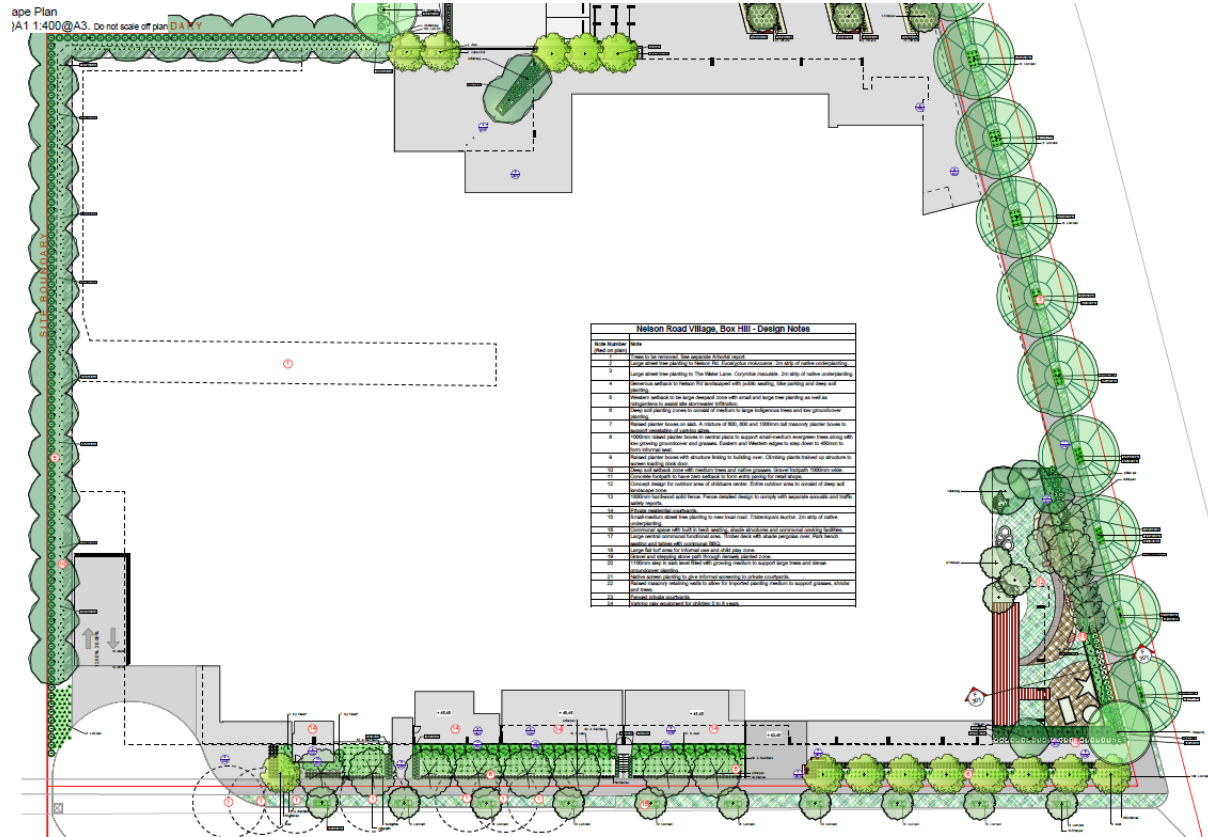
ATTACHMENT 15 – SOUTH WESTERN ELEVATION/SECTION



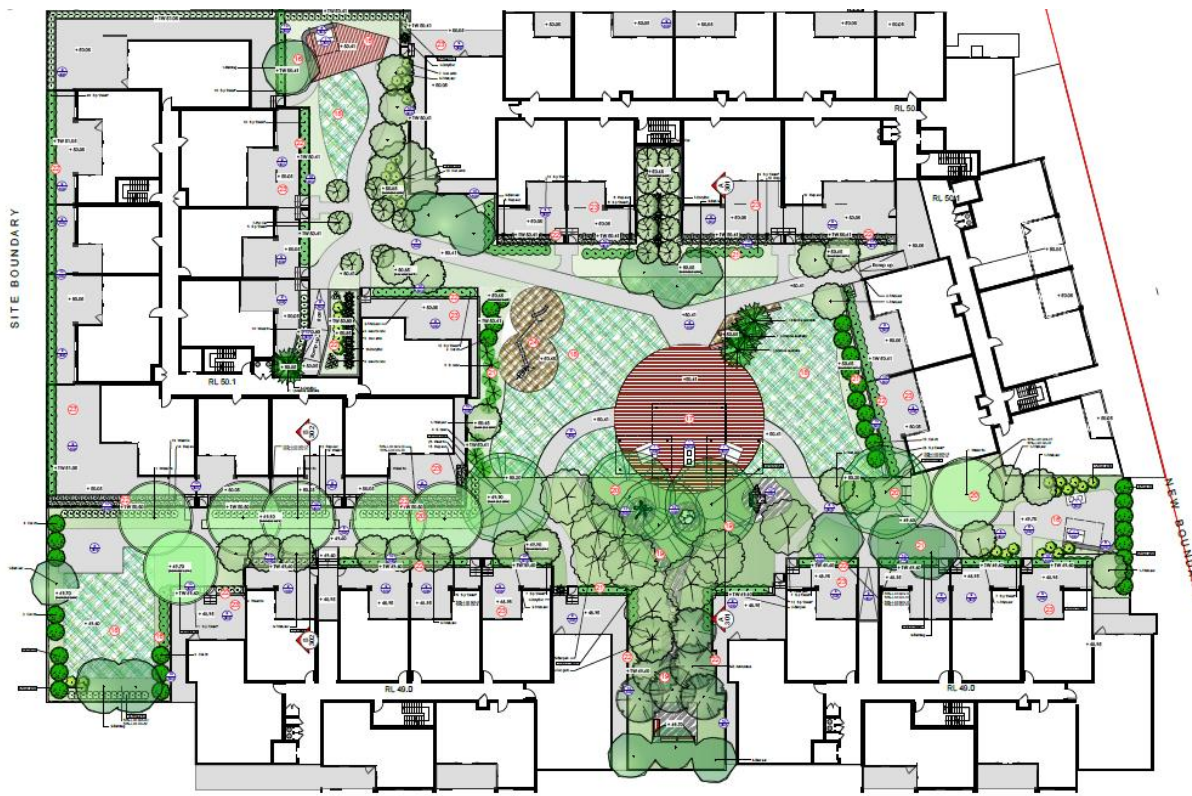
ATTACHMENT 16 – LANDSCAPE PLANS



Ground Floor North



Ground Floor South



NEW BOUNDARY

Podium

ATTACHMENT 17 - PERSPECTIVE



ATTACHMENT 18 – APPLICANT’S CLAUSE 4.6 VARIATION REQUEST



17 Nelson Road, Box Hill

Annexure 1: Clause 4.6 Variation: Building Height

The development concept results in the height of the proposal exceeding the permissible height as shown on the LEP height map, with the upper level roof form exceeding the 16m control as shown on the elevation plan below:



As shown on the extract the variation is a function of topography with part of the building exceeding the height where natural ground level dips away from the site.

The majority of the buildings comply with the maximum building height control with a minor portion of the upper level, roof structure and lift over-run exceeding the 16m height control, as demonstrated on the submitted drawings in the architectural set. The variation, at the worse affected point to the ceiling of the uppermost level is 300mm and 1.6m to the top of the plant.

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

Clause 4.6(3)

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



17 Nelson Road, Box Hill

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

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

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

- a) The proposal is within the Nelson Local Centre and the extent of non-compliance represents an appropriate higher density on the site with the buildings being four storeys storey in height which is an appropriate height for a village centre.
- b) The portion of the building that exceeds the height control does not contains minimal floor space. This assists with demonstrating that the proposal is not an over development of the site, also noting that the proposal complies with an FSR of 1.04:1 which is less than the 1.75:1 FSR permitted for the B2 portion of the site.
- c) The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are manageable within the site, and have no significant impact on adjoining properties or open space areas given that the development is contained within its own street-block meaning shadows cast by the proposal fall on the street with the exception of the adjoining development to the south and the extent of overshadowing is not unreasonable for density envisaged of this scale within the precinct;
- d) The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality generally- noting the uneven topography is the key driver of the height variation rather than a desired to achieve greater yield on the site;
- e) The proposal has no impact on heritage or other views; and
- f) The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the Box Hill Precinct.

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

- The need to appropriately accommodate extensive plant for the full service supermarket without impacting on residential dwellings within and adjoining the site,



17 Nelson Road, Box Hill

whilst maximising the area of the internal plaza that will be a focal point of the precinct;

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

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

Clause 4.6(4)

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

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

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

Clause 4.6(5)

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

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



17 Nelson Road, Box Hill

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

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

