

SYDNEY WEST CENTRAL PLANNING PANEL

Panel Reference	2016SYW179
DA Number	318/2017/JP
LGA	THE HILLS SHIRE COUNCIL
Proposed Development	CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING DEVELOPMENT CONTAINING 150 UNITS AND BASEMENT PARKING
Street Address	PROPOSED LOT 41 IN APPROVED PLAN OF PROPOSED SUBDIVISION OF LOT 1 DP 523737 AND LOT A DP 380729, NOS. 227-241 HEZLETT ROAD, KELLYVILLE
Applicant/Owner	APPLICANT: BRAD DELAPIERRE OWNERS: MR J P PUPO, MR P PUPO, MR M A PUPO, MS G M PUPO AND MRS F PUPO
Date of DA lodgement	26 AUGUST 2016
Number of Submissions	ONE
Recommendation	APPROVAL SUBJECT TO CONDITIONS
Regional Development Criteria (Schedule 4A of the EP&A Act)	CIV EXCEEDING \$20 MILLION
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • SEPP (SYDNEY REGION GROWTH CENTRES) 2006 • SEPP (STATE AND REGIONAL DEVELOPMENT) 2011 • SEPP NO. 55 — REMEDIATION OF LAND • SEPP NO. 65 — DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT • NORTH KELLYVILLE DCP 2008 • DCP 2012 PART C SECTION 1 – PARKING • DCP 2012 PART C SECTION 3 – LANDSCAPING
Does the DA require Special Infrastructure Contributions conditions (s94EF)?	Yes
List all documents submitted with this report for the Panel's consideration	Clause 4.6 Variation Request
Report prepared by	Senior Town Planner Greg Samardzic
Report date	20 April 2017

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	Yes

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	
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? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report	Yes

EXECUTIVE SUMMARY

The Development Application is for a residential flat building development containing 150 units and basement parking on proposed Lot 41 in approved plan of proposed subdivision of Lot 1 DP 523737 and Lot A DP 380729 approved under Subdivision Consent No. 885/2016/ZA. The proposal provides for 59 x 1 bedroom, 90 x 2 bedroom and 1 x 3 bedroom units.

The development includes a variation to SEPP Sydney Region Growth Centres 2006 which limits the height of the development to 9m. The proposed maximum height is 11.6m which is a variation of 28.8%. The height departure of the upper level is up to 1.45m and up to 2.6m for areas to roof top common open space. The application is accompanied by a Clause 4.6 variation to the height control. The height variation is due to the slope of the land primarily relating to the three lift cores, fire stairs and hallways that provides direct access to the roof top common open space areas.

The total common open space areas provided on the site at 38.6% exceed the minimum 15% required under the North Kellyville DCP. The increased height will have no impact upon the solar access on surrounding lots or the amenity of the area. The proposal attempts to respond to the slope of the site within its context and the applicant has provided a revised scheme by deleting units to reduce the bulk of the development.

The development includes encroachments into the minimum 6m front, secondary and side building setback requirements of the North Kellyville DCP. A minimum 4.5m articulation setback is permitted for the front setback to Ballymore Avenue for up to 50% of the façade. A minimum 4.5m front setback is proposed for 54% of the front facade. There are minimum 4m balcony setbacks to the splay corners and 4.5m balcony setbacks to the secondary/side boundaries. In conjunction with the landscaping, a reasonable streetscape is provided and the impacts of the built form are minimised. There will be no unreasonable loss of privacy or amenity as a result of the variations. The design of the development provides articulation and is considered worthy of support in this instance.

The development also includes encroachments into the minimum 12m building separation requirement to include a minimum 5.6m building separation. The proposed variation is supported as a satisfactory privacy outcome is achieved.

The approved subdivision works include the construction of Ballymore Avenue and the half road construction of Lords Boulevard where access is proposed. There is a proposed change to the Indicative Layout Plan (ILP) within the North Kellyville Development Control Plan to delete Bramall Lane. The deletion of the lane will not adversely impact on traffic flow and the adjoining site to the north has previously gained approval to delete this laneway as part of the subdivision consent.

The proposal was notified on two separate occasions to adjoining property owners and one submission was received during the first notification period. The issues raised relate to

concerns regarding traffic impacts and the form of development affecting the character of the area. There are no traffic objections as Hezlett Road will be upgraded to accommodate all development occurring within the precinct and approval of the proposed development will not be contrary to what was envisaged within the locality.

The application is recommended for approval subject to conditions.

In the absence of the Sydney West Central Planning Panel (SWCPP) process, the subject Development Application would be determined by Council due to the extent of the proposed height variation exceeding 10%.

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	As above.	1.	<u>Section 79C (EP&A Act) – Complies.</u>
Zoning:	R1 General Residential.	2.	<u>SEPP Sydney Region Growth Centres 2006 – Variation, see report.</u>
Area:	10,081m ² .	3.	<u>SEPP Building Sustainability Index BASIX 2004 – Complies.</u>
Existing Development:	Existing residences and outbuildings.	4.	<u>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development – Variations, see report.</u>
		5.	<u>State Environmental Planning Policy No 55 – Remediation of Land – Complies.</u>
		6.	<u>North Kellyville DCP – Variations, see report.</u>
		7.	<u>Section 94 Contribution – \$2,734,643.80</u>
		8.	<u>Capital Investment Value: \$38,340,932.</u>

SUBMISSIONS

REASON FOR REFERRAL TO SWCPP

1. Exhibition:	Not required.	1.	Capital Investment Value in Excess of \$20 million (\$38,340,932).
2. Notice Adj Owners:	22 days for 1 st notification period. 14 days for 2 nd notification period.		
3. Number Advised:	1 st notification: 21 2 nd notification: 29		
4. Submissions Received:	1 st notification: One 2 nd notification: None		

HISTORY

06/04/2016

Subdivision Consent No. 885/2016/ZA granted for the creation of 40 residential lots and one residue lot including new road and demolition.

26/08/2016

Subject Development Application lodged to include construction of 158 units.

10/10/2016

Letter sent to the applicant requesting additional information in relation to engineering matters.

27/10/2016	Additional engineering information lodged.
22/11/2016	Letter sent to the applicant requesting a reduction in building height, increased building separation and issues of orderly development to be addressed.
01/12/2016	Meeting held to discuss the concerns with the development.
09/12/2016	Amended plans lodged increasing the internal building separation and the extent of the building envelope over the 9m height plane resulting in a reduction of three units.
15/12/2016	SWCPP briefing meeting held.
25/01/2017	Letters sent to the applicant requesting relevant sections due to concerns with the proposed height variation.
07/02/2017	Applicant advised that the proposed height variation is still not supported and that the development complies with the maximum 9m height limit.
13/03/2017	Amended plans submitted resulting in a reduction of a further five units.

PROPOSAL

The Development Application is for a residential flat building development containing 150 units basement parking on proposed Lot 41 in an approved plan of proposed subdivision of Lot 1 DP 523737 and Lot A DP 380729 approved under Subdivision Consent No. 885/2016/ZA.

The proposal provides for:

- 59 x 1 bedroom units (internal floor areas: 52m² - 74m²).
- 90 x 2 bedroom (internal floor areas: 75m² - 95m²).
- 1 x 3 bedroom units (internal floor area: 95m²).

The development is proposed on the portion of the site zoned R1 General Residential and the area of Lot 41 is 10,081m². Vehicle access is off Lords Boulevard Avenue which is a half road to be constructed as part of the subdivision consent. There is a proposed change to the Indicative Layout Plan (ILP) within the North Kellyville Development Control Plan to delete Bramall Lane. The deletion of the lane will not adversely impact on traffic flow as the adjoining site to the north has been granted approval to delete this laneway as part of the Subdivision Consent.

All roads approved under the subdivision are required to be completed and dedicated prior to the issue of the subdivision certificate. A condition of consent is recommended to ensure that no occupation certificate be issued until the subdivision is registered. A landscape plan has been prepared which provides for a variety of species, ground covers, fencing and common open space embellishment where part of the common open space area will be provided on the roof top.

THE SUBJECT SITE AND SURROUNDS

The subject development site is known as Nos. 227-241 Hezlett Road, Kellyville being Lot 1 DP 523737 and Lot A DP 380729 which has a combined area of 40,460m². The site is

located on the eastern side of Hezlett Road and has a cross-fall from the eastern boundary to Hezlett Road. Each allotment has a dwelling and outbuildings.

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

The surrounding properties are zoned R1 General Residential to the north, south and west. To the east, northeast and southeast, properties are zoned R2 Low Density Residential. There is a future allotment at Nos. 182-186 Hezlett Road to the northwest which is zoned R3 Medium Density Residential which has recent approval for a residential flat building development. There have also been two residential flat building developments to east on the R1 zoned portion allotments at Nos. 182-186 Hezlett Road and at Nos. 178-180 Hezlett Road. A recent Subdivision Consent has been granted to create 11 residential lots including new road over three stages under assessment to the north at Nos. 259 Hezlett Road. This site also contains an existing heritage item known as 'Yalta' house which has been retained as part of the consent and contains a curtilage area around the item.

ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

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

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

The proposed development has a Capital Investment Value of \$38,340,932 thereby requiring referral to and determination by the SWCPP. The application was referred to and listed with the SWCPP for determination.

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

(i) Permissibility

The site is zoned R1 General Residential under SEPP Sydney Region Growth Centres 2006.

The proposal is defined as a residential flat building as follows:

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

Pursuant to the Land Use Table in Appendix 2 North Kellyville Precinct Plan, a residential flat building is permitted with consent within the R1 General Residential zone.

(ii) Development Standards

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

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1AB Minimum lot sizes for	Minimum 4,000m ²	10,081m ² .	Yes.

residential development in certain zones			
4.1B Residential density.	Minimum 12.5 dwg/ha.	129 dwg/ha.	Yes.
4.3 Height of buildings.	9m.	Max. 11.6m.	No – see comments below.
4.4 Floor space ratio	N/A	N/A	N/A
4.6 Exceptions to development standards.	Exceptions will be considered subject to appropriate assessment.	Variation proposed to height is addressed below.	Yes.

(iii) Variation to Height

Clause 4.6 Exceptions to Development Standards states as follows:

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

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated listed in the table to this clause,
 - (c) clauses 4.1A, 4.1B, 5.4, 6.2 and 6.4 of this Precinct Plan.

SEPP Sydney Region Growth Centres 2006 has a 9m height limit and the maximum height of the development is 11.6m which is a variation of 28.8%. The height departure of the upper level is up to 1.45m with the roof top access stairs/lift overruns exceeding the height control by 2.6m.

The applicant has submitted a Clause 4.6 Variation and is summarised as follows:

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

The proposal is in close proximity to the future North Kellyville Local Centre and the extent of non-compliance represents an appropriate higher density on the site which is a low rise residential flat building. The impacts from overshadowing, visual impact and loss of privacy are manageable. The proposal provides for an appropriate building form that is consistent with the objectives of the zone and other recent residential flat building development approvals. The proposal provides for an appropriate height on the site that provides for a high quality urban form to contribute to building diversity across the precinct. The proposal has no impact on heritage or other views.

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

The height objectives of the SEPP are:

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

The objectives of the DCP in regard to residential flat buildings are:

- a. To establish a high quality residential environment where all dwellings have a good level of amenity.

- b. *To encourage a variety of housing forms within residential areas.*
- c. *To ensure the provision of housing that will, in its adaptable features, meet the access and mobility needs of any occupant.*

Comment:

The height of the development is satisfactory as it is appropriately separated from any adjoining development and the shadow impact does not adversely impact on the amenity of adjoining developments. This separation will reduce the potential for overlooking and any adverse privacy impacts. The height variation is due to the slope of the land which is primarily related to the three lift cores, stairwells and hallways that provide access to the roof top common open space areas. This design arrangement provides for an improved planning outcome as opposed to providing a fully complying development in relation to building height. The total common open space areas provided on the subject site at 38.6% exceeds the minimum 15% required under the North Kellyville DCP. The proposal attempts to respond to the existing topography of the site within its context and the applicant has provided a revised scheme by deleting upper level units to reduce the bulk of the development.

The scheme results in a three storey presentation to Hezlett Road with only a small portion of the development presenting as a stepped four storey development to Lords Boulevard and to the northern boundary. The development as amended will provide a satisfactory transition to surrounding R2 Low Density Residential zoned areas to the south. The development incorporates a variety of finishes/colours to reduce the perceived bulk of the development and will result in appropriate urban outcomes. The non-compliance does not result in any adverse amenity on streetscape impacts. Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

A local heritage item ('Yalta') is located approximately 150m to the northeast and sufficient separation between the development site and the local heritage item to ensure that there will not be an adverse impact to the item has been provided.

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 R1 General Residential zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- The proposal results in a better planning outcome.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance. In accordance with the Departments Circular PS 08-003 the Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument.

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

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

Clause		Design Criteria	Compliance
Siting			
Communal space	open	25% of the site with 50% of the area to achieve a minimum of 50% direct sunlight for 2 hours at midwinter.	Yes, 38.6% of the site is communal open space and satisfactory amount of sunlight provided.

Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes, 20% of the site is deep soil zone.
Separation	For habitable rooms, 12m up to 4 storeys. For non-habitable rooms, 6m up to 4 storeys.	No, min. 5.6m separation between buildings.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Appropriate visual privacy is achieved.
Car Parking	Car parking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).	The site is not within 800m of a railway station or a light rail stop so this provision does not apply. The proposed 192 car parking spaces meet the minimum DCP requirement of 180.5 spaces required.
Designing the Building		
Solar and daylight access	Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	No, 57% of the units receive a minimum two hours solar access.
Direct Sunlight	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.	Yes, well under the maximum requirement.
Natural ventilation	At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.	Yes, 60% of apartments are naturally cross ventilated.
Ceiling heights	For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.	Yes, all ceiling heights are 2.7m.
Apartment size	Apartments are required to have the following internal size: Studio – 35m ² 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 90m ²	Yes, 59 x 1 bedroom units (internal floor areas: 52m ² - 74m ²). 90 x 2 bedroom (internal floor areas: 75m ² - 95m ²).

	<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>	1 x 3 bedroom units (internal floor area: 95m ²).
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>	All balcony areas comply with the minimum area requirements.
Apartment layout	<p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p>	Yes, the proposed units comply with the depth requirements.
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>	Yes, all balconies provide the required area.
Storage	<p>Storage is to be provided as follows:</p> <p>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>	Yes, storage is provided to meet the requirements provided.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	A variety of unit layouts and designs are provided.

a. Separation

The Apartment Design Code requires a building separation of 12m up to 4 storeys for habitable rooms and for non-habitable rooms, a minimum 6m separation. A minimum 5.6m separation is proposed.

The applicant has submitted the following justification:

Despite the reduced setbacks appropriate privacy is maintained due to the use of offset windows, screening and glazing. The majority of rooms with reduced setback predominantly include secondary living areas such as bedrooms and bathrooms.

The relevant aims are:

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

Comment:

The proposed building separation is due to the shape and design of the development. The extent of the separation varies considerably and the areas of non-compliance mainly occur at the Ballymore Avenue and Hezlett Road entrances. The 5.6m separation involves living room windows facing each other which contains high level windows and other reduced setbacks provide detailing for blank walls and offset windows. An appropriate built form articulation is provided for without unreasonably impacting on the privacy/amenity levels of future residents. The building is appropriately massed in accordance with the desired scale of the precinct. The proposal satisfies the above aims and is supported in this instance.

b. Solar and Daylight Access

The Apartment Design Code require that at least 70% of all apartments should receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter and 57% of the proposed units achieve the above requirement.

The applicant has submitted the following justification:

Based on previous experience it is reasonable and justifiable to extend the hours to 4pm. This results in an additional 26 apartments (17%) achieving the minimum 2 hours solar access requirement. A further 18 apartments have also been provided with roof skylights (12%) with seven (5%) of these are independent of the previous calculations resulting in an increased access to natural daylight and solar access.

Comment:

The relevant objective is:

- *To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.*

Whilst 57% of the units receive the required 2 hours, it is noted that the number increases to 74% if the hours are extended to between 9am and 4pm. The design variation is due to the orientation of the development, the location of the pre-planned road layouts and to address the height concerns in this particular case where several complying upper level units have been deleted. The proposal as designed is satisfactory as daylight access is maximised where sunlight is limited through the use of roof skylights as an appropriate secondary light source to the units which ensures that 69% of the apartments receive a minimum of 2 hours of direct sunlight during mid-winter. The design of the development will be attractive for the future occupants and it is considered that the variation appropriate and is reasonable in this instance.

Design Principles

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

(i) Context and Neighbourhood Character

The site is located in the North Kellyville Release Area and within the Ridge Character Area under the North Kellyville DCP. The development is consistent with the future desired character of the area. It will be in close proximity to the North Kellyville Local Centre, neighbourhood parks, a primary school and improved bus services.

The site is separated by existing and future roads on three sides. The surrounding properties are zoned R1 General Residential to the north, south and west. To the east, northeast and southeast, properties are zoned R2 Low Density Residential. There is a future allotment at Nos. 182-186 Hezlett Road to the northwest which is zoned R3 Medium Density Residential which has recent approval for a residential flat building development. There have also been two residential flat building developments approved to the east on the R1 zoned portion of allotments at Nos. 182-186 Hezlett Road and at Nos. 178-180 Hezlett Road.

A recent Subdivision Consent has been granted to create 11 residential lots including new road over three stages under assessment to the north at Nos. 259 Hezlett Road. This site also contains an existing heritage item approximately 150m from the development known as 'Yalta' house which has been retained as part of the consent and contains an approved curtilage area around the item. The area is undergoing significant change. This context is likely to evolve further over time as adjoining and surrounding sites are to be developed.

(ii) Built Form and Scale

The design of the building elements are of a contemporary style with a number of elements being used. Articulation of the elevations, the selection of appropriate materials and high quality landscaping are achieved. The height of the development is acceptable in terms of solar access and amenity impacts. The proposal responds to the existing topography of the site. The height ensures that the development responds to the desired future scale and character of the site where the proposal is consistent with other recent approved developments in the precinct.

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

(iii) Density

The proposal provides an appropriate built form outcome which achieves the minimum density requirements of 12.5 dwg/ha required under the SEPP. The proposed density is approximately 118 dwg/ha and the proposal is consistent with other similar developments within the area. The proposed development is suitable given the zoning and location close to a town centre.

(iv) Sustainability

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

(v) Landscape

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

(vi) Amenity

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

(vii) Safety

The development has been designed with safety and security concerns in mind. The common open spaces allow for passive surveillance. Open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened. The basement car parks have been appropriately designed and appropriate conditions of consent are imposed to further assist in the promotion of safety/security.

(viii) Housing Diversity and Social Interaction

The development does not provide for a diversity in relation to unit mix and size which will be discussed later in this report. There is predominately one and two bedroom units proposed however while this is regrettable in this instance, the subject Development Application cannot be refused on this basis. A variety of unit layouts and designs including adaptable units are provided.

(ix) Aesthetics

An appropriate composition of building elements, material textures and colours has been used. The proposal integrates a number of recesses and projections into the facades of the structure to articulate the overall mass into smaller segments. The bulk of the overall building is reduced by the articulation of the facades, creating smaller segments in order to minimise the overall scale of the development. The design is modern in style and appropriate for the area.

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

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

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

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

A Stage 2 contamination report has been lodged with the subdivision application due to potential contaminating activities that may have arisen from past or present activities. The development site is currently being used for residential purposes with previous agricultural

activities involved such as a nursery and as an orchard. Other activities such as filling of land and the use of the shed for machine maintenance/storage have also occurred. The report has been assessed by Council's Health and Environment Section who raised no objection in relation to contamination. An appropriate condition is recommended that a Construction Certificate is not to be issued until a final validation report is submitted.

Accordingly, the subject application is consistent with the clause and no objections are raised in respect to this matter.

5. Compliance with the North Kellyville Development Control Plan

i. Indicative Layout Plan

The approved subdivision works include the construction of Ballymore Avenue and half road construction of Lords Boulevard where vehicle access is proposed off Lords Boulevard. There is a proposed change to the Indicative Layout Plan (ILP) within the North Kellyville Development Control Plan to delete Bramall Lane. The deletion of the lane will not adversely impact on traffic flow as the adjoining site to the north has obtained approval to delete this laneway as part of their recent Subdivision Consent.

ii. DCP Provisions

There are no applicable residential flat building development standards under the North Kellyville DCP for this form of development within the R1 General Residential zone. As a guide, the residential flat building controls for the R3 Medium Density Residential and R4 High Density Residential zones have been used for assessment purposes. The following table addresses the relevant development controls of the DCP:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED	COMPLIANCE
Section 3.6 – Table 7 Minimum Lot Size by Density Bands.	R1 General Residential (minimum 12.5 dwg/ha) - 4,000m ² .	10,081m ² .	Yes
Section 4.3.4 – Table 18 Minimum Frontage.	30m.	59.68m to Lords Boulevard.	Yes
Minimum Adaptable Dwellings.	10%.	11.3%.	Yes
Minimum Landscape Area	30%.	34.1%.	Yes
Maximum Site Coverage.	50%.	45.5%.	Yes
Minimum Communal Open Space.	15%.	38.6%.	Yes
Minimum Private Open Space.	10m ² .	Minimum 10m ² .	Yes
Minimum Front Setbacks.	Front setback – 6m. Balconies and other articulation may encroach into the setback to a maximum of 4.5m from the boundary for	Min. 4.5m at 54% of the front façade.	No, refer below.

	the first 3 storeys and for a maximum of 50% of the façade length.		
Minimum Corner Lots Secondary Street Setback	6m	Min. 4.5m balcony setbacks into the secondary road frontages. Min. 4m building setback at splay corners.	No, refer below.
Side/Rear Setback	6m	Min. 4.5m	No, refer below
Minimum Habitable Room Separation.	12m	Min. 5.6m.	No, refer below.
Minimum Car Parking	1 space per dwelling plus 0.5 spaces per 3 or more bedroom dwelling 59 x 1 bedroom unit, 90 x 2 bedroom units and 1 x 3 bedroom units Required: 150.5 spaces Visitor – 1 per 5 units Required: 30 spaces Total required: 180.5 spaces	192 spaces provided.	Yes
Bicycle Parking	Bicycle spaces – 1 per 3 dwellings	Required: 50 bicycle spaces Provided: 60 bicycle spaces	Yes
Garage Dominance	A maximum of two garage doors per 20m of lot frontage facing any one street frontage.	There is one basement entry point proposed off Lords Boulevard.	Yes

a) Setbacks

The North Kellyville DCP requires that residential flat buildings have a minimum setback of 6m for primary street frontages, secondary street frontages and to rear boundaries. A minimum setback of 4.5m is permitted for 50% of the building façade to the primary street frontage to allow for articulation for the first three storeys. The design complies with the recommended building setbacks with the exception of the proposed minimum 4.5m front setback being at 54% of the total front façade, a minimum 4m splay building setback to the secondary splay frontages and a minimum 4.5m building setback to the secondary/rear boundaries.

Comment:

The applicant has justified the setback variations as follows:-

The balcony encroachments are appropriate to activate the street noting that the proposal achieves the site coverage and landscape requirements. The balconies provide articulation and a degree of visual interest to the building.

The objectives of this section of the DCP are:

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

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

b) Separation

The North Kellyville DCP requires a minimum 12m separation between habitable rooms. The design complies with the 12m separation requirement with the exception of providing a separation of between 5.6m - 8m at the Hezlett Road entrance and 5.85m – 8m at the Ballymore Avenue. For the same reasons discussed under section 3 of this report, the proposed variation to building separation is supported due to the satisfactory internal design of the individual units which address any concerns relating to privacy. The buildings are appropriately massed in accordance with the desired scale of the precinct. The proposal satisfies the above objectives and is supported in this instance.

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

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

Unit Mix

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

Residential Flat Development (30 or more units)

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

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

Type 3	
1 bedroom	75m ²
2 bedroom	110m ²
3 or more bedrooms	135m ²

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

The following is proposed:

59 x 1 bedroom, 90 x 2 bedroom and 1 x 3 bedroom.

Apartment Mix:

- (a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments – there are 59 x 1 bedroom units (39.3% of the total).
- (b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms – there are 1 x 3 bedroom units (0.6% of the total).

Proposed unit sizes are:

Unit Type	Size	No. of Units	Type
1 bedroom	52m ² - 65m ²	56	Type 1
1 bedroom	73m ² - 74m ²	3	Type 2
2 bedroom	75m ² - 94m ²	88	Type 1
2 bedroom	95m ²	2	Type 2
3 bedroom	95m ²	1	Type 1

- (e) Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments – there are 145 x Type 1 apartments (96% of the total).
- (f) Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments - there are five x Type 2 apartments (3.3% of the total).
- (g) All remaining apartments are to comply with the Type 3 apartment sizes – no Type 3 apartments are proposed.

Whilst the development does not conform to the unit mix and size typology requirement in The Hills DCP, the proposal the proposal complies with SEPP 65 requirements in terms of minimum unit sizes.

Clause 30(1)(b) of SEPP 65 states that a consent authority must not refuse consent to a development application for the carrying out of residential flat development if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide. The units all meet the minimum internal area specified in the ADG.

The proposal complies with the intent of SEPP 65 and the proposal cannot be refused on apartment sizes if compliance is achieved. The SEPP also requires that the development demonstrates that the proposal has had adequate regard to the Design Quality Principles and the objectives of the ADG. The application has been assessed having regard to the design quality principles outlined in SEPP 65 and is considered satisfactory.

7. Issues Raised in Submission

The Development Application was notified for 22 days during the 1st notification period and one submission was received. No submissions were received during the 2nd notification period. The concerns raised in the submission are addressed as follows:

ISSUE/OBJECTION	COMMENT	OUTCOME
The residents do not want any more units built in this area. Hezlett Road already has a large number of units being built and the road is not able to accommodate all this additional population causing excessive traffic.	There are no traffic objections to the proposal and Hezlett Road will be upgraded to accommodate all development occurring within the precinct. Residential flat buildings are permissible within the R1 zone.	Issue addressed.
The development will visually dominate the surrounding houses. The North Kellyville planning requirements do not allow a standard dwelling to have a triple garage due to their dominance on the area however it allows all of these units to be built.	Approval of the proposed development will not be contrary to what was envisaged for this area. The majority of the development complies with the maximum height standard of the SEPP and the development will assist in providing for a range of housing types within the locality.	Issue addressed.

NSW POLICE

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected. These have been incorporated, where appropriate, into a recommended condition of consent.

TRAFFIC MANAGEMENT COMMENTS

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

SUBDIVISION ENGINEERING COMMENTS

No objections are raised to the proposal subject to conditions.

TREE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection is raised to the proposal subject to conditions.

WASTE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

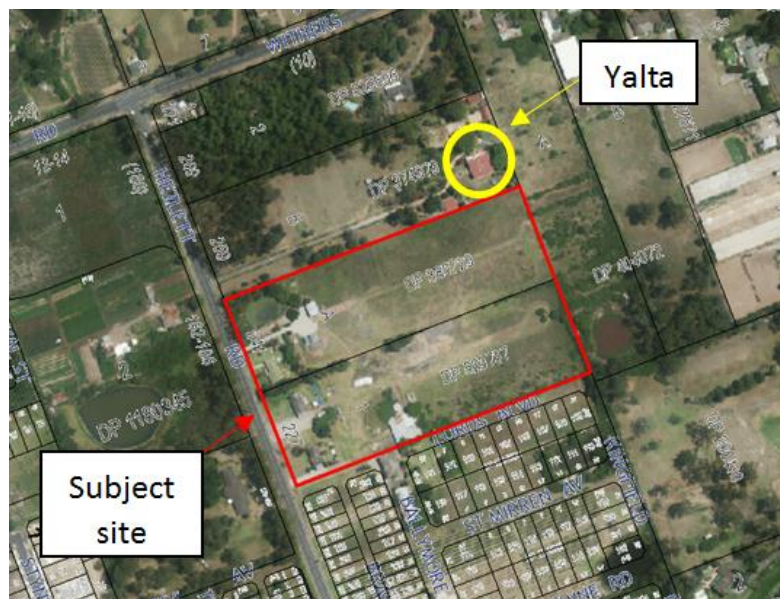
RESOURCE RECOVERY COMMENTS

No objection is raised to the proposal subject to conditions.

HERITAGE COMMENTS

The development site (proposed Lot 41) is located on the parent lot which is Lot 1 DP 523737 and Lot A DP 380729, Nos. 227-241 Hezlett Road, Kellyville. The parent lot adjoins "Yalta" Lot B DP 374973 known as No. 259 Hezlett Road (previously No. 45 Hezlett Road), Kellyville which is listed in Schedule 5, Appendix 2 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as an item of environmental heritage. Council's heritage inventory sheet provides the following brief statement of significance for the heritage item:

"Outbuildings, summerhouse, plantings, gateposts provide entrance of an early 19th century rural retreat on this land."



The submitted Heritage Impact Statement submitted noted the following in relation to potential impacts on 'Yalta' house:

- The proposal will have no impact on the historical associations or aesthetic character of Yalta and will maintain its curtilage/setting.
- The existing subdivision consent for the Yalta site allows for individual dwelling lots in the vicinity of the heritage item.
- The proposed residential flat development is restricted to the western, Hezlett Road frontage of the site and is setback from the item and its identified curtilage with roadways also located between.
- Elements that contribute to the overall form/fabric of Yalta and the setback from the shared boundary will be retained.
- The associated garden setting of Yalta will be retained.
- The site has traditionally been separate and under different ownership to Yalta.
- Any potential visual impacts are reduced by landscaping, plantings, articulated facades and use of various materials which softens and reduces the overall height, bulk and scale of the development.
- The proposed development will be contemporary in nature with flat roofs, articulated facades and contemporary finishes and will highlight the historic building fabric of Yalta.

Comments:

Council's staff reviewed the report and made the following comments:

- The North Kellyville Precinct DCP establishes a clear heritage curtilage around Yalta and the proposed development does not encroach upon this curtilage.
- The proposed development is sufficiently separated from Yalta being over 150m distance from the heritage item.
- The proposed development will not obstruct any important views to or from the heritage item. Currently views of the heritage item are only available from Hezlett Road, being the only public road which adjoins the property. The Indicative Layout Plan for the North Kellyville Precinct provides opportunity for enhanced public views by way of future roads running along the southern and western boundaries of the heritage item.
- Appropriate measures have been taken to reduce the visual bulk and scale of the development including building articulation, use of various materials and landscaping.
- The proposed landscaping will assist with screening the buildings when viewed from the heritage item.
- There is unlikely to be any overshadowing of the heritage item as a result of the proposed development.
- The proposed colours and finishes are considered to be neutral and sympathetic to the heritage item.

No objection is raised to the proposal subject to conditions

CONCLUSION

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

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 R1 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 variations to the height, separation, setback and solar access controls have been addressed and it is considered that the application is worthy of support. One submission has been received as part of this application and has been addressed in this report. The proposal is recommended for approval subject to conditions.

IMPACTS:**Financial**

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

The Hills Future Community Strategic Plan

The Hills Future Community Strategic Plan outlines the aspirations of community residents for The Hills Shire region. Desired community outcomes include balanced urban growth,

vibrant communities and a protected environment. The social and environmental impacts have been identified and addressed in the report.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA1.01	Basement 1	I	27.02.2017
DA1.02	Lower Ground	J	27.02.2017
DA1.03	Upper Ground	I	27.02.2017
DA1.04	Level 1	I	27.02.2017
DA1.05	Level 2	J	27.02.2017
DA1.06	Roof Plan	K	27.02.2017
DA1.10	Section	H	27.02.2017
DA1.11	Section	H	27.02.2017
DA1.12	Section	I	27.02.2017
DA1.13	Section	C	27.02.2017
DA1.14	Section	B	27.02.2017
DA1.20	Elevation	H	27.02.2017
DA1.21	Elevation	H	27.02.2017
DA1.31	Elevations with Materials	D	27.02.2017
DA1.32	Elevations with Materials	D	27.02.2017
DA1.33	Elevations with Materials	D	27.02.2017

2. Construction Certificate

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

3. Building Work to be in Accordance with BCA

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

4. External Finishes

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

5. Provision of Parking Spaces

The development is required to be provided with a total 192 off-street car parking spaces comprising 32 visitor spaces. These spaces shall be available for off street parking at all times.

6. Accessibility and Adaptability

The statement of compliance access for people with a disability report job no. 216192 dated 10-08-2016 must be adhered to at all stages.

7. Compliance with NSW Police Force Requirements

Compliance with the requirements of NSW Police – Local Area Command as outlined in their letter dated 12 September 2016:

Surveillance:

- CCTV coverage is required to be installed to monitor all common areas and entry/exits points. Use of height indicator stickers on entrance/exit doors is required on entry/exit doors.
- Paint the basement white to reflect light.
- Vegetation to be kept trimmed at all times.
- Installation of a security intercom system is required to access the residential parts of the basement car park and main lobbies. Each unit is to contain an intercom system to enable access for visitors to the basement car park and lobby. Security access is to be utilised at the entrance of the basement.

Lighting:

- Lighting is to meet minimum Australian Standards. Special attention is to be made to lighting at entry/exit points from the building, the car park and driveways.

Environmental Maintenance:

- Use of anti-graffiti building materials.
- High fencing during construction is to be used.
- Use of security sensor lights and a security company to monitor the site during construction phase are required.

Access Control:

- Ground level units are required to have upgraded security measures in place such as doors/ windows being alarmed, thickened glass and sensor lights.
- High quality letter boxes that meet AS ISO9001:2008 are required and are only to be accessed via within the unit complex by residents.
- Lift from car park into the residential part of the building to be used with a fob or pin code is required.
- Entry into car park to be secured by a fob, remote/code access and camera are required.
- Ensure improved strength to security roller shutters/garage doors is used.
- Caged storage units are to be built up to the ceiling with a door with better quality locking mechanism are to be used.
- Fire doors are to be alarmed and a magnetic strip is required so that the door will shut closed.
- External doors that can be used to enter the car park or into the complex are required to have a plate installed to the door.
- Devices are to be fitted to enable windows to be locked at 12.5cm when the devices are engaged

8. Tree Removal

Approval is granted for the removal of 71 trees as detailed in the Arboricultural Impact Assessment prepared by Redgum Horticultural dated 19 October 2015 (Ref: 1598).

All other trees (including those on neighbouring properties) are to remain and are to be protected during all works. Suitable replacement trees are to be planted upon completion of construction.

9. Planting Requirements

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;
- 450-300mm for groundcover; and
- 200mm for turf.

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

10. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Rodney Stevens Acoustics Pty Ltd, referenced as Report 160403R1, dated 2 August 2016 and submitted as part of the Development Application are to be implemented as part of this approval. In particular: The glazing recommendations of Section 5.3 and the table 5-2.

11. Control of Early Morning Noise from Trucks

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

12. Control of Noise from Trucks

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

13. Property Numbering for Multi Unit Housing Development

The responsibility for property numbering is vested solely in Council.

The property addresses for this development are:

227 Hezlett Road	92 Ballymore Avenue
Units G01-G24	Units G25-G47
Units 101-125	Units 126-154
Units 201-226	Units 227-257

Approved unit numbering is as per plans submitted marked as DA 1.02 to DA1.05 Revision G. Unit numbering cannot be repeated throughout the development.

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

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

14. Adherence to Waste Management Plan

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

15. 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.

16. 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.

17. Commencement of Domestic Waste Service

The property owner or agent acting for the owner must commence a domestic waste service with Council. The service should be arranged within one week of occupancy and no later than two days post occupancy. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

18. Construction of Garbage Holding Room and Garbage Rooms

The Garbage Holding Room and Garbage Rooms must be designed and constructed in accordance with the following minimum requirements. Minimum storage capacity in the Garbage Holding Room is required for 17 x 1100 litre garbage bins and 15 x 660 litre recycling bins. The Garbage Room nearest Unit 22 must have capacity to store no less than 6 x 1100 litre garbage bins and 8 x 660 litre recycling bins. The Garbage Room nearest Unit 24 must accommodate for at least 7 x 1100 litre garbage bins and 7 x 660 litre recycling bins.

1. The layout of the rooms must ensure that each bin is easily accessible and maneuverable 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 door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors.
5. The rooms must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. This is in addition to the waste servicing door.

6. All doors of the rooms, when fully opened, must be flush with the **outside wall** and must not block or obstruct the driveway or footway. All doors must be able to be fixed in position when fully opened.
7. The rooms must be adequately ventilated (mechanically). Ventilated rooms should not be connected to the same ventilation system supplying air to the units.
8. The rooms must be provided with a hose tap, 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.
9. The rooms must be provided with an internal light (artificial). Sensor lights that turn on and off automatically should be supplied.
10. The maximum grade acceptable for moving bins for collection purposes 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe manoeuvring and servicing of the full bins by waste collection operators.
11. The rooms 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.
12. Finishes and colours of the rooms are to complement the design of the development.

Bin Measurements (mm)

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

19. Onsite Waste Collection Requirements

Minimum vehicle access and loading for waste collection purposes must be designed and constructed in accordance with Australian standard 2890.2-2002 for the standard 8.8m long Medium Rigid Vehicle. A reduced clear vertical clearance to no lower than 3.5m is acceptable if necessary. The following are additional design requirements:

1. Vehicles must be able to enter and leave the site in a forward direction. A single reverse movement is acceptable provided it is a reverse entry into a designated loading zone.
2. The waste collection process must not impede upon on general access to, from or within the site.
3. The loading zone and pedestrian paths around the loading zone must be clearly line marked and sufficient signage and safety measures must be incorporated into the overall design to ensure the safe and efficient servicing of bins.
4. Adequate signage must be erected and a clause written into the Strata Management Statement indicating to residents and visitors that under no circumstance is the loading zone to be impeded.

NOTE: The key system procured for **secure parking areas** must have the capability to allow waste collection operators to enter and exit the site with no need to alight their vehicles.

20. Provision of Bulky Goods Room

The minimum floor area required for the bulky goods room is 12 metres squared. Extra allowance should be provided where practicable. The purpose of the room is to cater for the interim storage and management of unwanted bulky goods such as mattresses.

21. Street Trees

Street trees must be provided for the section public roads (excluding Hezlett Road) 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. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

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

22. Water Sensitive Urban Design

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

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

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

23. 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.

24. Separate Application for Strata Subdivision

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

25. Protection of Public Infrastructure

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

26. 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.

27. Gutter and Footpath Crossing Application

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

28. Minor Engineering Works

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

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

a) Driveway Requirements

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

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

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

b) Disused Layback/ Driveway Removal

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

c) Footpath Verge Formation

The grading, trimming, topsoiling and turfing of the footpath verge fronting the development site is required to ensure a gradient between 2% and 4% falling from the boundary to the top of kerb is provided. This work must include the construction of any retaining walls necessary to ensure complying grades within the footpath verge area. All retaining walls and associated footings must be contained wholly within the subject site. Any necessary adjustment or relocation of services is also required, to the requirements of the relevant service authority. All service pits and lids must match the finished surface level.

d) Site Stormwater Drainage

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

e) Earthworks/ Site Regrading

Earthworks are limited to that shown on the approved plans. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed.

f) Service Conduits

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

g) Water Sensitive Urban Design Elements

Water sensitive urban design elements, consisting of 4 x 4kL rainwater tanks and 165m² of raingardens (equating to a volume of 24.70m³) are to be located generally in accordance with the Stormwater Plans SW201 Revision B, SW03 Revision B, SW04 Revision B, SW05 Revision C, SW06 Revision B prepared by SGC Consultants Pty Ltd and the WSUD Strategy Report dated 26 October 2016 by SGC Consultants Pty Ltd.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The 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/>

29. Demolition Notification

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

30. Demolition Inspections

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

31. Erosion & Sediment Control Plan

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

- a) Allotment boundaries

- b) Location of the adjoining roads
- c) Contours
- d) Existing vegetation
- e) Existing site drainage
- f) Critical natural areas
- g) Location of stockpiles
- h) Erosion control practices
- i) Sediment control practices
- j) Outline of a maintenance program for the erosion and sediment controls

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

32. Section 94 Contribution – North Kellyville

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

Payments comprise of the following:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	No. of 1 Bedroom Units: 59	No. of 2 Bedroom Units: 90	No. of 3 Bedroom Units: 1	Sum of Units	No. of Credits: 1	Total S94
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 345,442.64	\$ 922,373.10	\$ 13,908.38	\$ 1,281,724.12	\$ 13,908.38	\$ 1,267,815.74
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 53,966.12	\$ 144,096.30	\$ 2,172.81	\$ 200,235.23	\$ 2,172.81	\$ 198,062.42
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 27,303.43	\$ 72,902.70	\$ 1,099.30	\$ 101,305.43	\$ 1,099.30	\$ 100,206.13
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 203,257.95	\$ 542,722.50	\$ 8,183.67	\$ 754,164.12	\$ 8,183.67	\$ 745,980.45
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 50,562.41	\$ 135,007.20	\$ 2,035.76	\$ 187,605.37	\$ 2,035.76	\$ 185,569.61
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 22,222.94	\$ 59,337.90	\$ 894.75	\$ 82,455.59	\$ 894.75	\$ 81,560.84
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 11,533.91	\$ 30,796.20	\$ 464.38	\$ 42,794.49	\$ 464.38	\$ 42,330.11
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 28,098.75	\$ 75,026.70	\$ 1,131.33	\$ 104,256.78	\$ 1,131.33	\$ 103,125.45
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 2,722.85	\$ 7,270.20	\$ 109.62	\$ 10,102.67	\$ 109.62	\$ 9,993.05
Total	\$ 12,629.00	\$ 22,105.92	\$ 30,000.00	\$ 745,111.00	\$ 1,989,532.80	\$ 30,000.00	\$ 2,764,643.80	\$ 30,000.00	\$ 2,734,643.80

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

This condition has been imposed in accordance with Contributions Plan No. 13.

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

33. Special Infrastructure Contribution – Growth Centres

The applicant is to make special infrastructure contribution in accordance with any determination by the Minister administering the Environmental planning and Assessment Act 1979 under Section 94EE of the Act that is in force on the date of this consent, and must obtain a certificate to that effect from the Growths Centres Commission before a Construction certificate or subdivision certificate is issued in relation to any part of the development to which this consent relates.

More information on the Special Infrastructure Contribution can be found at the Growth Centres Commission's website at www.gcc.nsw.gov

To obtain an estimate of the Special Infrastructure Contribution that may be payable for the application please email infrastructurecontribution@gcc.nsw.gov.au.

34. Sydney Water Building Plan Approval

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

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

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

35. Design Verification

Prior to the release of the Construction Certificate design verification is required from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in SEPP 65.

36. 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.

37. 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.

38. Stormwater Pump/ Basement Car Park Requirements

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

39. 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 \$160,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the rate of \$85.00 per square metre based on the road frontage of the subject site plus an additional 50m on either side (360m) multiplied by the width of the road.

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

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

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

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

41. Validation Report

Prior to the issue of a Construction Certificate, a final validation report is to be prepared by an EPA accredited site auditor and submitted to Council's Manager – Environment and Health confirming that the soils comply with National Environmental Protection

(Assessment of Site Contamination) Measure 1999 (as amended) and are suitable for residential use. The validation report must include the following:

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

PRIOR TO WORK COMMENCING ON THE SITE

42. Principal Certifying Authority

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

43. Builder and PCA Details Required

Notification in writing of the builder's name, address, telephone and fax numbers to be submitted to the Principal Certifying Authority prior to work commencing.

Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with the Regulations.

44. Management of Building Sites – Builder's Details

The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours' contact name and telephone number. In the case of a privately certified development, the name and contact number of the Principal Certifying Authority.

45. Stabilised Access Point

A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. The controls shall be in accordance with the requirements with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

46. Approved Temporary Closet

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

47. Protection of Existing Trees

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

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

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

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

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

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

48. Dam-Water/Silt Analysis

A water/silt analysis report prepared by an appropriately qualified person prior to the breaching, draining or removal of the dam is to be submitted to Council's Manager - Environment and Health. The report shall consider the presence of any heavy metals or contaminants and appropriate removal method/s.

49. Erosion and Sedimentation Controls

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

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

50. Site Water Management Plan

A Site Water Management Plan is to be prepared. The plan shall be in accordance with *"Managing Urban Stormwater - Soils and Construction"* (Blue Book) produced by the NSW Department of Housing. The plan must include consideration of the management of water that may accumulate in excavations on site: the minimisation of water collection; the treatment of sediment laden or turbid water and the appropriate disposal to avoid pollution of the stormwater system. The plan is to be kept on site at all times and made available upon request.

51. 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.

52. 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.

53. 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.

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. Public Infrastructure Inventory Report

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

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

DURING CONSTRUCTION

58. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

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

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

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

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

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

60. Survey Report

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

61. Dam Decommissioning

The decommissioning of the dam is to be undertaken in accordance with the following requirements:

- The dam shall be dewatered by onsite dispersal ensuring that the water does not flow off site or into the stormwater system.
- Any requirement to dispose of the dam water to the stormwater and local waterway shall be with the approval of Council. The request must be in writing and include a dam dewatering plan and water quality testing results. The water quality of the dam must be equal or better than the water quality of the receiving waters.
- A fine mesh is to be placed around intake pumps used to drain the dam water to prevent the uptake and spread of carp eggs, juvenile pest species or eggs into the catchment.
- Water is to be pumped from the dam and irrigated onto adjacent grassed areas to minimise the risk of invasive and exotic pest species from entering natural waterways.
- The intake pipe for the irrigation is to be monitored to prevent injury to aquatic fauna.
- The dewatered dam must be inspected for fauna which may be buried in the sediments on the bottom of the dam.
- Following dewatering, fauna is to be provided with an opportunity to relocate prior to reshaping. A minimum of 72 hours is to be provided.
- Any rescued fauna is to be released at a suitable nearby location or if injured, placed into the care of a wildlife carer.

62. 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.

63. Construction Noise

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

64. 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.

65. Stockpiles

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

66. Asbestos Removal

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

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

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

67. 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.

68. 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.

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. Compliance with BASIX Certificate

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

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

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

73. Section 73 Compliance Certificate

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

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

74. Provision of Electrical Services

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

75. Provision of Telecommunication Services

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

76. Design Verification Certificate

Prior to the release of the Occupation Certificate design verification is required from a qualified designer to confirm that the development has been constructed in accordance with approved plans and details and has satisfied the design quality principles consistent with that approval.

77. Landscaping Prior to Issue of Occupation Certificate

Landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) in accordance with the approved Landscape Plans prepared by Kann Finch Group Pty Ltd (dated 19 August 2016). All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

78. Carpark Ventilation Acoustic Assessment

Prior to the issue of a final occupation certificate the details of the mechanical ventilation and exhaust for the basement carpark is to be documented and assessed for noise impacts on the residents of the development and residents of any adjoining property. The noise of the ventilation system shall not exceed 5dB above the ambient background noise between 7am and 10 pm and shall not exceed the ambient background noise between 10pm and 7am.

The report shall be provided to the Certifying Authority.

79. Internal Pavement Construction

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

80. 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.

81. 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.

82. Pump System Certification

Certification that the stormwater pump system has been constructed in accordance with the approved design and the conditions of this approval must be provided by a suitably qualified hydraulic engineer.

83. Creation of Restrictions / Positive Covenants

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

a) Restriction – Restricted Access

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

b) Restriction – Bedroom Numbers

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

c) Restriction – Housing for Seniors or People with a Disability

The subject site must be burdened with a restriction using the "SEPP Housing for Seniors or People with a Disability" terms included in the standard recitals.

d) Restriction – Affordable Rental Housing

The subject site must be burdened with a restriction using the "SEPP Affordable Rental Housing 2009" terms included in the standard recitals.

e) 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.

f) Restriction – Rainwater Tanks

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

g) 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.

h) Positive Covenant – Stormwater Pump

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

i) 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.

84. 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.

85. Registration of Subdivision

The registration of the preceding subdivision Development Consent DA 855/2016/ZA by the applicant must occur, prior to an Occupation Certificate being issued.

THE USE OF THE SITE

86. Lighting

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

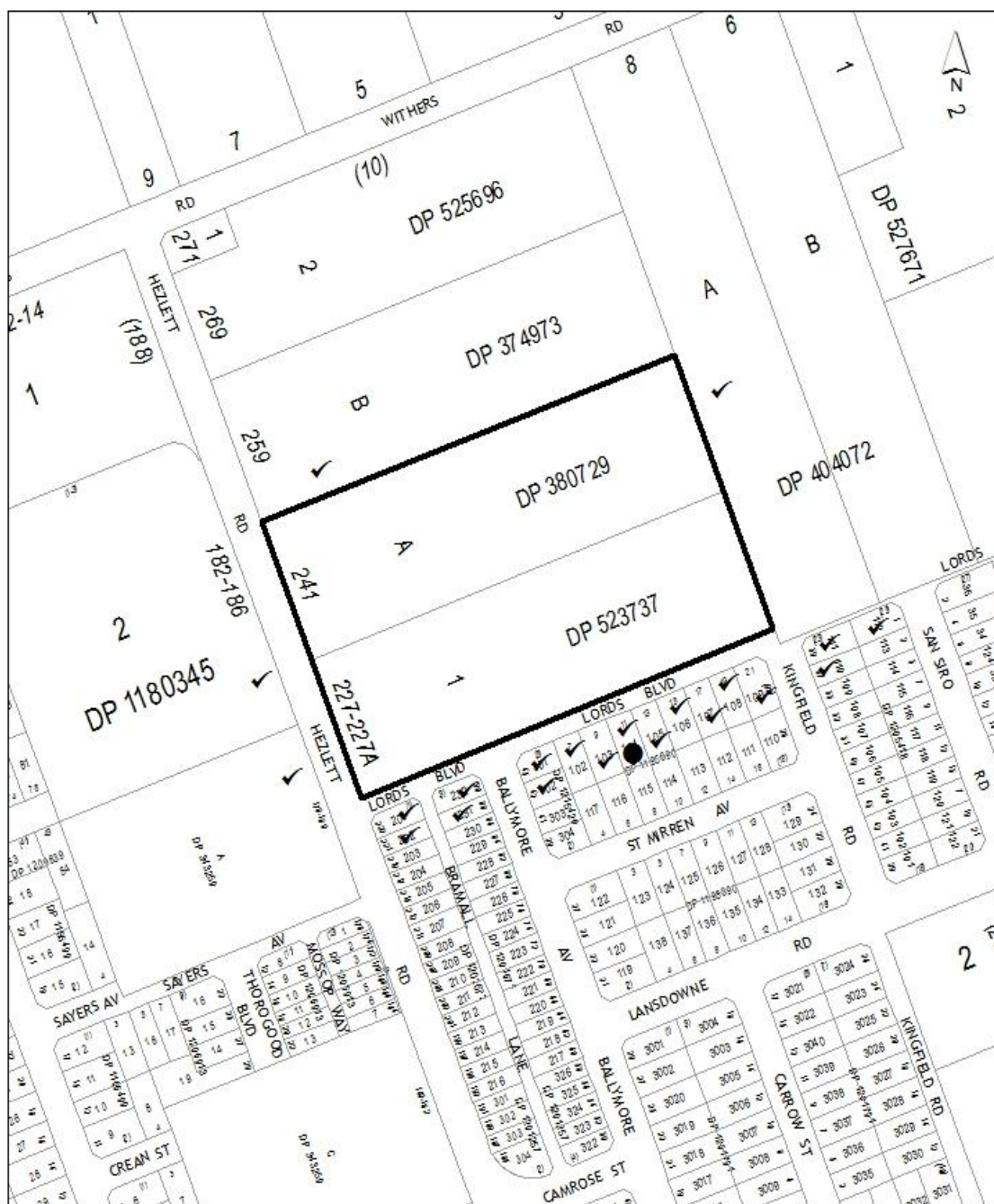
87. Waste and Recycling Management

A caretaker must be appointed by the Owners Corporation to wheel bins to and from the Garbage Holding Room and Garbage Rooms for waste collection purposes. The caretaker or other nominated persons must also be responsible for undertaking any other waste servicing instructions issued by Council. Other duties should include regular washing of bins and the storage rooms and arranging for the prompt removal of litter and dumped rubbish.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. SEPP Zoning and DCP Road Layout Map
4. SEPP Height Limit Map
5. Approved Subdivision Plan
6. Basement 1 Plan
7. Lower Ground Floor Plan
8. Upper Ground Floor Plan
9. Level 1 Floor Plan
10. Level 2 Floor Plan
11. Proposed Variations to Setbacks
12. Proposed Variations to Separation
13. Elevations and Sections
14. Landscape Plans
15. Shadow Diagrams
16. Clause 4.6 Variation
17. Analysis of Height Diagram

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSION RECEIVED

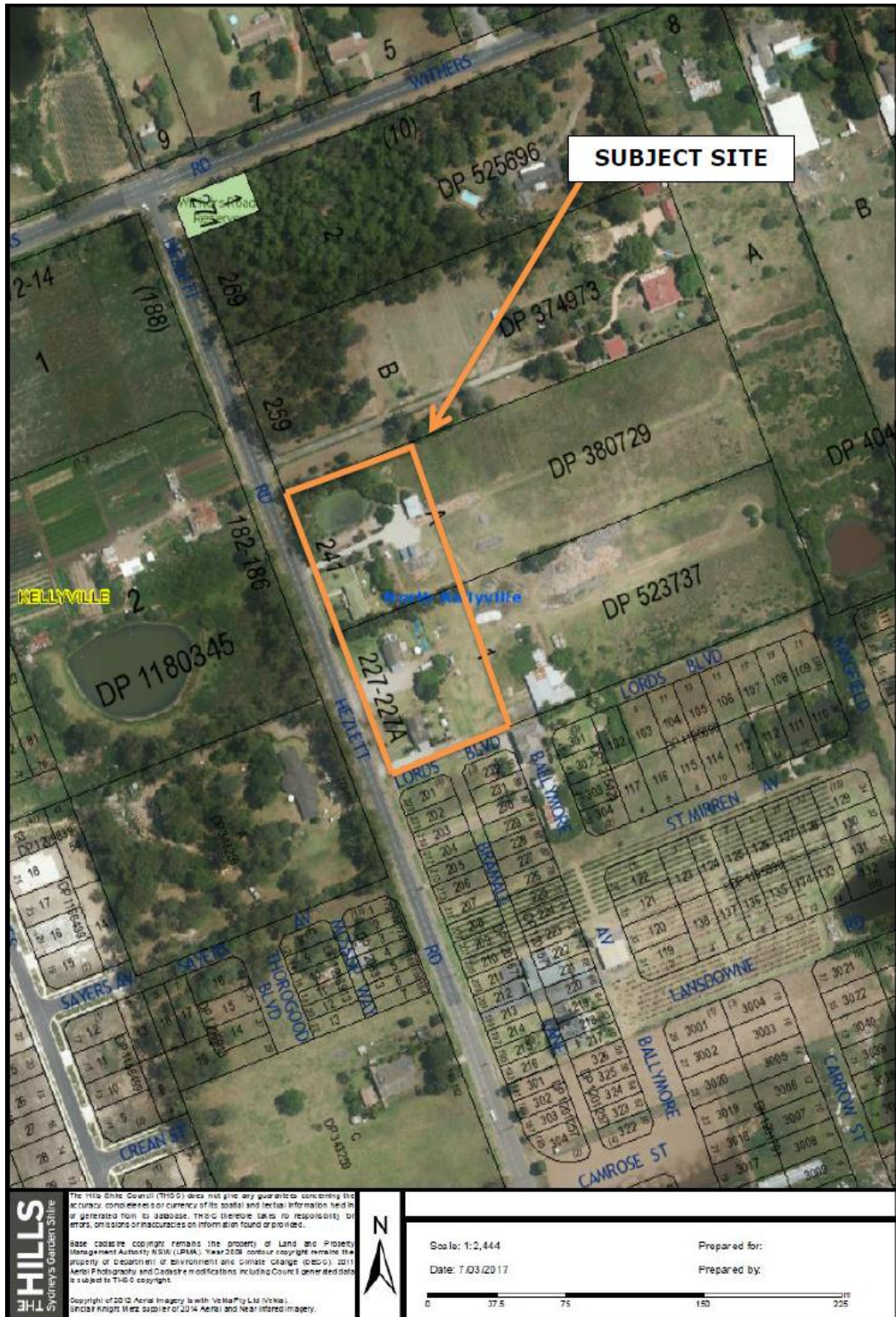
THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

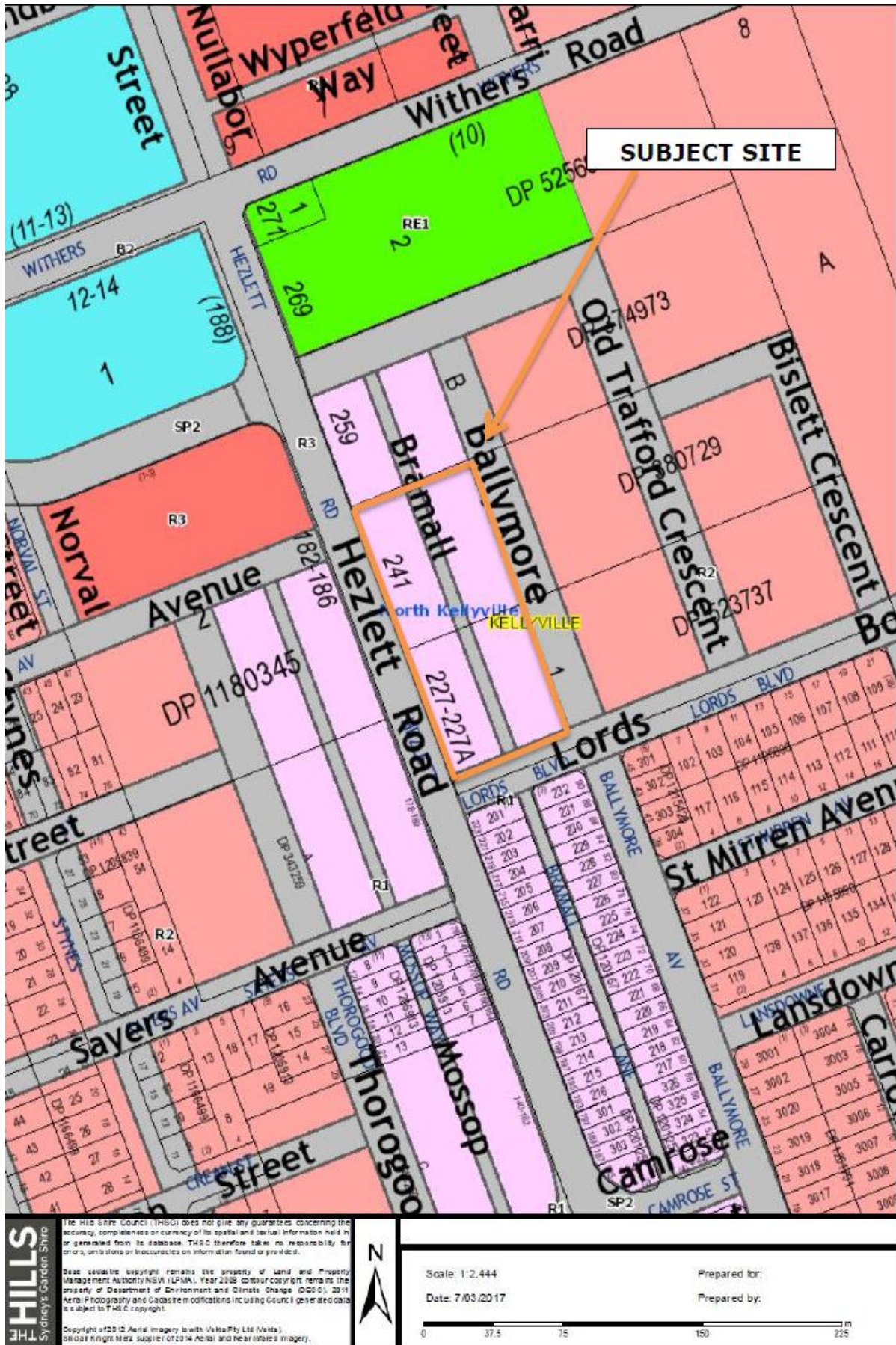
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BASE CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LPI). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

ATTACHMENT 2 – AERIAL PHOTOGRAPH



ATTACHMENT 3 – SEPP ZONING AND DCP ROAD LAYOUT MAP

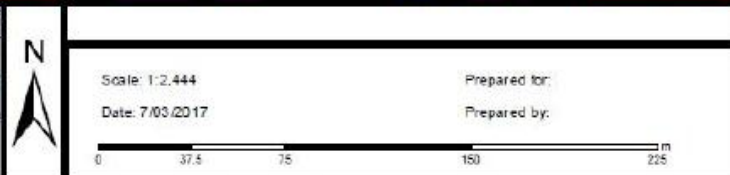


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Sydney's Garden Shire

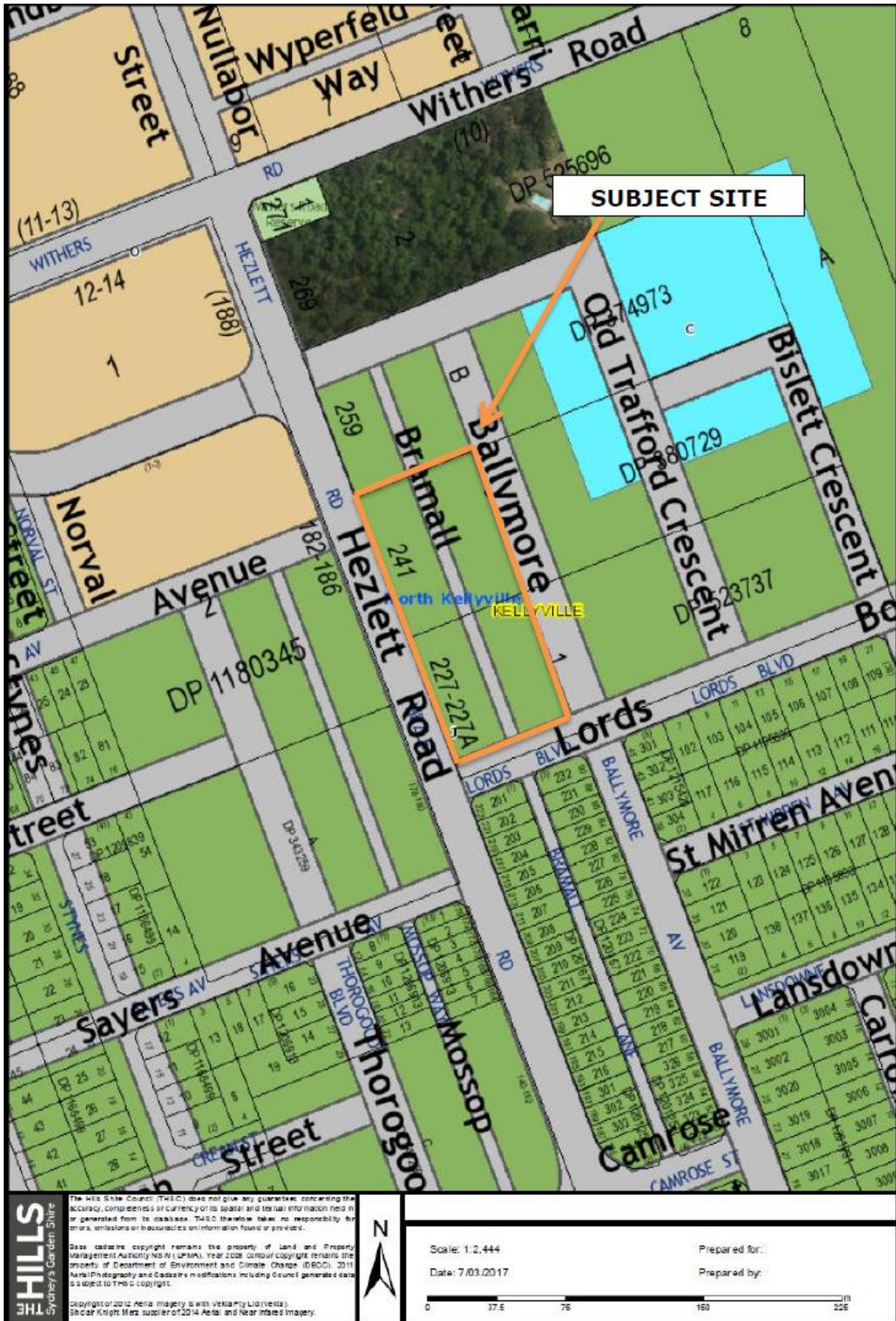
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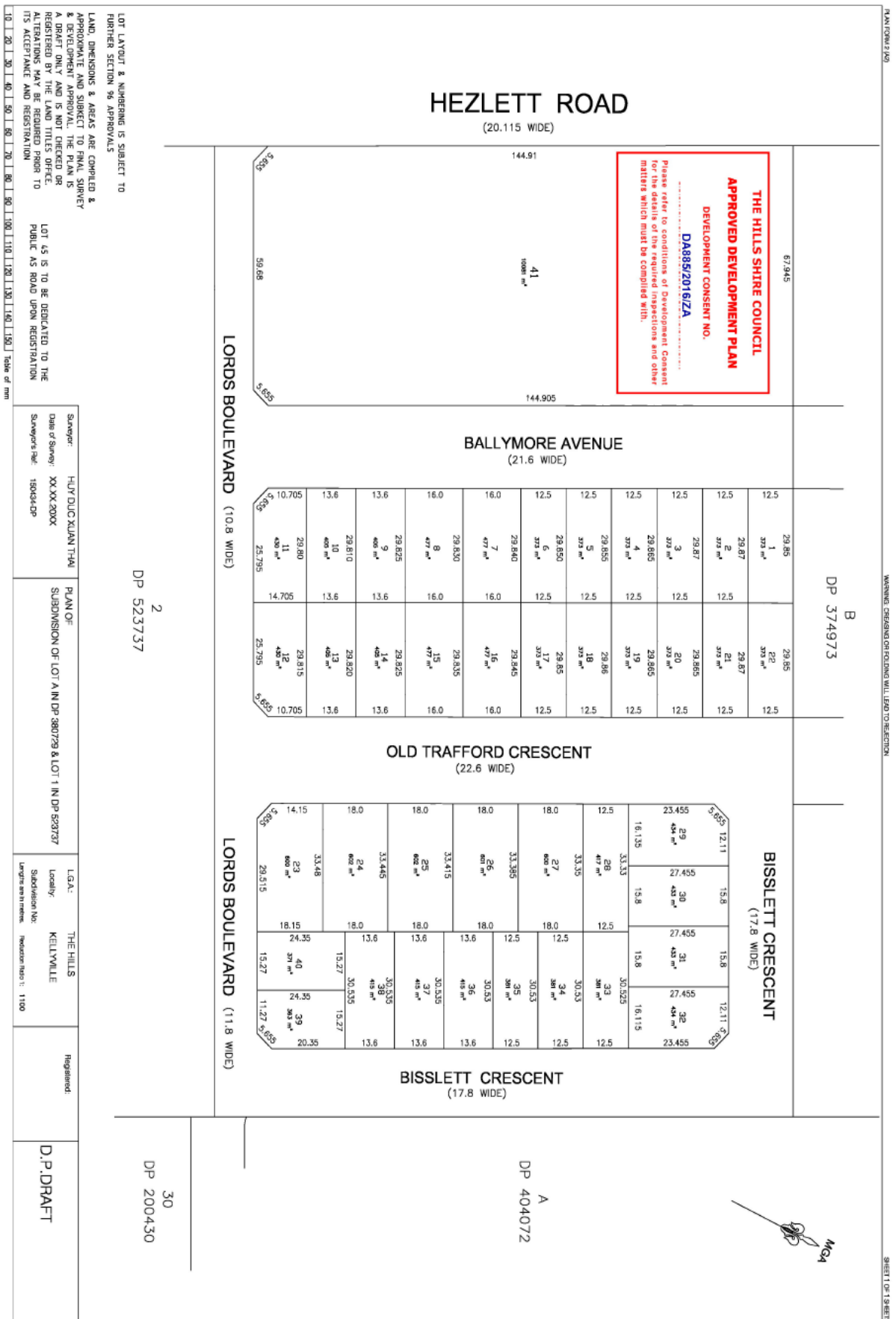
Copyright © 2012 Aerial Imagery is with Vitea Pty Ltd (Vitea).
Browns Knight Mez supplier of 2014 aerial and near real time imagery.



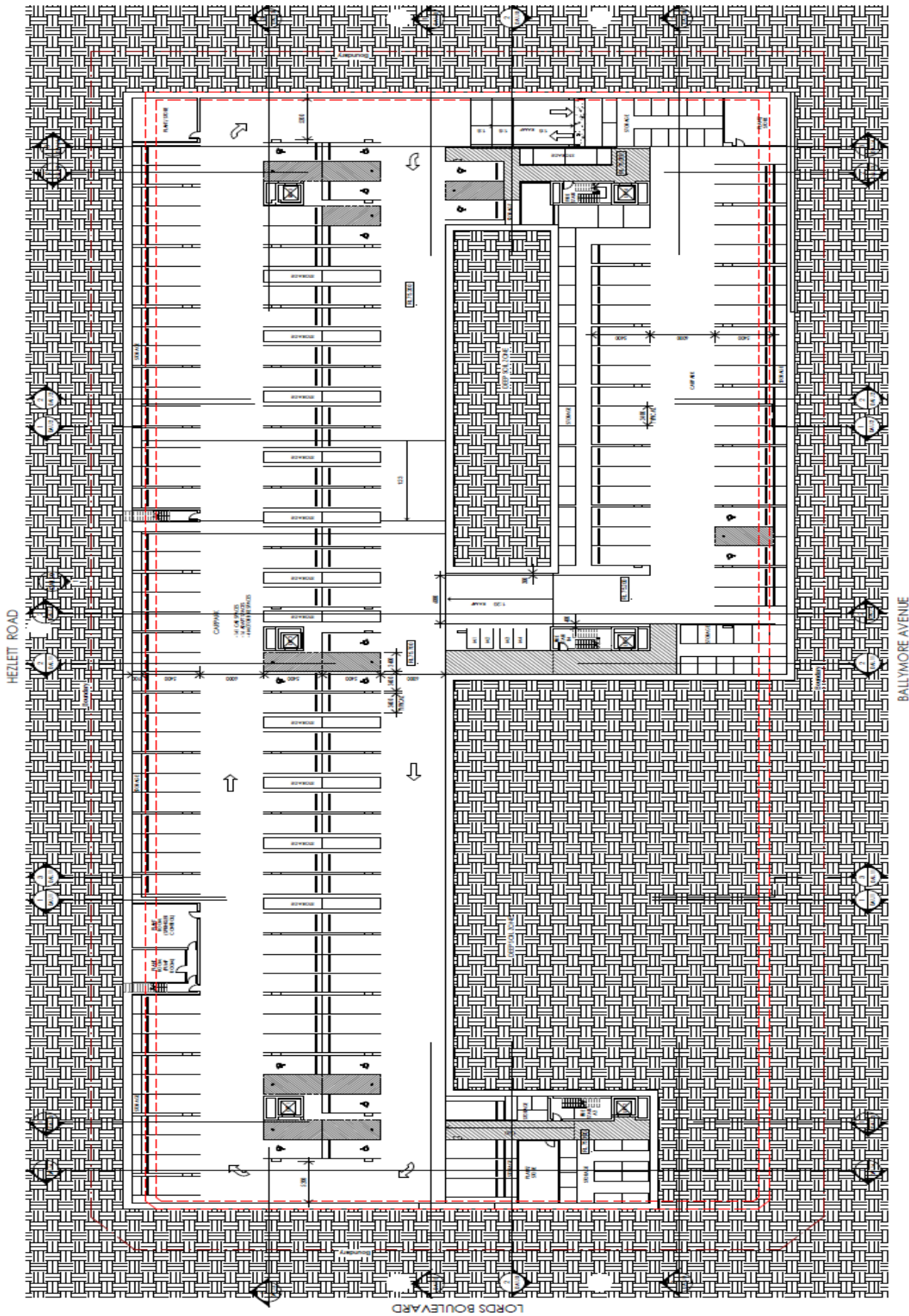
ATTACHMENT 4 – SEPP HEIGHT LIMIT MAP



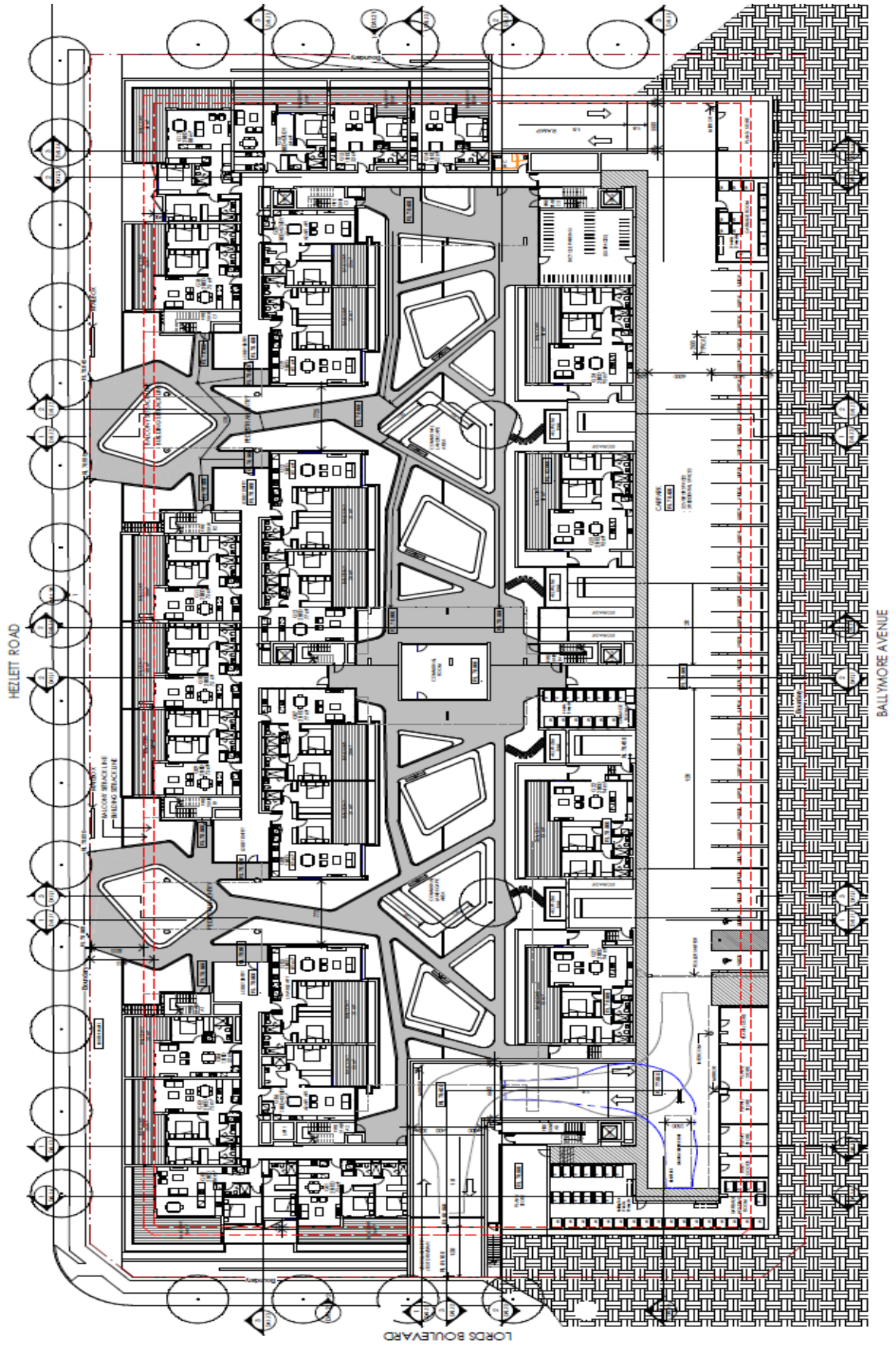
ATTACHMENT 5 – APPROVED SUBDIVISION PLAN



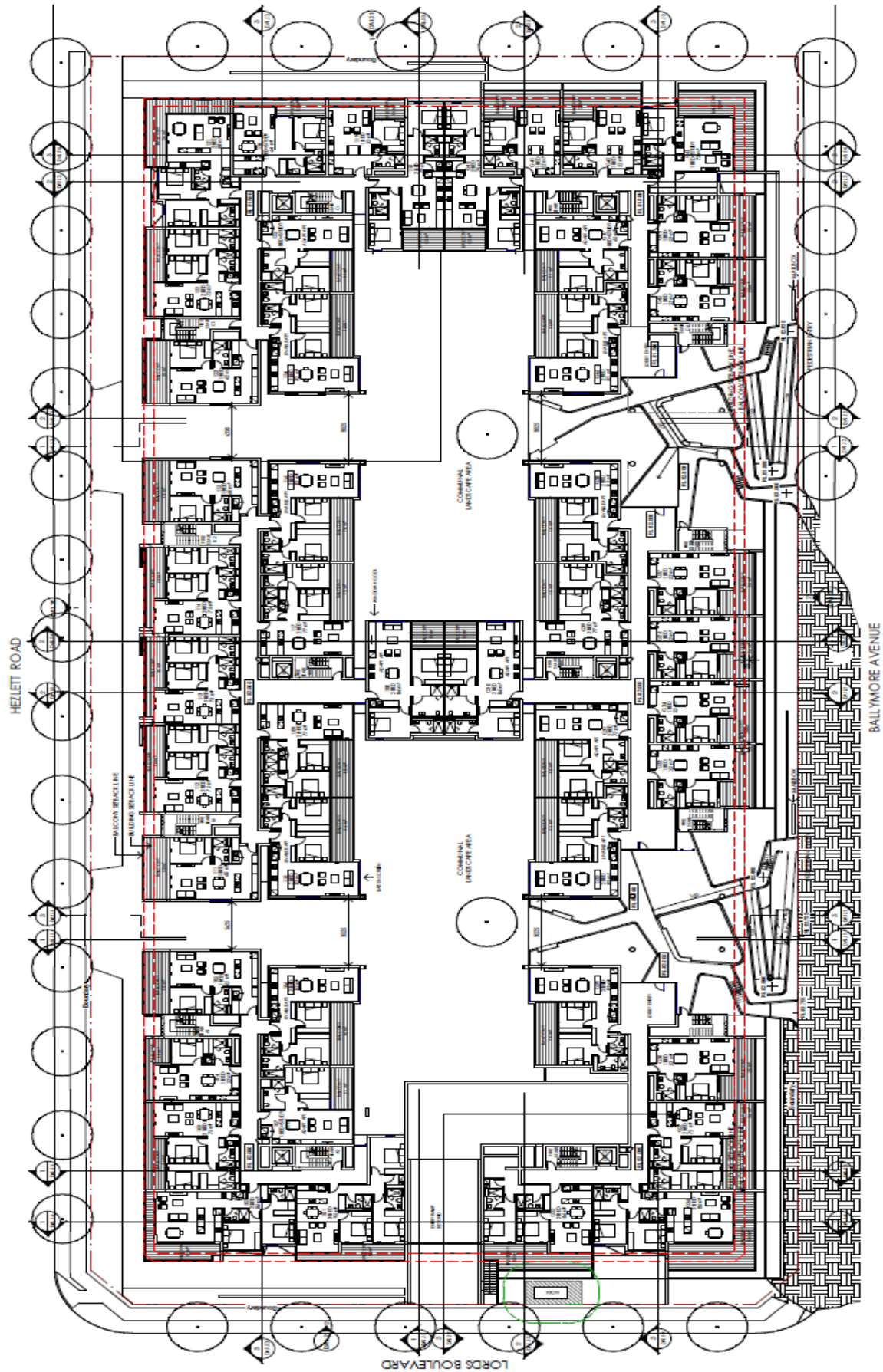
ATTACHMENT 6 – BASEMENT 1 PLAN



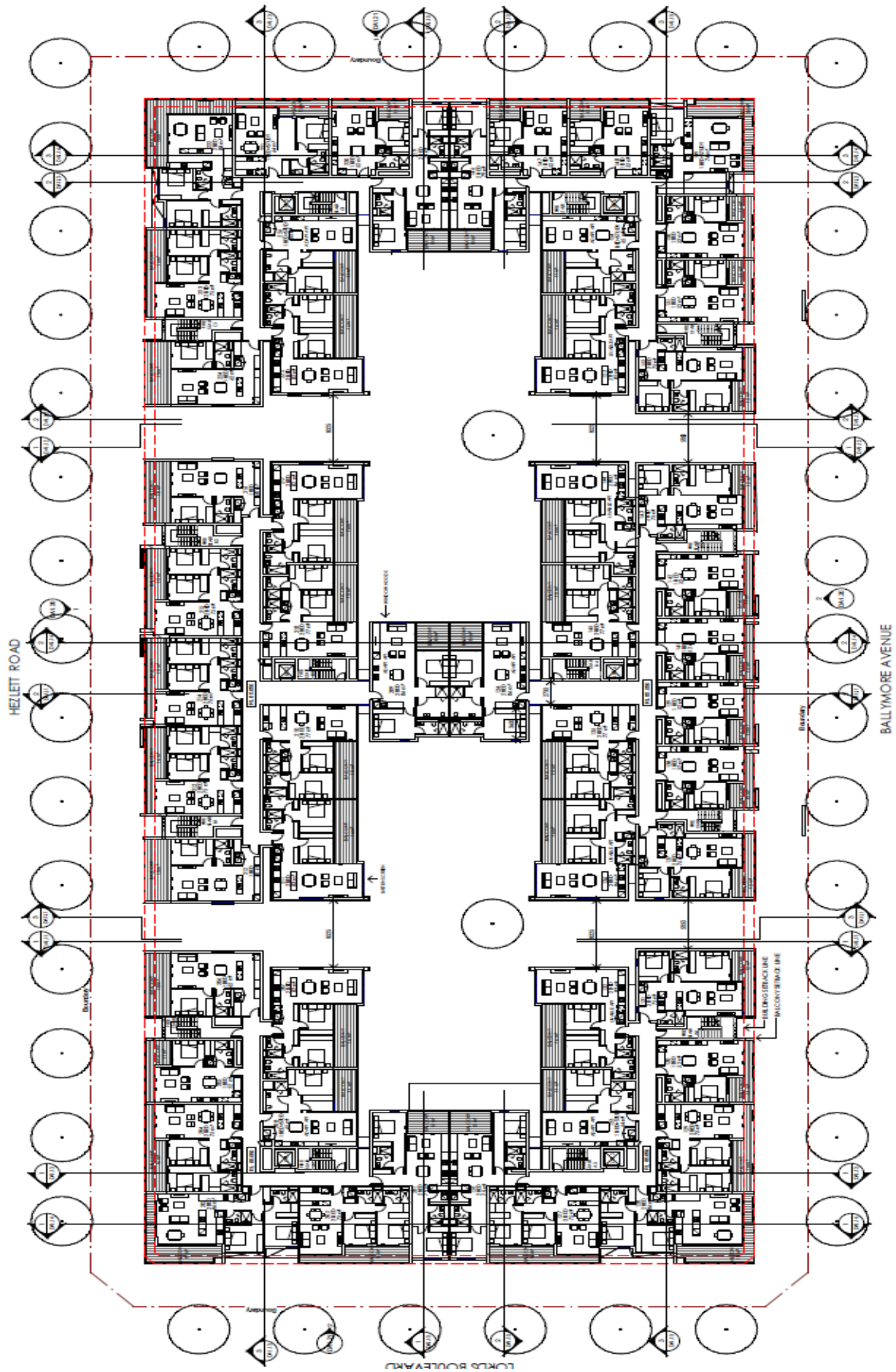
ATTACHMENT 7 – LOWER GROUND FLOOR PLAN



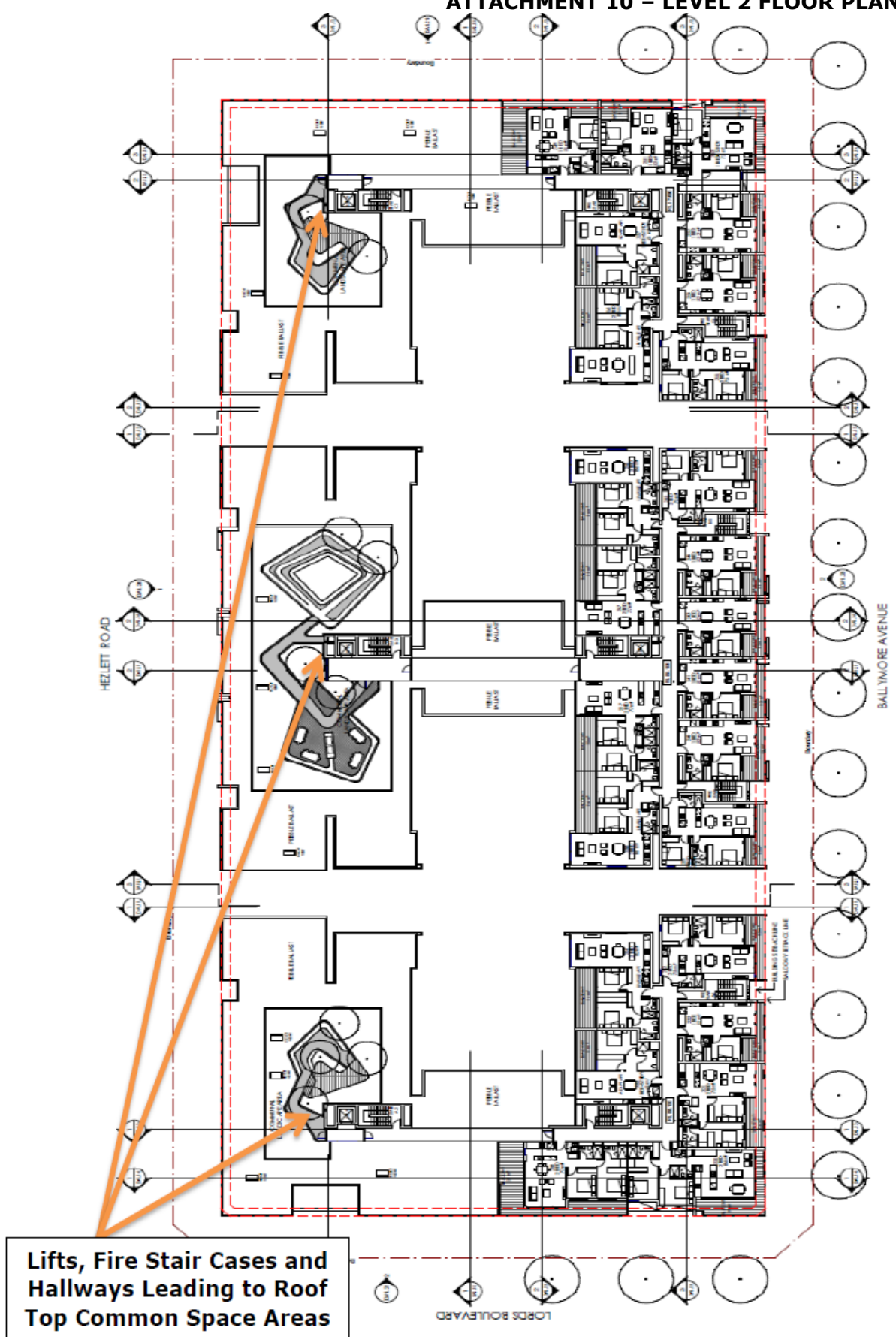
ATTACHMENT 8 – UPPER GROUND FLOOR PLAN



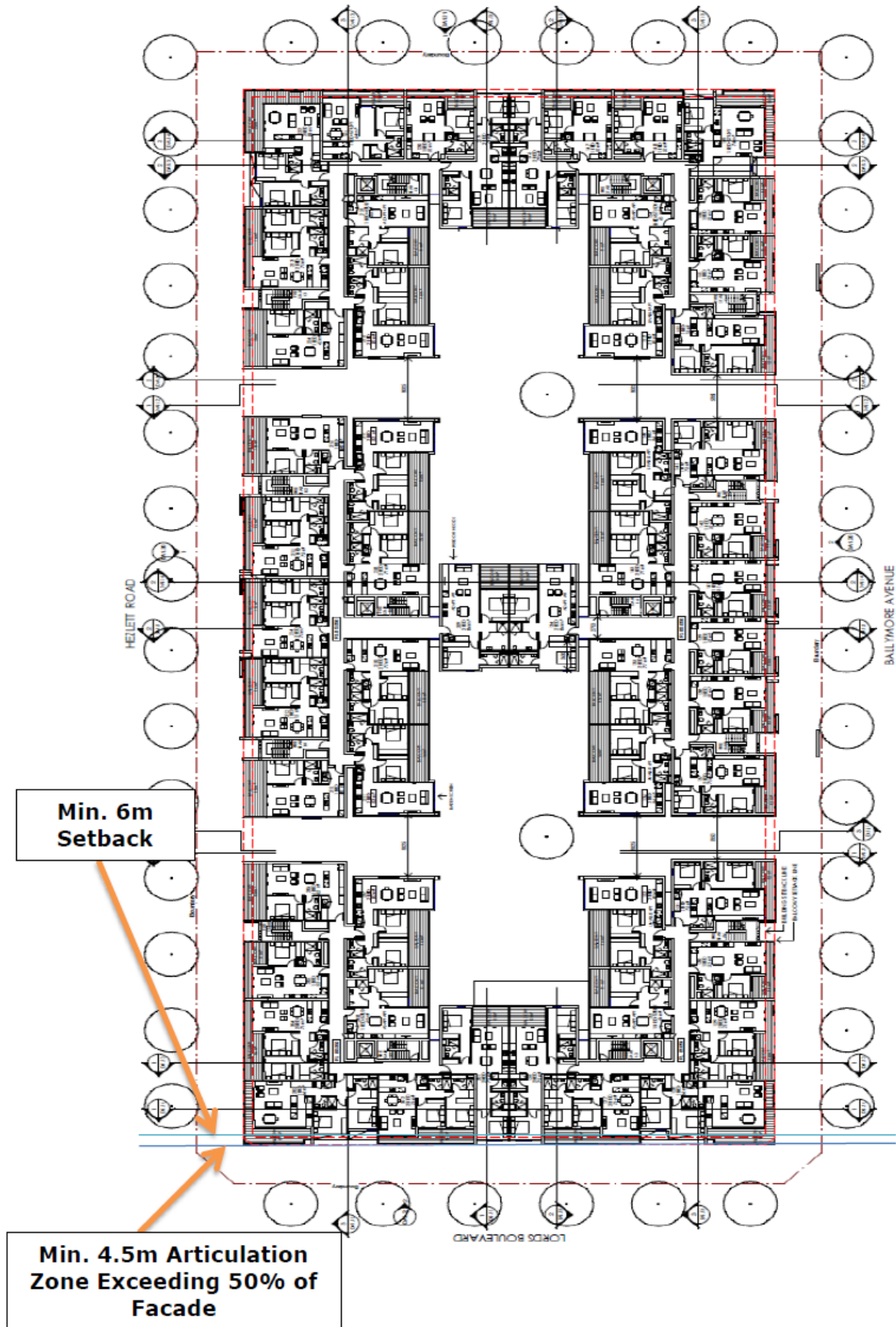
ATTACHMENT 9 - LEVEL 1 FLOOR PLAN



ATTACHMENT 10 – LEVEL 2 FLOOR PLAN



ATTACHMENT 11 – PROPOSED VARIATIONS TO SETBACKS



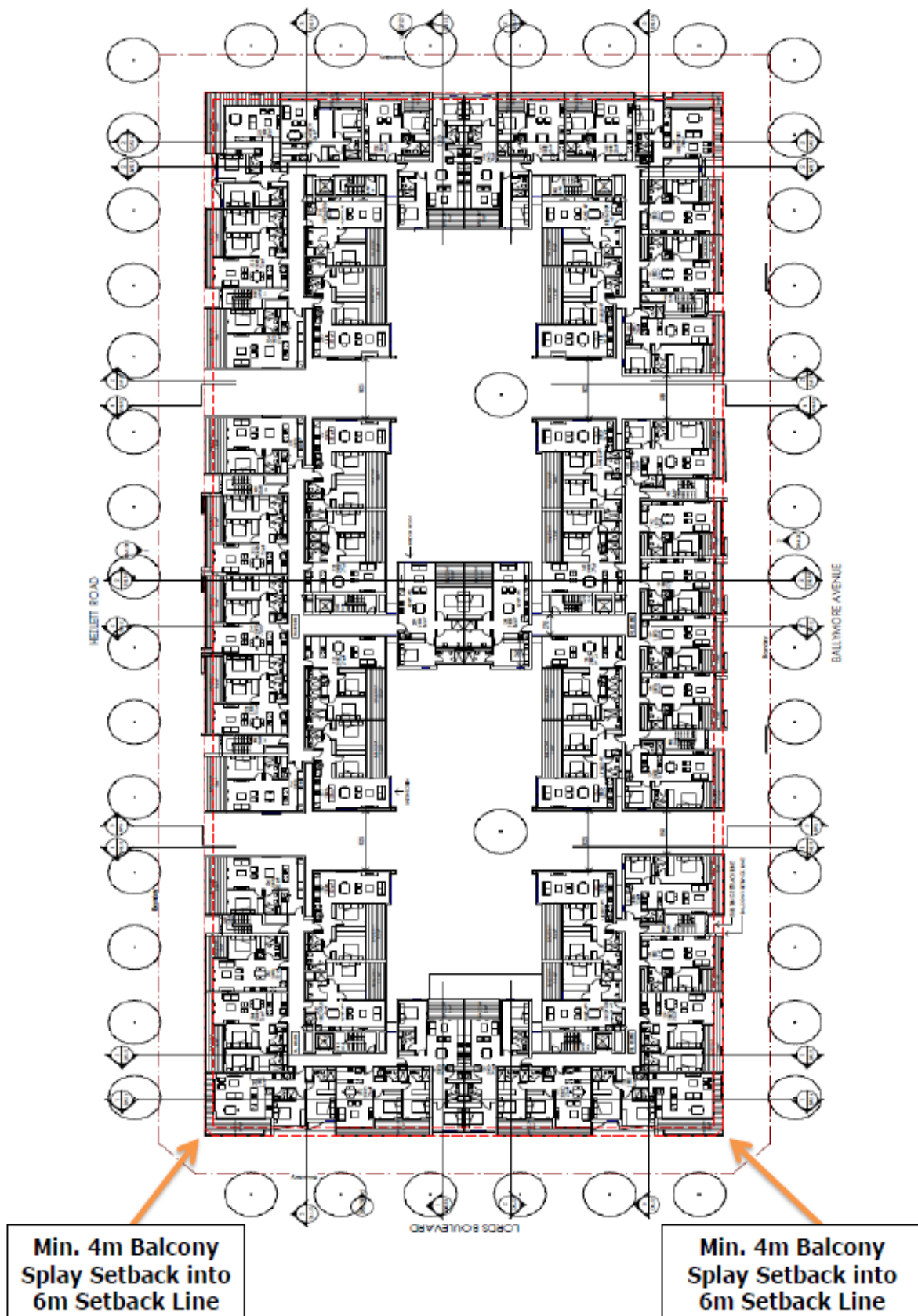
The site plan illustrates the proposed 10-story residential building, which is a rectangular structure with a central courtyard. The building is surrounded by a 6m setback line, indicated by a red dashed line. The setbacks are labeled as follows:

- Min. 4.5 Balcony Setback:** Indicated by orange arrows pointing to the setbacks on the left and right sides of the building.
- Min. 6m Setback:** Indicated by orange arrows pointing to the setbacks on the top and bottom sides of the building.

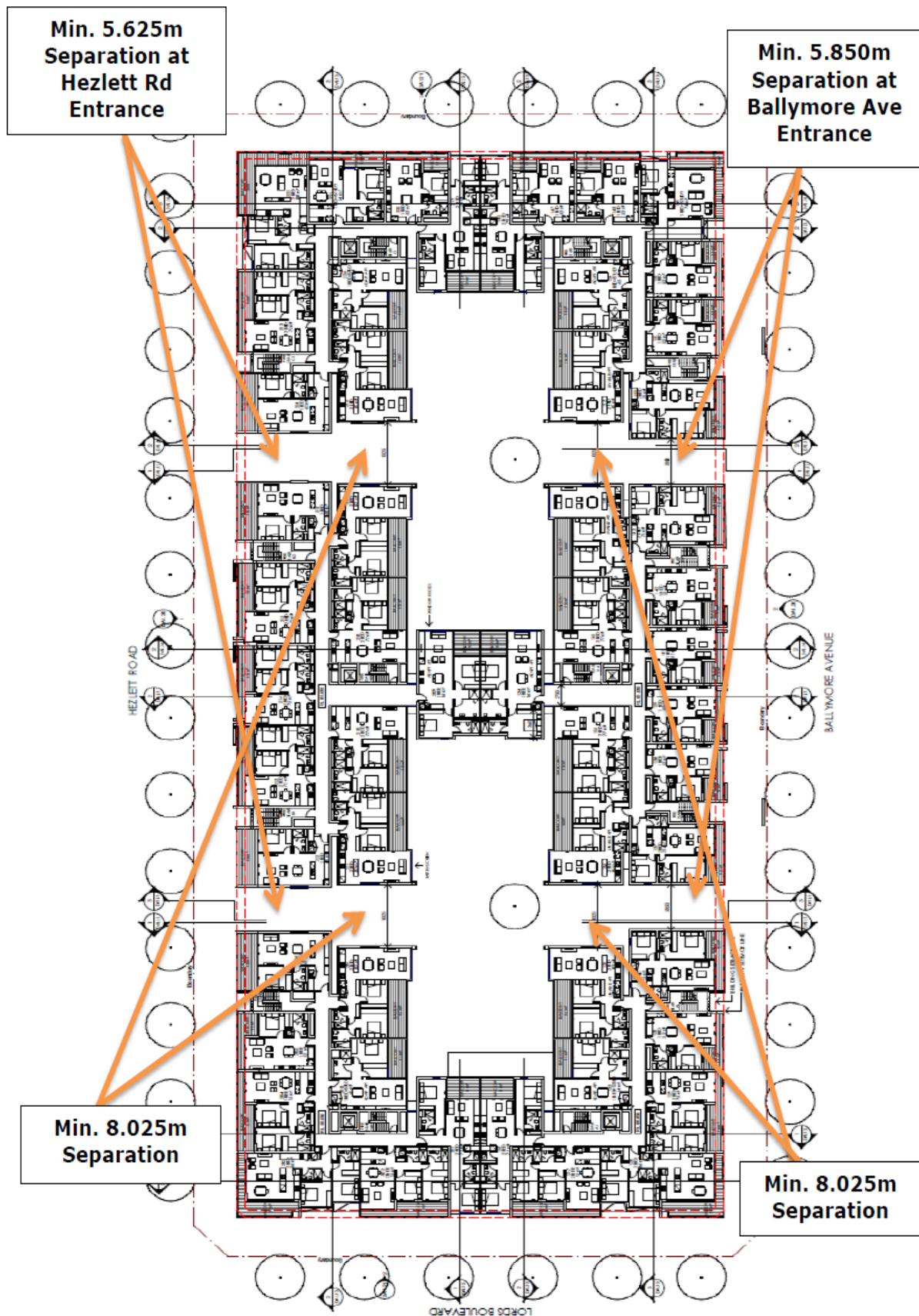
The surrounding context includes:

- HEZLET ROAD:** Located to the left of the building.
- BALLIMORE AVENUE:** Located to the right of the building.
- Adjacent Building:** A 10-story building is shown to the right of the proposed building, with a label "ADJACENT BUILDING" pointing to it.
- Landscaping:** The plan shows various landscaping elements, including trees and shrubs, around the building and along the streets.

ATTACHMENT 11 – PROPOSED VARIATIONS TO SETBACKS



ATTACHMENT 12 – PROPOSED VARIATIONS TO SEPARATION



ATTACHMENT 13 – ELEVATIONS AND SECTIONS



① North East Elevation (Ballymore Avenue) - Coloured

BALLYMORE AVENUE ELEVATION



2 North West Elevation - Coloured

NORTH WEST ELEVATION



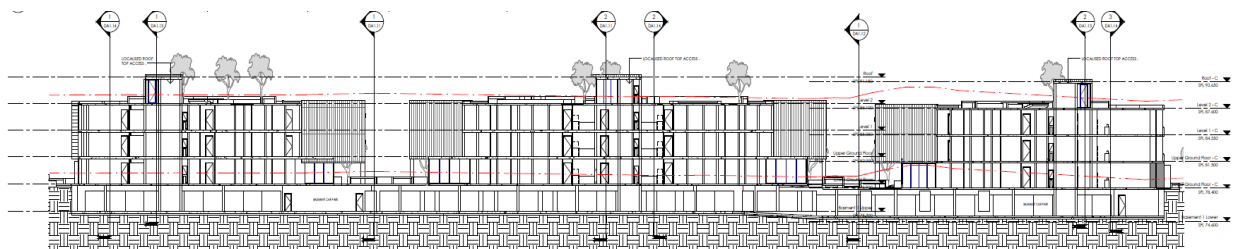
3 South East Elevation (Lords Boulevard) - Coloured

SOUTH EAST ELEVATION



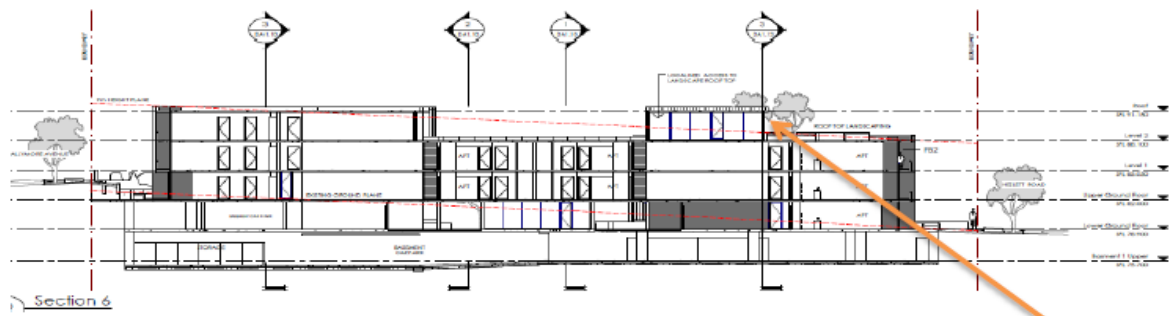
4 South West Elevation (Hezlett Road) - Coloured

LORDS BOULEVARDE ELEVATION



3 Section 11

ATTACHMENT 13 – ELEVATIONS AND SECTIONS



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



ATTACHMENT 14 – LANDSCAPE PLANS



HEZLETT ROAD FRONTAGE



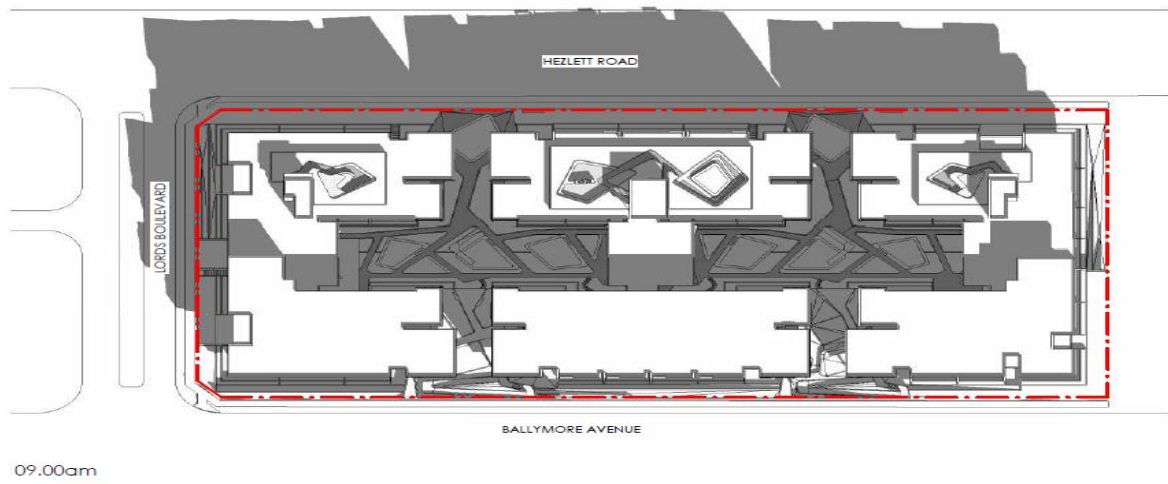
BALLYMORE AVENUE FRONTAGE

ATTACHMENT 14 – LANDSCAPE PLANS

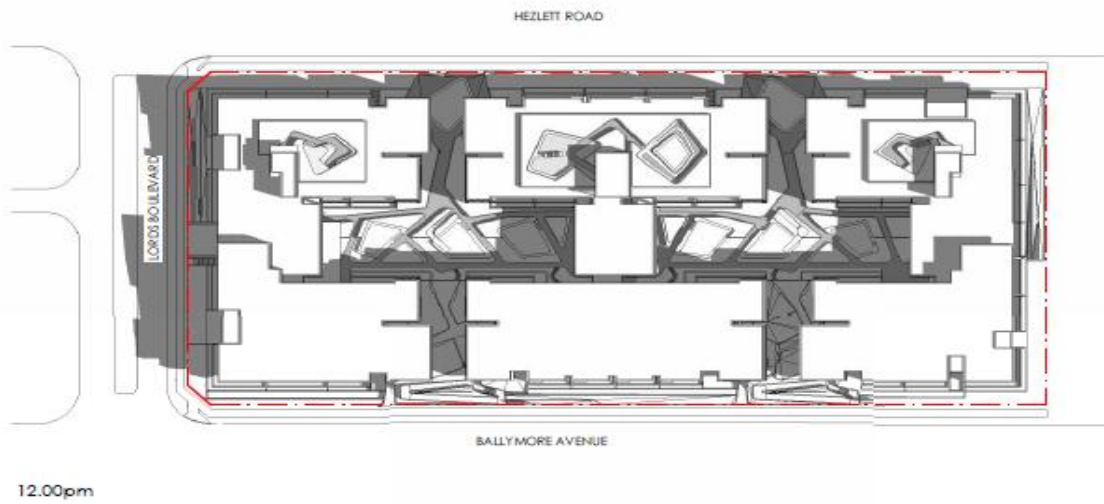


ROOF TOP COMMON OPEN SPACE AREAS

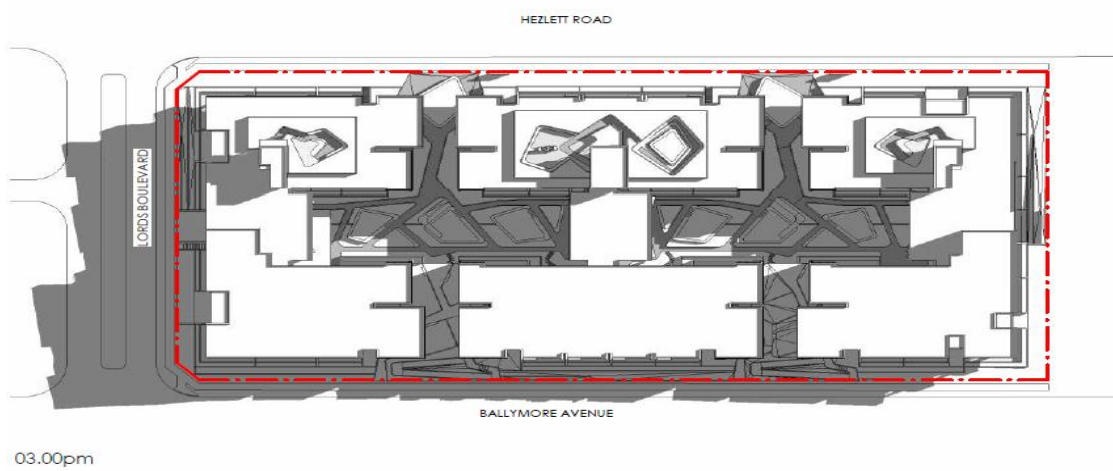
ATTACHMENT 15 – SHADOW DIAGRAMS



9AM DIAGRAM



12 NOON DIAGRAM



3PM DIAGRAM

ATTACHMENT 16 – CLAUSE 4.6 VARIATION

Clause 4.6 Variation: Building Height

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



The actual height departure to habitable areas of the upper level is up to 1.45m above the 9m height plane (with the lift overruns exceeding the height control by up to 2.6m).

As Council is aware the proposal has been substantially modified to reduce the portion of the building that protrudes above the 9m height plane with 8 units being deleted from the development since lodgement.

As shown on the extract the variation is a function of topography with parts of the building exceeding the height where natural ground level dips away from the site and the desire to provide appropriate and direct access to the roof top communal open space areas.

The provisions of Clause 4.6 of the SEPP are addressed below in order to permit the Sydney West Central Planning Panel to vary the SEPP requirement given the minor nature of the departure and its predominantly central location away from the street edges of the buildings, meaning it is not easily 'read' at street level- particularly once taking into account the finished ground levels.

Clause 4.6(3)

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

*The objectives of the height of buildings development standard are stated as:
(a) to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*

ATTACHMENT 16 – CLAUSE 4.6 VARIATION

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

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

- a) The proposal is in close proximity to the future North Kellyville Local Centre and the extent of non-compliance represents an appropriate higher density on the site with the buildings being three to four storeys storey in height which is an appropriate height for a low rise residential flat building.
- b) The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are manageable within the site, and have no significant impact on adjoining properties or open space areas given that the development is contained within its own street-block meaning shadows cast by the proposal fall on the street with the exception of the adjoining development to the south and the extent of overshadowing is not unreasonable for density envisaged of this scale within the North Kellyville precinct;
- c) The proposal provides an appropriate 3 -4 storey building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality generally- noting the uneven topography on this site is the key driver of the height variation rather than a desired to achieve greater yield on the site;
- d) The proposal has no impact on heritage or other views; and
- e) The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the North Kellyville Precinct.

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

- The three lift cores that protrude above the height plane provide direct access to the roof top common open space areas which is better planning outcome than access to these areas being provided by height compliant lift overruns; 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

ATTACHMENT 16 – CLAUSE 4.6 VARIATION

the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control.

Clause 4.6(4)

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

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

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

Clause 4.6(5)

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

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

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

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

ATTACHMENT 17 – ANALYSIS OF HEIGHT DIAGRAM



■ 9m HEIGHT PLANE