

SYDNEY WEST CENTRAL PLANNING PANEL

Panel Reference	2016SYW235
DA Number	694/2017/JP
LGA	THE HILLS SHIRE COUNCIL
Proposed Development	SEVEN STOREY RESIDENTIAL FLAT BUILDING CONTAINING 103 RESIDENTIAL UNITS AND BASEMENT PARKING FOR 128 VEHICLES
Street Address	Lots 139B & 139C DP 10157 – NOS. 7-9 TERRY ROAD, BOX HILL
Applicant/Owner	ZHINAR ARCHITECTS / MOORE UNITED GROUND PTY LTD AND MR AND MRS MARK AND SHARON BARNES
Date of DA lodgement	31 OCTOBER 2016
Number of Submissions	NIL
Recommendation	DEFERRED COMMENCEMENT APPROVAL
Regional Development Criteria (Schedule 4A of the EP&A Act)	GENERAL DEVELOPMENT WITH A CIV OF OVER \$20 MILLION
List of all relevant s79C(1)(a) matters	• List all of the relevant environmental planning instruments: s79C(1)(a)(i) - State Environmental Planning Policy (Sydney Region Growth Centres) 2006. - State Environmental Planning Policy (State and Regional Development) 2011. - State Environmental Planning Policy No 55 — Remediation of Land. - State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development. • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) - Nil. • List any relevant development control plan: s79C(1)(a)(iii) - Box Hill DCP 2017. - THDCP 2012 Part C Section 1 – Parking. - THDCP 2012 Part C Section 3 – Landscaping. • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv) - Draft Amendment to SEPP (Sydney Region Growth Centres) 2006 (North West Priority Growth Area Land Use and Infrastructure Implementation Plan) • List any coastal zone management plan: s79C(1)(a)(v) - Nil. • List any relevant regulations: s79C(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288 - Environmental Planning and Assessment Act Regulation 2000.
List all documents submitted with this report for the Panel's consideration	NIL

Report prepared by	SENIOR TOWN PLANNER SANDA WATTS
Report date	E-DETERMINATION

Summary of S.79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Yes
Conditions Have draft conditions been provided to the applicant for comment? 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 the demolition of existing structures and construction of a 7 storey residential flat building containing 103 units comprising of 14 x 1 bedroom units, 81 x 2 bedroom units and 8 x 3 bedroom units and basement parking for 128 cars.

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

The subject site has a height limit of 21m and the proposal exceeds the height limit by a maximum of 2.38m or 11.3 %. The application is accompanied by a Clause 4.6 variation to the height control. The maximum variation to the height is limited to the top of the lift overrun to the rooftop common open space, further variations of 900mm-1300mm are proposed as part of the roof form/parapet. The increased height will have no significant impact upon the solar access on surrounding lots or the amenity of the area and it is considered that the variation results in a better planning outcome as the maximum exceedance in height is for the lift overrun which provide access to the roof top gardens. The roof top garden provides for a passive recreational area for future residents to complement other spaces provided at ground level. Lowering of the building to facilitate full compliance with the height limit would lower habitable floor to ceiling heights, reducing internal amenity for residents and resulting in non-compliance with SEPP 65 requirements.

Minor front and side setback variations to the DCP are proposed. In conjunction with the landscaping, a reasonable streetscape is provided and impacts of the built form are minimised. There will be no unreasonable loss of privacy or amenity as a result of the variations which are considered reasonable and can be supported.

The application was notified to adjoining and surrounding owners and no submissions were received.

The application is recommended for approval as deferred commencement. The consent may be acted upon once the drainage easement over downstream properties is registered.

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Moore United Ground Pty Ltd and Mr Mark Barnes and Mrs Sharon Barnes	1.	<u>Section 79C (EP&A Act)</u> - Satisfactory
Zoning:	R4 High Density Residential and RE1 Public Recreation	2.	<u>SEPP Sydney Region Growth Centres 2006</u> - Variation, see report
Area:	4,790m ² (R4 Portion)	3.	<u>Draft Amendment to SEPP (Sydney Region Growth Centres) 2006</u> (North West Priority Growth Area Land Use and Infrastructure Implementation Plan) - Variation, see report
Existing Development:	Dwelling houses and outbuildings	4.	<u>SEPP 65 - Design Quality of Residential Apartment Development</u> -Satisfactory
		5.	<u>SEPP Building Sustainability Index BASIX 2004</u> - Satisfactory
		6.	<u>State Environmental Planning Policy No 55—Remediation of Land</u> - Satisfactory
		7.	<u>SEPP Infrastructure 2007</u> - Satisfactory
		8.	<u>Box Hill DCP 2017</u> - Variations, see report
		9.	<u>Section 94 Contribution</u> - \$2,715,211.87
		10.	<u>Capital Investment Value:</u> \$27,580,631

SUBMISSIONS

REASONS FOR REFERRAL TO SWCPP

1. Exhibition:	Not Required	1.	Capital Investment Value in Excess of \$20 million
2. Notice Adj Owners:	Yes, 14 days		
3. Number Advised:	29		
4. Submissions Received:	Nil		

HISTORY

31/10/2016

Subject Development Application Lodged.

24/11/2016	Letter sent to the applicant requesting amendments to the development, including reduction in the height of the building, compliance with building separation, apartment layout and setbacks and further information in relation to solar access and ventilation. Details in regards to waste management, mechanical ventilation and property address/unit numbering were also requested. Additional engineering details were also sought, including stormwater drainage and an earthworks plan.
15/12/2016	Briefing of Sydney West Central Planning Panel and site inspection.
20/12/2016	Applicant requested Council staff to consider a 3 year deferred commencement consent for the development to allow the applicant to drain stormwater to the future DCP road between 3 and 5 Alan Street rather than Terry Road which is hindered by the topography of the site.
21/12/2016	Common open space landscaping details requested from the applicant.
21/02/2017	Advice provided to the applicant from Council staff in relation to the deferred commencement request and advised the applicant that adequate documentation was required confirming that reasonable attempts have been made with the property owners of 3 and 5 Alan Street seeking temporary/permanent drainage easement registration over their titles. The negotiation could be extended for construction of partial/full width of the new road and associated drainage.
07/03/2017	Amended architectural plan received addressing the concerns of Council staff and requests, including reduced building height, increased setbacks and amendments to building separation and apartment layouts to comply with SEPP 65. The amended plans also addressed the waste management issues and the unit number to comply with NSW Address Policy.
24/03/2017	Correspondence sent to the applicant to provide all outstanding information in relation to the amended plans (landscape plan, BASIX, stormwater etc).
27/03/2017	Documentation provided by the applicant demonstrating reasonable attempts in purchasing and/or securing easements at Nos 3 and 5 Alan Street.
10/04/2017	Outstanding plans and documents received.
26/05/2017	Draft subdivision plans requested from applicant.
06/06/2017	Draft subdivision plan provided.
27/07/2017	Letter sent to the applicant requesting an updated Clause 4.6 Variation for the amended height and justification for the DCP side setback encroachment.
01/08/2017	Updated Clause 4.6 Variation and justification for the setback non-compliance received.

PROPOSAL

The Development Application is for the demolition of existing structures and construction of a 7 storey residential flat building containing 103 units comprising of 14 x 1 bedroom units, 81 x 2 bedroom units and 8 x 3 bedroom units and basement parking for 128 cars.

Vehicle access is provided from Terry Road to the west and a future DCP road (Brookline Crescent) to the east. Full road width construction and dedication of the new road, is required. Brookline Crescent which will be a loop road, will separate the development site from the existing public open space currently known as Turnbull Reserve.

The application provides multiple common open spaces within the development, being at ground level and a rooftop common area. A landscape plan has been prepared and provides for a variety of species, ground covers, fencing and common open space embellishment including outdoor seating and a barbeque area.

The site is located to the south of similar developments at No. 4 Alan Street and No. 13 Terry Road which were approved by the Joint Regional Planning Panel on 16 December 2015 and 1 December 2016 respectively. These were the first residential flat buildings to be approved in the Precinct. Currently, the immediate area is characterised by single rural style dwellings, market gardens, plant nurseries and similar low scale activities, however recent activity related to a number of approved subdivisions and Development Application lodged for medium and high density developments has occurred. The context will change over the coming years as further development occurs in the Precinct.

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 \$27,580,631 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 proposal is defined as a residential flat building:

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

Pursuant to the Land Use Table in Appendix 11 The Hills Growth Centre Precinct Plan, a residential flat building is permitted with consent within the R4 High Density Residential zone.

(ii) Development Standards

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

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1A Minimum lot sizes for	Residential flat building – 1,000m ²	4,790m ²	Yes

development			
4.1B Residential Density	Minimum residential densities 30 dwelling per hectare	215 dwellings per hectare	Yes
4.3 Height of buildings	21 metres	23.38m	No – see comments below.
4.4 Floor space ratio	2:1	1.82:1	Yes

(iii) Other Provisions

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

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

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

(iv) Variation to Height

Clause 4.6 Exceptions to Development Standards states as follows:

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

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

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

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

SEPP Sydney Region Growth Centres 2006 limits the height of development to 21m and the maximum height of the development is 23.38m, a variation of 2.38m or 11.3%.

The applicant has submitted a Clause 4.6 Variation (refer to Attachment 11) and is summarised as follows:

- *The proposal is in close proximity to the future Box Hill Town Centre and the extent of non-compliance represents an appropriate higher density on the site with the buildings being six to seven storeys in height which is an appropriate residential flat building in a precinct with a height control of 21m and FSR of 2:1.*
- *The portion of the building that exceeds the height control does not contain any floor space. This assists with demonstrating that the proposal is not an over development of the site, also noting that the proposal has an FSR of 1.82:1 which is less than the 2:1 FSR permitted for the site.*

- *The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are predominately manageable within the site, and have no significant impact on adjoining properties or open space areas and the extent of overshadowing is not unreasonable for density envisaged of this scale within the precinct;*
- *The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality generally- noting the uneven topography is the key driver of the height variation rather than a desired to achieve greater yield on the site;*
- *The site is located within 120m of Windsor Road that has frequent public transport to the Box Hill Town Centre, Rouse Hill Town Centre, Parramatta CBD and Sydney CBD.*
- *The proposal has no impact on heritage or other views; and*
- *The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the Box Hill Precinct.*

The height objectives of the SEPP are:

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

The height of the development is satisfactory given that it is appropriately separated from any adjoining development and the shadow impact is expected given the scale and high density zoning of the area. The maximum variation of 2.38 metres is a result of the lift overrun that provides access to the roof top terrace. A portion of the northern roof is 900mm above the height limit and at the south end of the building the roof/parapet exceeds the height limit by 1300mm. All habitable floor area is under the 21 metre height limit, and the development provides for a 7 storey development in accordance with the envisaged scale of the development site by the planning controls. The development is comparable in scale with recently approved residential flat building developments at No. 13 Terry Street and No. 4 Alan Street.

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

It is considered that the variation results in a better planning outcome as the maximum exceedance in height is for the lift overrun which provide access to the roof top gardens and provides for a higher level of amenity for future residents. The roof top garden has barrier free access and provides for a passive recreational area which includes, seating areas and a barbeque for residents to enjoy. Lowering of the building to facilitate full compliance with the height limit would lower habitable floor to ceiling heights, reducing internal amenity for residents and resulting in non-compliance with SEPP 65 requirements.

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

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

- The proposal results in a better planning outcome.

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

3. Draft Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

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

The draft identifies the R4 zoned site as having a density band of 30-100 dwellings per hectare. The proposal seeks 215 dwellings per hectare. No changes to the maximum FSR (2:1) or height limit of 21 metres are proposed. The proposal complies with the FSR requirement with an FSR of 1.82:1

The Explanation of Intended Effect states that "*a consent authority is not required to apply the provisions of the Explanation of Intended Effects to a DA lodged before May 22 2017*". The subject Development Application was lodged on 31 October 2016.

4. Draft West Central District Plan

The Draft West Central District Plan seeks to ensure that housing is provided in areas of demand and that housing meets the needs, requirements and demands of current future residents. The proposed development meets the priorities of the Draft Plan as follows:

- The apartment development meets the demand of residents for this form of dwelling type;
- The apartment development provides housing diversity and choice, including the provision of unit mixes and adaptable units;
- The development is in close proximity to the Rouse Hill which is classified as a District Centre, and Norwest which is classified as a Strategic Centre.
- The development is in close proximity to employment centres of Rouse Hill and Norwest and in reasonable proximity to the Greater Parramatta Strategic Centre.

The Draft Plan refers to the provision of more intense residential development around centres, and this is achieved in this instance.

The proposal is considered satisfactory in regard to the Draft Plan.

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

The required Design Verification Statement was prepared by Zhinar Architects.

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

(i) Context and Neighbourhood Character

The site is the third to be developed within this area of the precinct and will form the basis of the redevelopment of the previous rural land. The site is located within close proximity to a similar proposal at No. 4 Alan Street, approved by the Joint Regional Planning Panel on 16 December 2015 which was the first residential flat building to be approved in the precinct. A residential flat building with 121 units was also approved by the Sydney West Central Planning Panel at 13 Terry Road on the 1 December 2016. Currently, the immediate area is characterised by single rural style dwellings, market gardens, plant nurseries and similar low scale activities, however recent activity related to a number of approved subdivisions has occurred. The context will change over the coming years as further development occurs in the Precinct.

(ii) Built Form and Scale

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

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

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

(iii) Density

The proposal provides an appropriate built form outcome which achieves the minimum density requirements of 30 dwg/ha required under the SEPP. The proposed density is 215 dwg/ha and is consistent with other similar approved developments within the area. The proposed development is suitable given the zoning and proximity to public transport and a town centre. The draft SEPP identifies the R4 zoned site as having a density band of 30-100 dwellings per hectare, however a savings provision is included for Development Applications lodged before the 22 May 2017. It should be noted that the development is under the maximum FSR for the site (2:1), being 1.82:1.

(iv) Sustainability

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

(v) Landscape

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

(vi) Amenity

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

(vii) Safety

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

(viii) Housing Diversity and Social Interaction

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The Hills Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings provides development standards in relation to unit mix. Although these controls do not apply to the site, it is noted the development complies with the control which states that no more than 25% of the dwelling yield is to comprise of one bedroom apartments. The application includes 14 x 1 bed (13.6%), 81 x 2 bedroom (78.6%) and 8 x 3 bedroom units (7.8%) which is considered to be an appropriate mix for the development.

(ix) Aesthetics

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

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

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site with 50% of the area to achieve a minimum of 50% direct sunlight for 2 hours at midwinter.	Yes, 27.6% (1,000.4m ²) of the site is for communal open space. Yes, receives minimum 2 hrs to 50% in mid winter.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes, 17.4% (630m ²).
Separation	For habitable rooms, 12m up to 4 storeys, 18m between 5 and 8 storeys.	Yes, provided.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements,	Yes, provided.

	screening and similar.	
Car Parking	Car parking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).	Not Applicable - Not located within a metropolitan sub-regional centre. The proposed 128 car parking spaces meet the minimum DCP requirement of 128 spaces required.
Designing the Building		
Solar and daylight access	Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	Yes, 72.82%.
Natural ventilation	At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.	Yes, 61.17%.
Ceiling heights	For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.	Yes, 2.7m.
Apartment size	Apartments are required to have the following internal size: Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.	Yes, all units exceed the criteria
Apartment layout	Habitable rooms are limited to a maximum depth of (2.5 x the ceiling height). In open plan layouts the maximum habitable room depth is 8m from a window.	Yes, provided.
Balcony area	The primary balcony is to be:	Yes, all balconies

	Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.	provide the required area.
Storage	Storage is to be provided as follows: Studio – 4m³ 1 bedroom – 6m³ 2 bedroom – 8m³ 3+ bedrooms – 10m³ At least 50% of the required storage is to be located within the apartment.	Yes, provided.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	Yes, 14 x 1 bedroom units. 81 x 2 bedroom units. 8 x 3 bedroom units.

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

6. Compliance with the Box Hill Development Control Plan 2017

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

RFB controls (table 19)	Maximum 50% site cover	44% (1,599m ²)	Yes
	30% landscaped area	56% (2,025m ²)	Yes
	15% communal area	28% (1,000m ²)	Yes
	POS – 10m ² with 2.5m dimension	All units comply	Yes
	Front setback – 6m building façade Balconies may encroach 4.5m (first 3 storeys) for a max. of 50% façade length	6m New Road (east) Façade + balconies except for minor point encroachments (450mm) on south-east corner on levels 4, 5 and 6	No, refer comments below.
	Secondary Setback	Terry Road Front setback: 6m	Yes
	Side setback – 3m up to 3 storeys 6m above 3 storeys	6-9m 3m to balcony on 4 th storey and above at north-east corner.	Yes No, refer comments below.

	Rear setback – 6m	N/A	N/A
	Habitable room separation – 12m	Satisfactory – no conflict between habitable rooms/balconies.	Yes
	Car parking – 1 space per dwelling plus 0.5 spaces per 3 or more bedroom	Required – 148 Proposed – 148	Yes
	Visitor – 1 per 5 units		

a) Setbacks

The DCP requires a 6m front setback, however balconies and other articulation may encroach into the setback to a maximum of 4.5m from the boundary for the first 3 storeys and for a maximum of 50% of the façade length. For side setbacks, the DCP requires 3m for the first 3 storeys and 6 metre for above 3 storeys.

The development has minor point encroachments of approximately 450mm on the south-eastern corner of the front elevation, fronting the new DCP road on levels 3, 4, 5 and 6, thereby having a front setback of 5.550m. At the north-eastern corner of the development, the levels above 3 storeys have a 3 metre side setback (to the balcony), a variation of 3 metres.

The applicant has submitted the following as justification:

The departure to the secondary street setback is considered appropriate as:

- *The encroachments are for points with the building having a staggered setback of up to 9m;*
- *The staggered setbacks of the building increase architectural interest.*
- *The building is located opposite an existing park and the minor encroachments will not raise additional privacy issues, but rather provide additional opportunities for passive surveillance; and*
- *The other side of the proposed local road where the minor setback encroachment is proposed contains some land that is zoned R4, that is proposed to be dedicated to Council as additional open space.*

The minor encroachment to the side setback is considered to meet the objectives of the side setback requirement that are stated below as:

- *The variation is for a small portion of the site that adjoins the rear boundary of 3 Alan Street. The majority of the side setback is between 6-9m which allows for adequate separation given the DCP suggests that 9m rear setback is required. Applying this setback would result in 12 to 15m building separation being provided to the likely future RFB on this site;*
- *The side setback is articulated and contains breaks comprising physical breaks and articulated balconies to ensure adequate articulation is provided along the northern boundary; and*
- *The minor departure will not result in undue privacy impacts on adjoining properties but rather facilitate increased passive surveillance of the future road and public open space along the western boundary of the site.*

Comment:

The DCP contains the following objectives:

- 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.*

The proposed variations are considered minor and will not result in any significant adverse impact on streetscape. The minor point encroachments of 450mm to the front setback are negligible and are a result of the articulation of the development. The variation to the 6 metre side setback requirement for 4 storeys and above are balconies only, with the façade of the building being setback 6 metres. The balcony encroachments adjoin the rear of 3 Alan Street which is a rear boundary, thereby any future residential flat buildings will require a 9 metre setback, thereby having a 12 metre separation between the two developments.

Overall, the proposed external design and articulation provided for the development is appropriate for the modern character of the area. The proposed setbacks are considered satisfactory and the variations will not result in any significant amenity impacts such as privacy or overshadowing. The variations are supported in this instance.

7. SEPP 55 - Remediation of Land

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

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

A preliminary investigation of the site has been undertaken and a Phase 1 Contamination Assessment Report prepared by GeoEnviro Consultancy Pty Ltd accompanies the Development Application. In summary, the report concludes that the risk of significant soil chemical contamination within the site to be generally low and therefore the site is suitable for the proposed development. However, the report recommended that all fill material requiring off-site disposal be laboratory tested and characterised in accordance with NSW EPA Guidelines, and should buried rubbish or potential contaminated material be encountered during construction, the material be appropriately classified before removal. A condition of consent has been recommended which requires compliance with the above mentioned report (refer Condition No. 8).

SUBDIVISION ENGINEERING COMMENTS

No objections are raised to the proposal subject the deferred commencement condition requiring the registration of a 1.2 metre wide drainage easement over the downstream properties. A deferred commencement condition was at the request of the applicant. Matters in relation to subdivision, car parking, vehicular access, stormwater management, engineering works and design have been reviewed and are subject to relevant recommended conditions of consent.

TREE MANAGEMENT COMMENTS

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

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

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

WASTE MANAGEMENT COMMENTS

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

ROADS & MARITIME SERVICES COMMENTS

No objection raised to the proposal.

NSW POLICE COMMENTS

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected (refer Condition No. 4).

CONCLUSION

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

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

Accordingly, the application is recommended for approval as deferred commencement. The consent may be acted upon once the drainage easement over downstream properties is registered.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

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

RECOMMENDATION

The Development Application be approved subject to the following conditions.

DEFERRED COMMENCEMENT

Deferred Commencement – Registration of Easement

- A. Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 deferred commencement consent is granted subject to:
 1. The registration of a 1.2m wide (minimum) drainage easement over the downstream property/ies Lot 123, Lot 124 or Lot 125 DP10157 (1-5 Alan Street, Box Hill).
- B. The applicant must provide Council with written evidence demonstrating that the matters listed under Part A1 above have been satisfactorily addressed no later than four weeks before the notice of expiry date.

- C. Upon compliance with the requirements of Part A1, a full consent will be issued 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	ISSUE	DATE
-	Cover Page	-	-
DA01	Location Analysis	B	03/03/2017
DA02	Site Analysis	B	03/03/2017
DA03	Site Plan	B	03/03/2017
DA04	Basement 2	B	03/03/2017
DA05	Basement 1	B	03/03/2017
DA06	Lower Ground – Access from Terry Road	B	03/03/2017
DA07	Lower Ground – Access from Future Road	B	03/03/2017
DA08	Ground Floor	B	03/03/2017
DA09	Level 1 – Level 2	B	03/03/2017
DA10	Level 3	B	03/03/2017
DA11	Level 4 – Level 5	B	03/03/2017
DA12	Level 6	B	03/03/2017
DA13	Roof Plan	B	03/03/2017
DA14	Section	B	03/03/2017
DA15	Elevation	B	03/03/2017
DA16	Elevation	B	03/03/2017
DA19	Material Schedule	B	03/03/2017
Sheet 1 of 3	Landscape Site Plan	C	27/03/2017
Sheet 2 of 3	Level 6 & Calculations Plan	C	27/03/2017
Sheet 3 of 3	Planting Plan	C	27/03/2017

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

2. Construction Certificate

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

3. Building Work to be in Accordance with BCA

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

4. Compliance with NSW Police Force Requirements

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

Surveillance:

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

Lighting:

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

Environmental Maintenance:

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

Access Control:

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

5. Provision of Parking Spaces

The development is required to be provided with 128 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

6. External Finishes

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

7. Tree Removal

Approval is granted for the removal of trees numbered 2, 3, 4 and 10-17 as detailed in the Arboricultural Impact Assessment prepared by Redgum Horticultural dated 10 August 2016.

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

8. Contamination Assessment

The recommendations of the *Phase 1 Contamination Assessment (and Geotechnical Investigation)* for proposed residential apartment building at 7-9 Terry Road, Box Hill, prepared by GeoEnviro Consultancy Pty Ltd, referenced as JC16270A, dated September 2016 and submitted as part of the Development Application are to be implemented as part of this approval. In particular: section 8.1: contamination which states that all fill material requiring

off-site disposal should be laboratory tested and characterised in accordance with NSW EPA Guidelines.

9. Approved Street Naming (Box Hill)

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

10. Street Trees

Street trees must be provided for the section of Brookline Crescent 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.

11. Subdivision – Brookline Crescent Dedication

The subdivision component of the development must be carried out in accordance with the approved plan of subdivision prepared by Gary Edwards Drawing 6889 Revision A dated 2/6/2017 along with the undertaking relating to the dedication of this proposed public road referenced on the same plan.

12. Subdivision Certificate Preliminary Review

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

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

13. Process for Council Endorsement of Legal Documentation

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

14. 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.

15. 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.

16. 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.

17. Vehicular Access (Temporary and Permanent) 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.

18. Management of Construction and Demolition Waste

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

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

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

19. 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.

20. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council. The service must be arranged no earlier than one week prior to occupancy and no later than two days post occupancy. All

requirements of Council's domestic waste collection service must be complied with at all times. Contact Council's Resource Recovery Team to commence the waste service.

21. Construction of Bin Room

All work involving construction of the bin room must comply with the requirements below. Minimum storage facility must be provided for 12 x 1100 litre garbage bins and 12 x 1100 litre recycling bins or 19 x 660 litre recycling bins.

1. The layout of the bin room must ensure that each bin is easily accessible and manoeuvrable in and out of the bin room with minimal or no manual handling of other bins.
2. The walls of the bin room must be constructed of brickwork.
3. The floor of the bin room must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
4. The bin room must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. When access from Terry Road is terminated, and the temporary truck loading bay is relocated, a waste servicing door must be provided which opens directly onto the rear of the new truck loading bay. Acceptable waste servicing doors are single or double swinging doors and roller doors.
5. The bin room must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors.
6. All doors of the bin room, when fully opened, must be flush with the outside wall and must not block or obstruct passageways. All doors must be able to be fixed in position when fully opened.
7. The bin room must be adequately ventilated (mechanically).
8. The bin room must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the bin room, it is not to conflict with the space designated for the placement of bins.
9. The bin room must be provided with an internal light (artificial) such as an automatic sensor light.
10. The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance are these grades to be exceeded. Bins must be accessible by collection contractors via ramped access only. A platform lift or stairs are not acceptable.
11. The bin room must contain a caged area for the interim storage and management of unwanted bulky goods. The minimum floor area required is 8m².
12. The bin room must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be permanently maintained by the Owners Corporation.
13. Finishes and colours of the bin room 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)

22. Access and Loading for Waste Collection

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

1. All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
2. Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
3. The requirement for reversing is limited to a single reverse entry maneuver into the designated service bay (known as truck loading bay on Development Application plans). The service bay must have appropriate signage such as no parking at any time.
4. All manoeuvring areas where the clear headroom is less than 3.5m must have flexible striker bars and warning signs as per Australian standard 2890.1 to warn waste collection contractors of the low headroom area. Note all manoeuvring areas for waste collection vehicles must have minimum clear headroom of 3.5m.
5. The loading area must have a sufficient level of lighting, and allow additional space for access and loading (e.g. wheeling a bulk bin to the back of the collection vehicle for rear load collection).
6. Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of medium and heavy vehicles, remote access or other measure to ensure there is no requirement for collection contractors to exit the cab. Remote access is preferred.

23. Communal Composting Areas

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

24. Design Verification

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

25. Special Infrastructure Contribution – Growth Centres

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

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

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

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

26. Section 94 Contribution

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

Payments comprise of the following:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 14	No. of 2 Bedroom Units: 81	No. of 3 Bedroom Units: 8	No. of Credits: 2	Total S94
Open Space - Land	\$ 5,625.33	\$ 5,956.24	\$ 6,640.98	\$ 6,640.98	\$ 78,754.62	\$ 482,455.07	\$ 53,127.86	\$ 13,281.95	\$ 601,055.61
Open Space - Capital	\$ 7,066.72	\$ 7,482.42	\$ 8,342.61	\$ 8,342.61	\$ 98,934.15	\$ 606,075.66	\$ 66,740.90	\$ 16,685.23	\$ 755,065.48
Transport Facilities - Land	\$ 545.27	\$ 577.35	\$ 643.72	\$ 643.72	\$ 7,633.84	\$ 46,765.35	\$ 5,149.75	\$ 1,287.45	\$ 58,261.50
Transport Facilities - Capital	\$ 4,665.63	\$ 4,940.07	\$ 5,508.00	\$ 5,508.00	\$ 65,318.77	\$ 400,145.74	\$ 44,064.00	\$ 11,016.00	\$ 498,512.50
Water Management - Land (KCP)	\$ 2,073.98	\$ 2,195.97	\$ 2,448.43	\$ 2,448.43	\$ 29,035.66	\$ 177,873.94	\$ 19,587.45	\$ 4,896.86	\$ 221,600.19
Water Management - Capital (KCP)	\$ 5,214.34	\$ 5,521.07	\$ 6,155.78	\$ 6,155.78	\$ 73,000.71	\$ 447,206.39	\$ 49,246.27	\$ 12,311.57	\$ 557,141.80
Administration	\$ 220.64	\$ 233.62	\$ 260.47	\$ 260.47	\$ 3,088.98	\$ 18,922.98	\$ 2,083.77	\$ 520.94	\$ 23,574.79
Total	\$ 25,411.91	\$ 26,906.73	\$ 30,000.00	\$ 30,000.00	\$ 355,766.74	\$ 2,179,445.13	\$ 240,000.00	\$ 60,000.00	\$ 2,715,211.87

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

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

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

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

27. Erosion & Sediment Control Plan

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

- Allotment boundaries
- Location of the adjoining roads
- Contours
- Existing vegetation
- Existing site drainage
- Critical natural areas
- Location of stockpiles
- Erosion control practices
- Sediment control practices
- Outline of a maintenance program for the erosion and sediment controls

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

28. Acoustics - Protection of Internal Noise Levels

An acoustic statement is required to be submitted to Council's Manager - Environment and Health prior to the issue of a Construction Certificate certifying that the design of the development on the construction plans does ensure the following noise levels will be achieved:

- 35 dB (A) in any bedroom between 10pm and 7am.
- 40dB (A) anywhere else (other than garage, kitchen, bathroom and hallway) at any time.

In particular the acoustic statement shall detail that all recommendations contained within the *Proposed Residential Development; 7-9 Terry Road, Box Hill, Road Traffic Noise Impact Assessment*, prepared by Rodney Stevens Acoustics, referenced as 160344R1 and dated 27 July 2016, have been included in the construction plans of the development.

29. Acoustics - Mechanical Ventilation

Prior to any Construction Certificate being issued an acoustic report is to be prepared by a suitably qualified acoustic consultant for any mechanical ventilation proposed to service the basement carpark (exhaust), garbage room or the like. The acoustic report is to provide recommendations for any acoustic attenuation measures; provide a justified project specific criteria and include plans and elevations showing the proposed finish.

The acoustic report is to be submitted to Council's Manager – Environment and Health for review and if satisfactory, written approval will be provided in support of a Construction Certificate being issued.

30. Acoustics – Construction Noise Management Plan

Prior to the issue of any Construction Certificate a Construction Noise Management Plan (CNMP) is to be prepared by a suitably qualified acoustic consultant and submitted to Council's Manager – Environment and Health for review and if satisfactory, written approval will be provided in support of a Construction Certificate being issued. The CNMP is to demonstrate how compliance with the *Interim Construction Noise Guideline* published by the Department of Environment and Climate Change, 2009 can be achieved and specifically address potential noise and vibration impacts due to rock breaking for the basement carpark.

31. Temporary Access Arrangements – Security Bond and Positive Covenant

a) Scope of Works/ Bond:

Until such time that Brookline Crescent can be constructed and dedicated, access to the site must be via the temporary access/ driveway on Terry Road, subject to compliance with the requirements of the RMS relating to the same. This access is temporary only, and must be removed once alternate access is made available via Brookline Crescent at the rear of the site. This is predicated on the prior or concurrent development of one or more adjoining sites to the north or south to connect this road to the existing public road network (Alan Street).

The full width construction and dedication of Brookline Crescent fronting the site is the responsibility of the developer. This must require Council's concurrence for the works within Council's reserve.

At the detailed design stage, and before a Construction Certificate is issued, the exact extent of rework required to eventually relocate the site's access must be detailed and the cost of these works quantified. A bond to the value of 150% of this work will need to be paid to Council to ensure these works are carried out once access via Brookline Crescent is available. The actual bond amount payable must be agreed to/ confirmed by Council prior to payment.

b) Positive Covenant:

Before any Construction Certificate can be issued a positive covenant must be created on the title of the subject site that requires the completion of the bonded works and the removal of the temporary access to Terry Road, once access via Brookline Crescent is available. The terms of the positive covenant must be agreed to by Council.

c) Timing:

Upon the receipt of written notice from Council, the applicant will be required to commence construction of these works no later than three months of the date of the notice. The written notice referred to the bonded works will come as a result of alternate access being made available via the construction of Brookline Crescent on one or more adjacent sites, connecting this road to the existing public road network.

32. Works in Existing Easement

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

33. Works on Adjoining Land

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

34. Engineering Works and Design

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

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

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

The following engineering works are required:

a) Terry Road Frontage

Design levels across Terry Road frontage must be consistent with the final Terry Road design being carried out by Council. If any retaining structures required to be provided, it must be located within the site.

b) Full Width Road Construction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Brookline Crescent (Proposed Loop Road)	Road Type: DCP Local Street 3.5m/ 11m/ 3.5m (18m) Pavement Design: Local (Design Guidelines Section 3.12)

Detailed design must be reflective of a set of Civil Engineering Concept plans (2173 – DA) Issue A dated 17/10/2016 prepared by Mance Arraj Engineers and associated drawings submitted with the application are considered concept only.

The full width construction of Brookline Crescent requires Council's concurrence being the owner of adjoining Turnbull Reserve to the south-east of the development site. The applicant must contact Council's Property Manager on this matter in advance to organise the approvals.

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

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

c) Terry Road - Improvement Works

Improvement of road shoulder fronting the development to trafficable standards must be carried out until the Brookline is complete and to provide permanent access to the development.

d) Street Names Signs

Street name signs and posts are required in accordance with the above documents and Council's Standard Drawing 37. Details for all signage and line-marking must be submitted to Council for checking prior to works commencing.

e) Footpath Verge Formation

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

f) Concrete Footpath

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

g) Disused Layback/ Driveway Removal

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

h) Service Conduits

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

i) Stormwater Drainage – Temporary Works

Temporary Stormwater Drainage works must be carried out within the Inter Allotment Drainage Easement be created over the downstream properties as required in this consent to the requirements of the affected property owner.

j) Stormwater Drainage – Pipe Extension

Construction of new kerb inlet pits in Alan Street fronting the property where drainage easement is created over and the street drainage extended to connect it to the existing drainage pipe downstream. The pipe extension must be located under the existing/future kerb requiring the removal and reconstruction of the kerb and gutter and road shoulder.

The pipe extension shall be generally in accordance with the Stormwater Concept Layout Drawing 2173-DA SW 032 Issue A dated 05/04/2017 prepared by Mance Arraj Engineers.

35. Integrated Site Stormwater Management

Temporary and Permanent Stormwater Management measures in the form of Rainwater Tank (permanent), Onsite Stormwater Detention System (temporary) and Storm Filter cartridges must be provided with the development in accordance with Stormwater Drainage Works Drawing 2173-DA SW 030 (Revision C dated 05/04/2017) and Drawing 2173-DA SW 031 (Revision B dated 27/10/2016), and associated Stormwater Quality Management report, all documents prepared by Mance Arraj engineers.

The purpose of the temporary stormwater management measures is to ensure there is no impact downstream between the pre-development and post development conditions, both with respect to the volume and quality of runoff, for a range of storm events. The cost of removing these temporary stormwater management measures and all associated re-work to pits and pipes must be determined at the detailed design stage, with a bond for 150% of the cost of these works submitted to ensure this occurs when the permanent basin/ rain garden planned further north-east (KC01) on the Box Hill contribution plan is constructed and runoff from the subject site is/ can be connected to the same via the development of the intermediary properties downstream. The bond amount must be confirmed with Council prior to payment.

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

Detailed plans for the water quality design elements must be reflective of the approved concept plans. 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 associated models and data outputs, and electronic copies of DRAINS and MUSIC models are to be provided.

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

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

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

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

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

- i. A completed application form;
- ii. Electronic copy of MUSIC model to be compatible with final drainage design;
- iii. A maintenance schedule.
- iv. Electronic copies of the design plans and specifications;
- v. Payment of the applicable application and inspection fees.

36. 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.

37. 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 \$146,000.00 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 156m multiplied by the width of the road 11m.

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.

38. Security Bond – External Works

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

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

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

39. Internal Pavement Structural Design Certification

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

40. Redesigned Bin Room Required

Prior to a Construction Certificate being issued, amended plans must be submitted to and approved by Council showing a revised bin room design. The revised bin room design must ensure that bins are accessible by collection contractors via ramped access only. The maximum ramped gradient acceptable is 5%. Additionally, the bin room design must comply with the requirements specified in the Condition titled 'Construction of Bin Room'.

PRIOR TO WORK COMMENCING ON THE SITE

41. Principal Certifying Authority

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

42. 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.

43. 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.

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. Consultation with Service Authorities

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

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

46. Stabilised Access Point

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

47. Sydney Water Building Plan Approval

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

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

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

48. Protection of Existing Trees

The trees that are to be retained are to be protected during all works strictly in accordance with AS4970- 2009 Protection of Trees on Development Sites and the approved Arboricultural Impact Assessment prepared by Redgum Horticultural dated August 2016.

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

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

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

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

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

49. Trenching within Tree Protection Zone

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

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

50. 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.

51. Site Water Management Plan

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

52. Erosion & Sediment Control Plan Kept on Site

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and available to Council on request.

53. 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.

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.

58. 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.

59. 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.

60. Construction and Demolition Waste Management Plan Required

Prior to the commencement of works, a Waste Management Plan for the construction and demolition phases of the development must be submitted to and approved by the Principal Certifying Authority. The plan should be prepared in accordance with The Hills Development Control Plan 2012 Appendix A. The plan must comply with the waste minimisation requirements in the relevant Development Control Plan. All requirements of the approved plan must be implemented during the construction and demolition phases of the development.

DURING CONSTRUCTION

61. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

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

62. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No. 755091M_02 are to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

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

Section 109E(3)(d) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as "Critical Stage Inspections" to be carried out for building work. Prior to permitting commencement of the work, your Principal Certifying Authority is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

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

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

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

64. Classification and disposal of fill

As per the recommendations of the *Phase 1 Contamination Assessment (and Geotechnical Investigation)* for proposed residential apartment building at 7-9 Terry Road, Box Hill, prepared by GeoEnviro Consultancy Pty Ltd, referenced as JC16270A and dated September 2016; prior to bulk excavation works commencing, soil is to be sampled, tested and classified a prior to reuse or disposal.

65. Removal of Septic Tank and Effluent Disposal Area

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

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

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

66. 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 may be restricted to between the hours of 9am to 3pm, Monday to Friday (subject to negotiations and recommendations from the construction noise management plan).

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

67. Contamination

Ground conditions are to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council's Manager- Environment and Health is to be notified and a site contamination investigation is to be carried out in accordance with *State Environmental Planning Policy 55 – Remediation of Land*.

The report is to be submitted to Council's Manager – Environment and Health for review prior to works recommencing on site.

68. 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.

69. Asbestos Removal

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

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

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

70. 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.

71. Standard of Works

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

72. Critical Stage Inspections – Subdivision Works

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

73. Working Hours

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

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

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

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

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

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

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

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

75. Provision of Electricity Services

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

76. Provision of Telecommunications Services

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

77. Landscaping Prior to Issue of Occupation Certificate

Landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate in accordance with the approved plan prepared by Paul Scrivener Landscape Architecture dated 27.03.2017 (Issue C). All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

78. Acoustics - Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in the acoustic report *Proposed Residential Development*; 7-9 Terry Road, Box Hill, Road Traffic Noise Impact Assessment, prepared by Rodney Stevens Acoustics, referenced as 160344R1 and dated 27 July 2016 and any acoustic report accepted by Council's Manager – Environmental Health. Certification is to be provided.

79. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

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

80. Completion of Subdivision Works

A Subdivision Certificate cannot be issued prior to the completion of all subdivision works covered by this consent.

81. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent.

82. Works as Executed Plans

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

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

83. Performance/ Maintenance Security Bond

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

84. Confirmation of Pipe Locations

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

85. Stormwater CCTV Recording

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

86. Public Asset Creation Summary

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

87. Adjoining Property Dilapidation Report Post Construction

Before a Subdivision Certificate is issued, an updated dilapidation report must be prepared and submitted to Council. The updated report must identify any damage to adjoining properties and the means of rectification for the approval of Council.

88. Public Infrastructure Inventory Report - Post Construction

Before an Occupation Certificate is issued, an updated public infrastructure inventory report must be prepared and submitted to Council. The updated report must identify any damage to public assets and the means of rectification for the approval of Council.

89. Public Road Dedication

An Occupation Certificate must not be issued until the proposed public road has been dedicated in accordance with the undertaking submitted relating to dedication Brookline Crescent.

90. OSD System Certification

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

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

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

91. 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.

92. 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.

93. Consolidation of Allotments

All allotments included in this consent must be consolidated into a single allotment before an Occupation Certificate is issued. A copy of the registered plan must be submitted to Council.

94. Final Plan and Section 88B Instrument

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

i. Dedication – New Road

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

ii. Restriction – Restricted Access

The subject site must be burdened with a restriction precluding access to Terry Road once access via Brookline Crescent is available using the “restricted access” terms included in the standard recitals.

iii. Easement – Removal Driveway Access

A temporary public access easement must be created over the temporary driveway access, where required.

iv. Restriction – Bedroom Numbers

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

v. Restriction/ Positive Covenant – Water Sensitive Urban Design

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

vi. Restriction/ Covenant – Water Sensitive Urban Design

Lot 1 must be burdened with a restriction and a positive covenant that refers to the WSUD elements referred to earlier in this consent using the “water sensitive urban design elements” terms included in the standard recitals.

vii. Restriction/ Covenant – Temporary Stormwater Management (Box Hill)

Lot 1 must be burdened with a restriction and a positive covenant that refers to the temporary stormwater management measures referred to earlier in this consent using the “temporary stormwater management” terms included in the standard recitals.

viii. Positive Covenant – Stormwater Pump

Lot 1 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.

95. 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.

96. Final Inspection of Bin Room

Prior to an Occupation Certificate being issued, a final inspection of the bin room and management facilities must be undertaken by Council. This is to ensure compliance with Council’s design specifications as per other conditions of this consent and that necessary arrangements are in place for domestic waste collection by Council. The time for the inspection should be arranged with Council at least 48 hours prior to the suggested appointment time.

97. 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.

THE USE OF THE SITE

98. Offensive Noise - Acoustic Report

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

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

99. 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*.

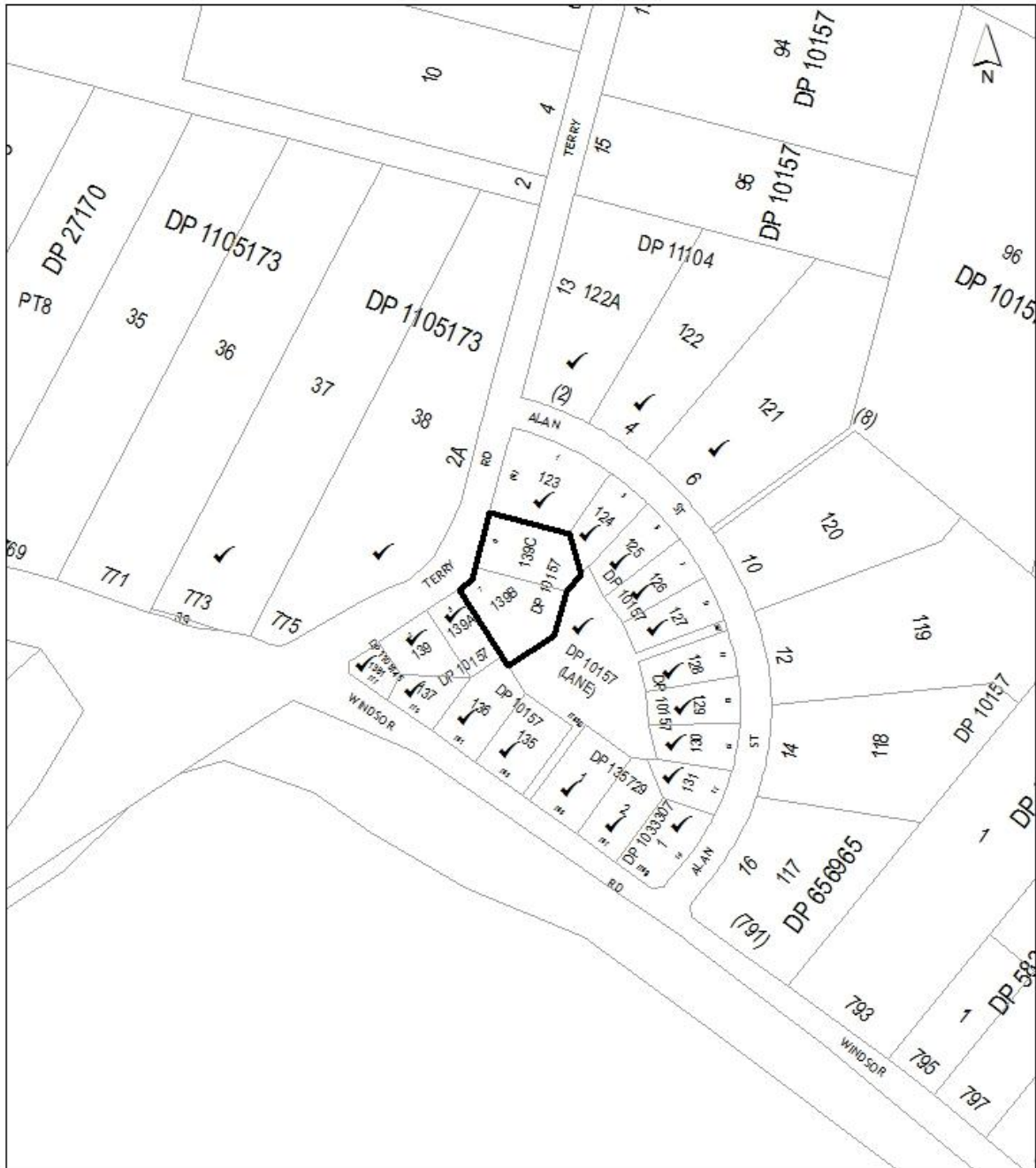
100. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated bin room, which includes provision for the storage of all waste generated on the premises between collections. A caretaker must be appointed by the Owners Corporation to undertake all instructions issued by Council to enable waste collection. Additionally, responsibilities for cleaning the bin room and the bins on a regular basis must be established.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning Plan with DCP Road Layout Plan
4. Site Plan
5. Ground Floor Plan
6. Levels 4 and 5 Floor Plan
7. Elevations
8. Sections
9. Landscape Plans
10. Photomontage
11. Shadow Diagrams
12. Clause 4.6 Variation

ATTACHMENT 1 – LOCALITY PLAN



SUBJECT SITE



PROPERTIES NOTIFIED

**NOTE: BLACKTOWN CITY COUNCIL
AND RMS ALSO NOTIFIED**

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

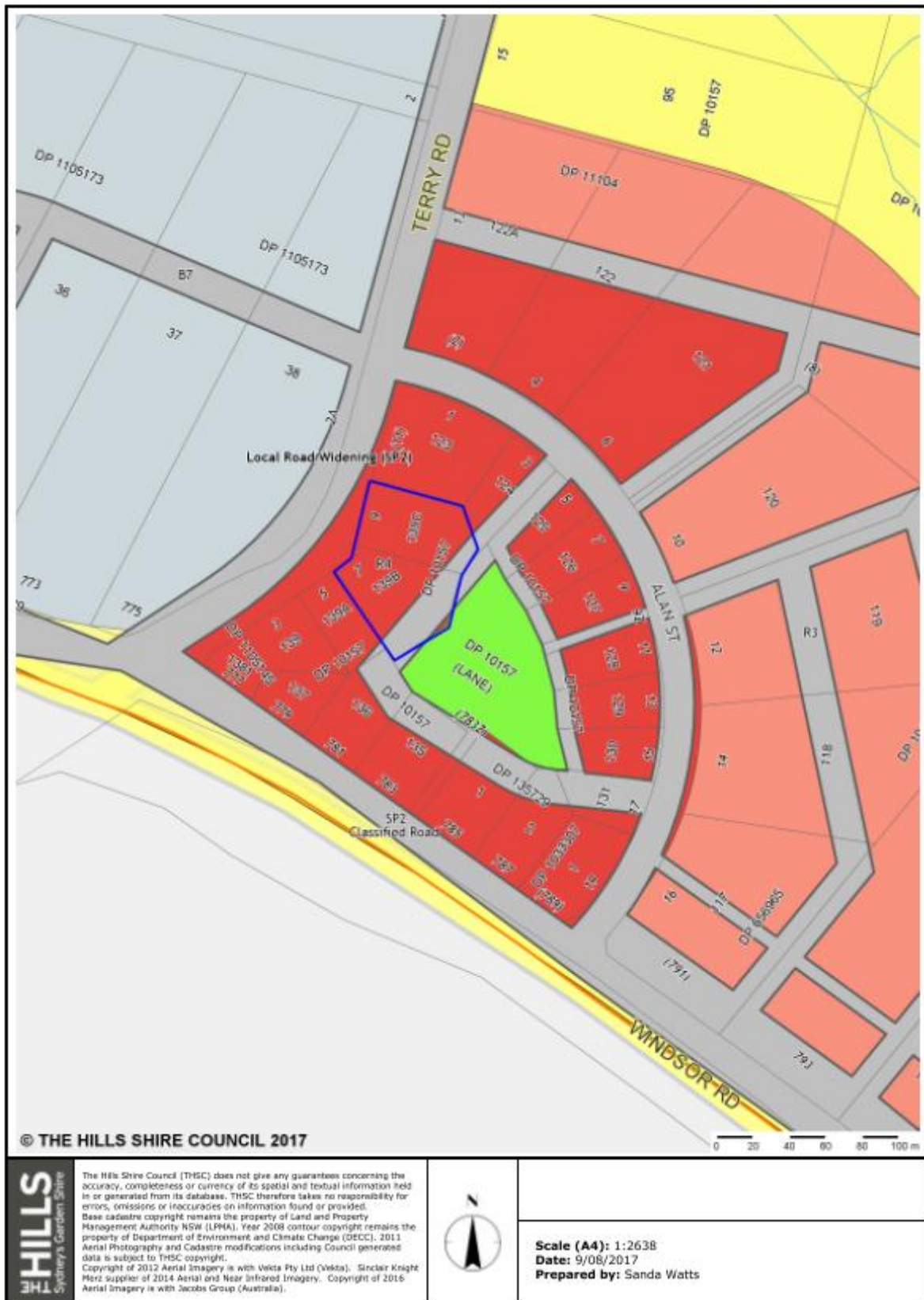
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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 – ZONING PLAN WITH DCP ROAD LAYOUT PLAN



The site plan illustrates the proposed development at 1398 DP 10157. The site is bounded by Terry Road to the north, Future Road to the east, and a future road to the south. The plan shows two main blocks: Block A, a large white building footprint, and Block B, a smaller building footprint. A red dashed line outlines the area to be demolished, which includes the existing building footprint and surrounding areas. The plan also shows various setbacks, easements, and property lines. Key features include:

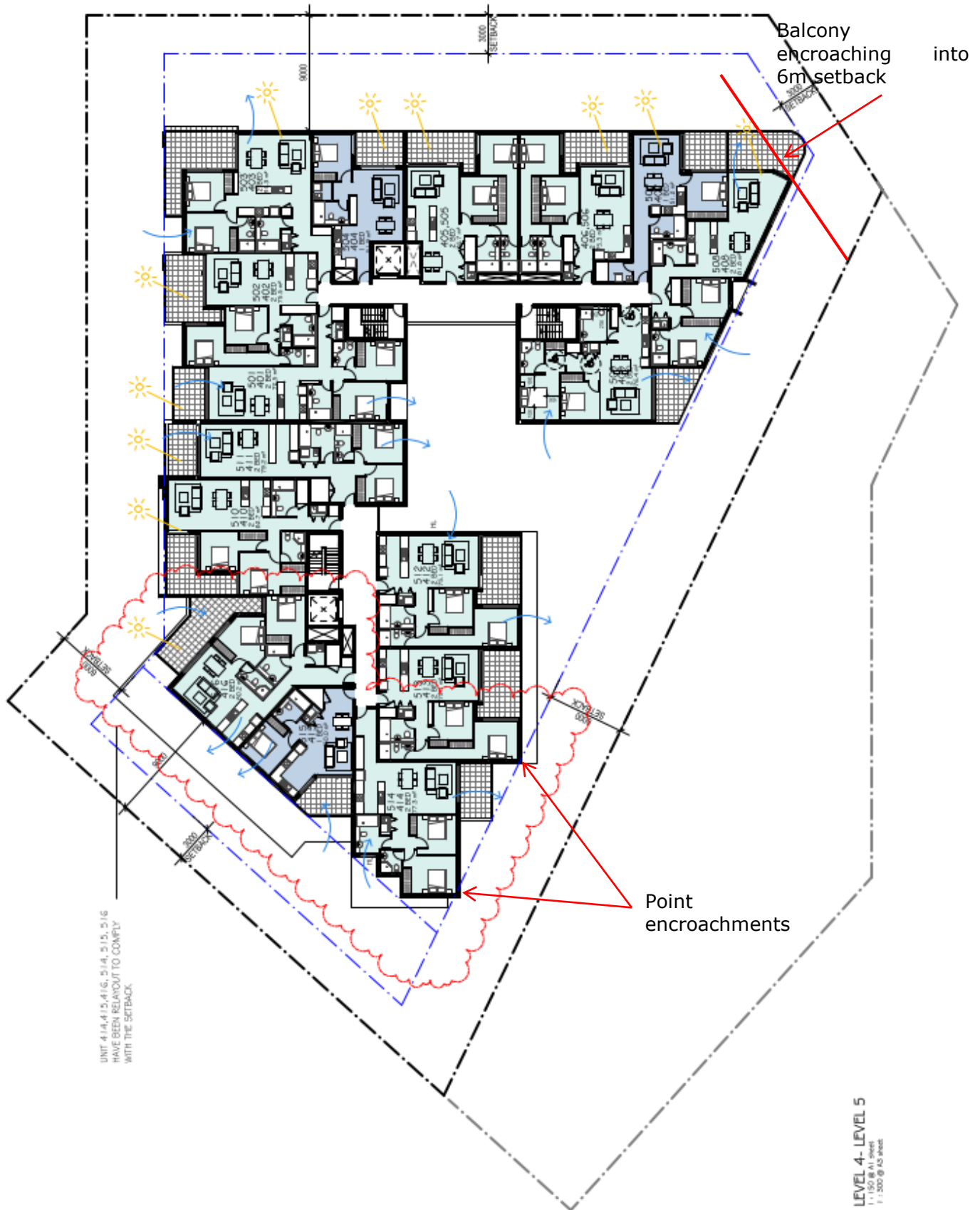
- Block A:** A large white building footprint, labeled '1398 DP 10157'.
- Block B:** A smaller building footprint, labeled 'BLOCK B'.
- Demolition Area:** A red dashed line outlines the area to be demolished, including the existing building footprint and surrounding areas.
- Setbacks and Easements:** Various setbacks and easements are shown, including a 10' setback from Terry Road, a 10' setback from Future Road, and a 10' setback from the future road.
- Property Lines:** The plan shows the boundaries of the property, including the 1398 DP 10157 and 1399 DP 10157.



ATTACHMENT 5 – GROUND FLOOR PLAN



ATTACHMENT 6 – LEVELS 4 AND 5 FLOOR PLAN

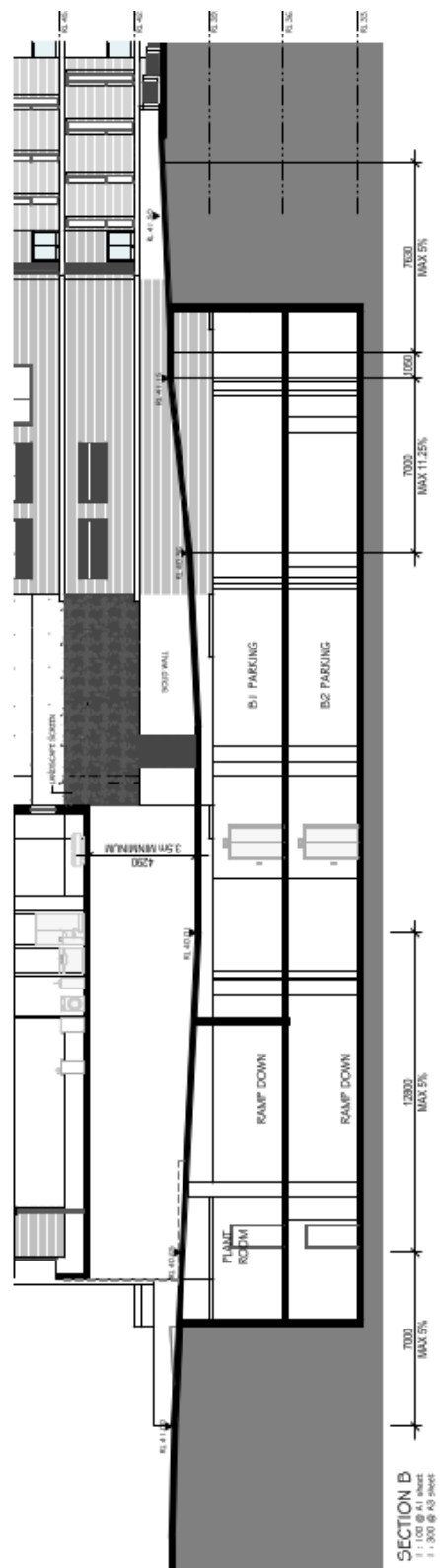
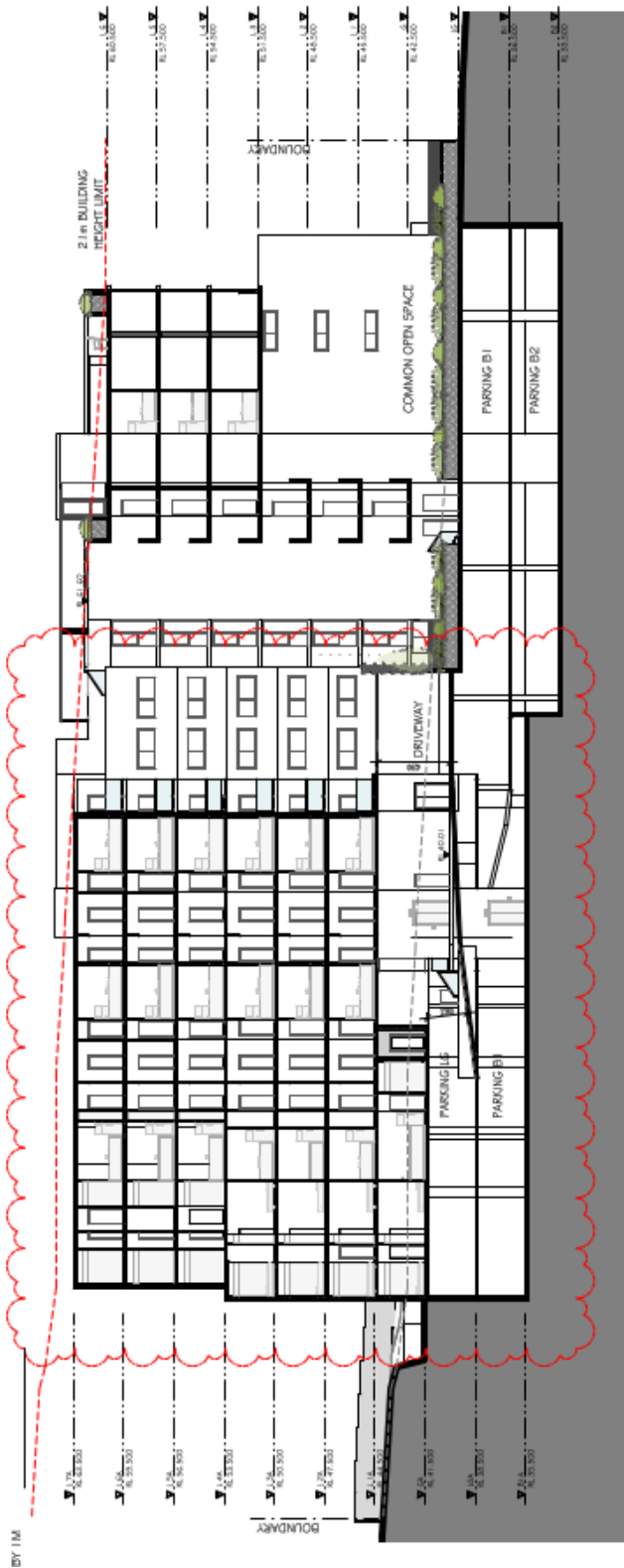


ATTACHMENT 7 – ELEVATIONS





ATTACHMENT 8 – SECTIONS



ATTACHMENT 9 – LANDSCAPE PLAN



Ground Floor



UNIT 604, 605, 606 HAVE BEEN RELAYOUT TO COMPLY WITH THE SETBACK.



ATTACHMENT 10 – PHOTOMONTAGE



View of the proposed development looking west, over the new ring road (Brookline Crescent) from public open space.

ATTACHMENT 11 – SHADOW DIAGRAMS



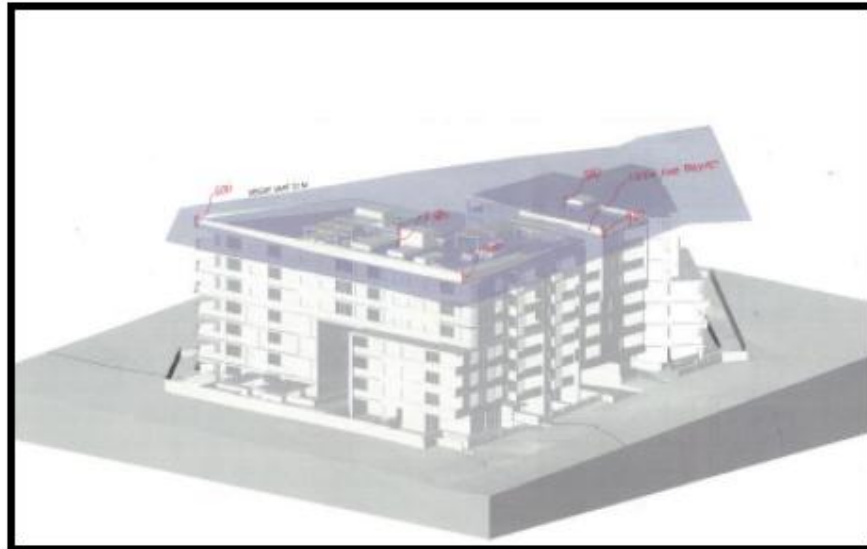
ATTACHMENT 12 – CLAUSE 4.6 VARIATION

ANNEXURE 1: CLAUSE 4.6 VARIATION: BUILDING HEIGHT

The development concept results in the height of the proposal exceeding the permissible height as shown on the LEP height map, with the upper level roof form exceeding the 21m control as shown on the section plan below:



Although all habitable floorspace is now located below the 21m height line, as illustrated on the height plane diagram below, the highest exceedance to the top of the lift overrun that provides access to the rooftop common open space area is 2.38m.



As shown on the extract the variation is primary a function of topography with part of the building exceeding the height where natural ground level dips away from the site as well as the desire to provide architectural interest to the roof form and lift access to the rooftop common open space area.

The majority of the building comply with the maximum building height control with a minor portion of the roof structure and lift over-run exceeding the 21m height control, as demonstrated on the submitted section drawings in the architectural set

The extent of variation is:

- 900mm to the northern portion of the roof;
- 1300mm to the roof/ parapet of the southern building; and
- 2.38m to the top of the lift overrun that services the common open space area; and



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

Clause 4.6(3)

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

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

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

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

- The proposal is in close proximity to the future Box Hill Town Centre and the extent of non-compliance represents an appropriate higher density on the site with the buildings being six to seven storeys in height which is an appropriate residential flat building in a precinct with a height control of 21m and FSR of 2:1.
- The portion of the building that exceeds the height control does not contain any floor space. This assists with demonstrating that the proposal is not an over development of the site, also noting that the proposal has an FSR of 1.86:1 which is less than the 2:1 FSR permitted for the site.



- The site is large and the impacts arising from overshadowing, visual impact and loss of privacy are predominantly manageable within the site, and have no significant impact on adjoining and the extent of overshadowing is not unreasonable for density envisaged of this scale within the precinct;
- The proposal provides an appropriate building form that is consistent with the desired future character of the locality and is reflective of the objectives for the zone and locality generally- noting the uneven topography is the key driver of the height variation rather than a desired to achieve greater yield on the site;
- The site is located within 120m of Windsor Road that has frequent public transport to the Box Hill Town Centre, Rouse Hill Town Centre, Parramatta CBD and the Sydney CBD.
- The proposal has no impact on heritage or other views; and
- The proposal presents an appropriate height on the site that facilitates a high quality urban form to contribute to building diversity across the Box Hill Precinct.

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

- The need to provide a central lift core to provide accessible access to the rooftop common open space area;
- The desire to provide future residents with a roof top common open space area that will provide appropriate passive and recreational opportunities whilst offering district views; and
- That the topography of the site lends itself to a partial seventh level.

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

Clause 4.6(4)

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



The proposal provides for the housing 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).

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 SWCPP is requested to invoke its powers under Clause 4.6 to permit the variation proposed to the maximum height control.