

## SYDNEY WEST CENTRAL PLANNING PANEL

<b>Panel Reference</b>	2017SWC012
<b>DA Number</b>	1560/2015/JP/A
<b>LGA</b>	The Hills Shire Council
<b>Proposed Development</b>	Section 96 (2) Modification to an Approved Residential Flat Building
<b>Street Address</b>	Lot 2105 DP 1201899 - 40 Solent Circuit, BAULKHAM HILLS
<b>Applicant/Owner</b>	David Lovato
<b>Date of DA lodgement</b>	18 November 2016
<b>Number of Submissions</b>	Nil
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	CIV Over \$20 Million – General Development
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>• The Hills Local Environmental Plan 2012</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• DCP 2012 Part D Section 8 – Norwest Residential Precinct</li> <li>• DCP 2012 Part B section 5 – Residential Flat Buildings</li> <li>• DCP 2012 Part C Section 1 – Parking</li> <li>• DCP 2012 Part C Section 3 - Landscaping</li> <li>• Environmental Planning and Assessment Regulation 2000</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Nil
<b>Report prepared by</b>	Development Assessment Coordinator James McBride
<b>Report date</b>	Electronic Determination

<b>Summary of S.79C matters</b> Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations 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
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of	N/A

the LEP) has been received, has it been attached to the assessment report?	
<b>Special Infrastructure Contributions</b> 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>	No
<b>Conditions</b> 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 Section 96(2) Application seeks to modify an approved 12 storey residential flat building. The modifications include increasing the number of apartments from 77 to 80 (82 inclusive of dual key apartments) and the number of car parking spaces from 179 to 207.

The proposed modification results in an amendment to the approved building height, with the proposed building height increasing to RL 118 from the approved building height of RL115.95. Clause 4.3 of The Hills Local Environment Plan 2012 (LEP) prescribes a maximum building height of RL 116. The proposed modification results in a 2.05 metre breach of the maximum building height. The modification to building height is to account for lift overrun, plant and equipment on the roof and increased floor to ceiling heights. A variation to the development standard is addressed in the body of the report and is considered to be satisfactory as the built form responds appropriately to the site and surrounds.

The Section 96 (2) Application was notified for a period of 14 days. No submissions were received during the exhibition period.

Approval is recommended subject to the relevant conditions of consent being modified to reflect the proposed changes.

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

## BACKGROUND

<b>Owner:</b>	Mulpha Norwest Pty Limited
<b>Zoning:</b>	R4 High Density Residential
<b>Area:</b>	43,600m <sup>2</sup>
<b>Existing Development:</b>	Vacant Land

## MANDATORY REQUIREMENTS

1. LEP 2012 – Variations required, see report.
2. SEPP 65 – Design Quality of Residential Flat Development and Residential Flat Design Code – Variations required, see report
3. DCP 2012 Part D Section 8 – Norwest Residential Precinct – Variations required, see report.
4. DCP 2012 Part B Section 5 – Residential Flat Buildings – Satisfactory

5. Section 79C (EP&A Act) – Satisfactory.
6. Section 94A Contribution – Currently \$1,089,373.55

## SUBMISSIONS

1. **Notice Adj Owners:** Yes, 14 days.
2. **Number Advised:** 95 adjoining land owners
3. **Submissions Received:** Nil

## REASON FOR REFERRAL TO SWCPP

1. Capital Investment Value in excess of \$20 million
2. Section 96(2) Modification Applications require determination by the Sydney West Central Planning Panel

## HISTORY

### 28/03/2006

Development Application 790/2006/HC approved by Council for the Norwest Town Centre Residential Precinct – Stage 1 Development (DA 790/2006/HC). The Master Plan approval guided future development of the 3 residential precincts being West, Central and East Precincts, providing a total of 518 dwellings with an overall population density of 127 persons per hectare. A site specific Development Control Plan for the Norwest Town Centre Residential Development had been prepared and DA 790/2006/HC had been prepared in accordance with the site specific Draft DCP.

### 05/04/2007

Development Application 2378/2006/HC approved by Council's Development Assessment Unit for the Norwest Town Centre Residential Precinct comprising 35 dwellings, including 12 townhouses, 11 integrated houses and 12 apartments.

### 13/08/2007

Section 96(1A) Modification to 2378/2006/HC/A approved under Delegated Authority.

### 20/12/2007

Development Application 33/2008/HA approved for Stage 1 works within the Norwest Town Centre - Central Residential Precinct. These works included the provision of an internal private road network, parking spaces and earthworks.

### 26/08/2008

Development Application 241/2008/HC approved for construction of the Norwest Town Centre – Central Residential Precinct.

### 23/09/2010

Development Application 993/2010/JP approved by the Joint Regional Planning Panel for the construction of an amended Central Residential Precinct Development within the Norwest Residential Town Centre comprising 32 integrated housing lots, and 54 attached town house dwellings.

### 27/11/2012

Planning Proposal 7/2012/PLP to amend the maximum permissible height limit within the Eastern Precinct and to amend the site specific Development Control Plan was refused by Council.

<b>28/08/2013</b>	Development Application 910/2013/JP approved by the Joint Regional Planning Panel. The approval amended the master plan for the Eastern Residential Precinct of the Norwest Town Centre to provide 328 dwellings comprising 6 residential flat buildings and 88 attached dwellings.
<b>07/08/2014</b>	Development Application 936/2014/JP for the construction of two residential flat buildings being 8 storeys (Block A1) and 9 storeys (Block A2) containing 100 apartments and 2 levels of basement car parking for 211 vehicles approved by the Joint Regional Planning Panel.
<b>19/01/2015</b>	Development Application 1278/2014/HC approved for the revegetation and drainage works for Lot 2120.
<b>26/11/2015</b>	Development Application 1347/2015/JP approved for a revised Masterplan of the Norwest Town Centre Eastern Residential Precinct and replaces the Stage 1 Masterplan approved under DA910/2013/JP.
<b>26/11/2015</b>	Development Application 1560/2015/JP approved for for the Construction of a 12 Storey Residential Flat Building comprising 77 apartments (8 x 1 bedroom, 42 x 2 bedroom and 27 x 3 bedroom), ground floor neighbourhood shops and three levels of basement car park containing 178 car spaces.
<b>18/11/2016</b>	Subject Section 96 (2) Application lodged.
<b>16/01/2017</b>	The applicant was requested to submit additional information with respect to planning and waste management matters.
<b>06/02/2017</b>	The applicant submitted additional information.

## **SITE DESCRIPTION**

The site is located on Solent Circuit, Baulkham Hills and forms part of the Norwest Residential Precinct. The development site is part of the Eastern Precinct known as Lot 2105 DP 1201899.

Lot 2105 has a total area of 43,600 square metres (4.36 hectares). The part of the site proposed to be developed has an area of 4,000 square metres in addition to 1,354 square metres which will comprise the future road reserve. The development site is adjoined by Building A1 and A2 to the west, the remainder of Lot 2105 to the east, Solent Circuit to the south and a Seventh Day Adventist Church site to the north which includes a DCP proposed road known as Spurway Drive adjacent to the northern boundary.

## **PROPOSAL**

The Section 96(2) Application seeks to modify an approved 12 storey residential flat building. The modifications include increasing the number of apartments from 77 to 80 (82 inclusive of dual key apartments) and the number of car parking spaces from 179 to 207.

The proposed amendments will alter the approved apartment mix as follows:

Type	Approved	Modification	
1 Bedroom	8 (10%)	11 (14%)	13 (16%) Includes dual key units
2 Bedroom	42 (55%)	33 (41%)	35 (43%) Includes dual key units
3 Bedroom	27 (35%)	36 (45%) Includes 2 dual key units	34 (41%) Excludes dual key units
Total	77	80	82

The key modifications are summarised below:

- Addition of 3 x 1 bedroom apartments to increase the number of apartments from 77 to 80 (82 when accounting for individual units within a dual key arrangement).
- Conversion of 9 x 2 bedroom apartments into 9 x 3 bedroom apartments.
- Reconfiguration of 2 x 3 bedroom apartments into 2 x dual key apartments being configurable into either a 1 bedroom and 2 bedroom apartment.
- Modification of basement footprint and layout including the provision of a tandem parking arrangement and addition of 31 car spaces (albeit some tandem) with reduction in the number of visitor space provision and increase in the number of residential space provision.
- Modification to the building height to account for lift overruns, plant and equipment on roof and increased floor to ceiling heights.
- Provision of a wrap-around awning above the ground floor neighbourhood shops adjacent to the corner of Solent Circuit and the proposed link road.
- Modifications to building setbacks and internal layout.

The development will be amended to 80 apartments (11 x 1 bedroom, 33 x 2 bedroom, 36 x 3 bedroom including 2 dual key units) and three levels of basement car parking for 207 car parking spaces.

## 1 STATUTORY MATTERS FOR CONSIDERATION

### 1.1 Compliance with Section 96 of the EP&A Act 1979

Section 96(2) of the Environmental Planning and Assessment Act, 1979 requires the following:

#### "(2) Other modifications

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that*

*Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

*(c) it has notified the application in accordance with:*

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."*

With respect to the above requirements the following is outlined:-

- The proposed development is an amendment to an approved residential flat building development to include three additional apartments and 31 additional car spaces. The built form will generally remain as approved with the exception of an increase in building height.
- The modification application was referred to the NSW Office of Water who raised no objection to the works proposed, and no changes to the approved General Terms of Approval.
- The modified application has been notified in accordance with the Regulations and The Hills DCP Part A – Introduction.
- No submissions were received to the proposed amended development.

As a result of the above assessment, the proposed modification application is appropriate as a Section 96(2) Modification Application and is considered to be substantially the same as the parent consent. The proposed modification is considered to be satisfactory with respect to Section 96(2) of the Act.

## **1.2 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 adaptable and dual key units;
- The apartment development assists with the supply of housing within close proximity to the future north west rail link (under construction);
- The development is in close proximity to the Norwest Town 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.

### **1.3 State Environmental Planning Policy (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 a Joint Regional Planning Panel:-

*Development that has a capital investment value of more than \$20 million; and*

*Section 96(2) Modification Applications require determination by the Sydney West Central Planning Panel*

The proposed Section 96 (2) Modification requires determination by the Sydney West Central Planning Panel given that it is a modification to a development that has a capital investment value of \$42,000,000.

### **1.4 SEPP NO. 55 – Remediation of Land**

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

Clause 7 of the SEPP states:-

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

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

An Environmental Site Assessment prepared by Geotechnique Pty Ltd accompanied the previous master plan (DA910/203/JP) which covered the entire Eastern Residential Precinct. The assessment concludes that the site does not present a risk of harm to human health or the environment and is therefore suitable for the proposed development.'

In this regard, it is considered that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP 55. Appropriate conditions of consent with respect to contamination were imposed with the original consent.

### **1.5 SEPP (BASIX) 2004**

State Environmental Planning Policy (BASIX) 2004 applies to the proposed development and aims to reduce the consumption of mains-supplied water, reduce emissions of greenhouse gases and improve the thermal performance of the building.

A BASIX assessment has been undertaken and indicates that the development as modified will achieve the required targets for water reduction, energy reduction and measures for thermal performance. The commitments as detailed in the BASIX Certificate will be imposed as a modified condition of consent.

## 1.6 Compliance with The Hills Local Environmental Plan 2012

The site is zoned R4 High Density Residential under The Hills Local Environmental Plan 2012. Under the LEP, the proposed development is defined as 'residential flat building' as follows:

*'residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.'*

Residential flat buildings are a permissible form of development on land zoned R4 High Density Residential under the LEP.

The table below contains the relevant development standards of the LEP applying to the proposed modification:

Development Standard	Proposed Development	Compliance
<b>Building Height</b>  RL 116	  RL 118	  No – Refer to variation below

The Section 96 Application will result in a variation to the development standard of building height exceeding the numerical standard by 2 metres. Based on the RL level of natural ground, the departure represents a variation of 5% to the development standard. A variation pursuant to Clause 4.6 of the LEP is not required given that Clause 4.6 expressly relates to the 'granting of consent' rather than the 'modification of consent', and therefore does not apply.

Further, case law is cited (*North Sydney Council v Michael Standley & Associates Pty Ltd* [1998] NSWSC 163) which deems that neither a SEPP No.1 Objection nor Clause 4.6 Variation is required to modify a development consent under Section 96 given that it is a free-standing provision. In this regard, SEPP No. 1 expressly only applies 'where a development application is made', not when a modification application is made. The same applies to Clause 4.6 Variations, which expressly only regulates whether 'development consent' may be granted, not whether an existing consent may be modified. Therefore, on this basis, written justification pursuant to SEPP No. 1 or Clause 4.6 is not required however the departure to the development standard will be considered on merit with respect to Section 96 and Section 79C of the Act.

Accordingly, the objective of Clause 4.3 'Building Height' is to ensure that the height of buildings is compatible with that of adjoining development and the streetscape. Additionally, the building height (RL 116) development standard aims to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas. As such, the development standard for building height and the development controls for building setbacks, building design, solar access and overshadowing have been considered with respect to the merits of a variation.

The encroaching elements of the building relate to the lift overrun, air conditioner condenser units and other plant and equipment required to service the building. It is noted that the parapet of the building remains at the compliant height of RL 115.95. The encroaching elements are offset and centrally located on the roof plate of the building. The elements will not be highly visible from the streetscape and will not significantly exacerbate the bulk and scale of the building.

The proposed departure to the building height development standard will not cause adverse impact on the amenity of adjoining properties with respect to overshadowing,



privacy, view loss and perceived bulk and scale. The height of Building A3 will not result in adverse overshadowing of Building A1 and A2 to the west and is sufficiently separated to maximise privacy for future residents.

A variation to the development standard of building height in this instance is considered to be satisfactory and is therefore supported.

### 1.7 SEPP 65 – Design Quality of Residential Flat Buildings

The Section 96 Application has been assessed against the relevant controls prescribed by SEPP 65 and the following table shows the development's performance against the relevant considerations of the Apartment Design Guide. It is noted that the amended proposal will result in further variations to design criteria for solar access and apartment layout which were previously varied with the approved development.

Clause	Design Criteria	Compliance
<b>Siting</b>		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Yes  38% of the site is communal open space with a minimum of 50% direct sunlight for 2 hours midwinter.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m <sup>2</sup> and 15% for sites greater than 1500m <sup>2</sup> .	Yes  18% of the site is deep soil zone.
Separation	For habitable rooms, 12m for 4 storeys, 18m for 5-8 storeys and 24m for 9+ storeys.	Yes  Minimum building separation of 15.5 metres at ground level to 4 <sup>th</sup> storey between Building A3 and A2.  Minimum building separation of 27 metres from 4 <sup>th</sup> storey to 12 <sup>th</sup> storey between Building A3 and A1.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Yes  The visual privacy of the development has been duly considered with the placement of windows and balconies. Separation distances between

		habitable / non habitable spaces are considered to be adequate.
Carparking	<p>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>0.6 spaces per 1 bedroom unit.  0.9 spaces per 2 bedroom unit.  1.40 spaces per 3 bedroom unit.  1 space per 5 units (visitor parking).</p>	<p>Yes</p> <p>Required:</p> <p>103 spaces</p> <p>Provided:</p> <p>207 spaces</p>
<b>Designing the Building</b>		
Solar and daylight access	Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	<p>No</p> <p>64% of apartments receive 2 hours direct sunlight between 9am and 3pm midwinter.</p>
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	<p>No</p> <p>19% of apartments receive no direct sunlight.</p>
Natural ventilation	<p>At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Yes</p> <p>65% of apartments receive natural ventilation.</p>
Ceiling heights	<p>For habitable rooms – 2.7m.  For non-habitable rooms – 2.4m.  For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area.  For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope.  If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p>	<p>Yes</p> <p>Floor to ceiling heights exceed 2.7 metres for habitable rooms and 2.4 metres for non-habitable rooms.</p>

Apartment size	<p>Apartments are required to have the following internal size:</p> <p>Studio – 35m<sup>2</sup>  1 bedroom – 50m<sup>2</sup>  2 bedroom – 70m<sup>2</sup>  3 bedroom – 90m<sup>2</sup></p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	<p>Yes</p> <p>1 Bed: 51 - 57m<sup>2</sup>  2 Bed: 77 - 112m<sup>2</sup>  3 Bed: 104 - 208m<sup>2</sup></p> <p>Where additional bathrooms are proposed, an additional 5m<sup>2</sup> has been provided.</p> <p>The proposed development does not include any four bedroom units.</p>
Apartment layout	<p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p>	<p>Yes</p> <p>No</p> <p>Building A3 contains 29 apartment with depths vary between 9.2m and 9.3m and therefore do not comply.</p>
Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m<sup>2</sup> with no minimum depth  1 bedroom – 8m<sup>2</sup> with a minimum depth of 2m  2 bedroom – 10m<sup>2</sup> with a minimum depth of 2m  3 bedroom – 12m<sup>2</sup> with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m<sup>2</sup> with a minimum depth of 3m is required.</p>	<p>Yes</p> <p>All balcony sizes and depths comply.</p>
Storage	<p>Storage is to be provided as follows:</p> <p>Studio – 4m<sup>3</sup>  1 bedroom – 6m<sup>3</sup>  2 bedroom – 8m<sup>3</sup>  3+ bedrooms – 10m<sup>3</sup></p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>Yes</p> <p>Each unit contains the minimum storage area.</p> <p>At least 50% of the required storage is provided within the apartment.</p>
Apartment mix	A variety of apartment types is to be provided and is to include flexible	Yes

	apartment configurations to support diverse household types and stages of life.	
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a) Solar and Daylight Access

The ADG requires 70% of apartments in a development to receive a minimum of two hours direct sunlight between 9am and 3pm in mid-winter. The proposed development achieves 2 hours solar access for 64% of the apartments between 9am to 3pm in mid-winter. It is noted that the original development was approved with a variation to solar access with 64% of units achieving 3 hours solar access between 9am and 3pm during the winter solstice in accordance with the RFDC applicable at the time.

The applicant has provided the following justification to solar and daylight access:

*The Haven building design responds to key urban design considerations and the need to avoid overshadowing of the nearby Watermark buildings, whilst also capitalizing upon available outlooks.*

*Apartments are designed to take advantage of the northern orientation with some 58/80 or 73% of apartments receiving 3 hours of solar access in mid-winter, albeit 10 of those reliant upon extended hours, as outlined previously. Some 22/80 or 27% of apartments are orientated towards the much valued Norwest Lake outlook.*

*The so called "Kirribilli effect", where optimum outlook does not accord with optimum solar orientation is recognized. Despite this orientation, 7 of these apartments receive between 45mins and 2 hours of direct solar access in mid-winter during extended hours between 7.30am and 9.30am. The remaining 15 apartments receive no direct solar access in mid-winter, which represents 19% of the total apartments. Whilst this is a non-compliance with the ADG 15% criterion, the proposal does comply with RFDC criteria in that over 70% achieve 3 hours solar access and only 1 apartment is restricted to a SE to SW single aspect configuration. All other apartments have dual frontage aspects.*

*It is in this context that we encourage Council to recognize the market appeal of the Lake view apartments and accept the level of strict non-compliance with this ADG criterion.*

*It may also be worth noting that the approved DA scheme features 54/77 or 70% of apartments with 3 hours solar access. Of the remaining 23 apartments, some 22/77 apartments or 28% with Lake orientation had no direct solar access in mid-winter. A single apartment received 45mins of solar access in mid-winter, representing approximately 2%.*

*The DA also featured 4 of the 77 apartments or 5% with single aspect SE to SW sector orientation.*

The applicant has justified the variation on the premise that extending the hours during mid-winter will provide an additional 6% of units with the required 2 hours solar access during mid-winter. The extended hours are between 7:30am and 11:00am. Additionally, the applicant states that the design philosophy was to promote units with a southern orientation to capture views to Norwest Lake which contributes to units not achieving the required levels of solar access.

The variation in this instance is considered to be satisfactory for the following reasons:

- The apartments that are compliant achieve in excess of 2 hours given their predominant orientation to the north.
- The majority of south and east facing apartments are dual aspect and receive adequate natural ventilation.

- The south facing units that do not comply with solar access capitalise on views and vistas towards Norwest Lake and also are orientated to provide casual surveillance to the communal open space area.
- The east facing apartments that do not comply with solar access are orientated towards the south-east alignment of the new link road. Apartments fronting the new link road will provide casual surveillance to the street.
- Apartment sizes are considerably larger than required by the ADG and are adequately ventilated.
- 73% of apartments will receive solar access during the extended period of mid-winter between 7:30am and 3:00pm. The period between 7:30am and 9:00am is considered to be within a period of the morning where direct sunlight can be enjoyed by residents.

Given the above, a variation of 6%, is considered to be acceptable given the design philosophy of the building, the context of the site and the amenity provided to units within the entire development.

#### b) Apartment Layout

The ADG specifies that in open plan layouts the maximum habitable room depth is 8 metres from a window. The proposed development comprises of 29 apartments that have a habitable room depth exceeding 8 metres when measured from the back of kitchen to a window opening. It is noted that the original development was approved with a variation to habitable room depths.

The applicant has provided the following justification for the variation to apartment layout:

*Although greater than 8m deep, these apartments are all configured with open plan kitchen, dining and living spaces, where natural light and air flow is promoted. The depth of these apartments creates well-proportioned spaces, enabling suitable furniture arrangements. It is on the above basis that a variation to the minimum depth of 8m is considered acceptable.*

The applicant has justified the variation on the basis that the proposed development complies with the natural ventilation requirements of the ADG and provides satisfactory solar access. The proposed development achieves natural ventilation to 65% of units.

In this regard, given that the proposed development achieves a satisfactory level of natural ventilation for the entirety of the development, the variation to the maximum habitable room depth is considered to be satisfactory.

### **SEPP 65 Quality Design Principles**

The proposed modification has been assessed against the relevant design quality principles contained within the SEPP as follows:

#### Principle 1: Context and Neighbourhood Character

The development responds and reflects the context into which it is placed. The site is located along Solent Circuit and the development conforms to the future desired character of the area being zoned for residential flat buildings. The context is likely to change over as adjoining sites are developed in context with the nature of the zoning.

#### Principle 2: Built Form and Scale

The height of the development overall is acceptable in terms of solar access and residential amenity impacts. The proposal responds to the existing topography of the site

within its context. The height generally ensures that the development responds to the desired future scale and character of the site.

The spatial relationship of buildings has been considered. The proposed building will maintain adequate separation with appropriate distances between residential flat buildings under construction to the west. The building separations and setbacks will provide sufficient landscaping to ensure privacy is maintained.

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

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 high quality landscaped setting.

#### Principle 3: Density

The proposed development for 80 units is considered to be appropriate for the site and locality and within the context of the master plan.

#### Principle 4: Sustainability

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

#### Principle 5: Landscape

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

#### Principle 6: Amenity

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

#### Principle 7: Safety

The development has been designed with safety and security concerns in mind having regard to the principles of Crime Prevention through Environmental Design. The common open spaces, balconies and windows provide opportunities for passive surveillance. Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private open spaces are clearly defined and screened.

#### Principle 8: 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 development provides an apartment mix to

accommodate a range of budgets within relatively close proximity to future Norwest Station.

#### Principle 10: Aesthetics

The building mass is articulated to provide smaller scale forms, with variable setbacks, using colours, and a diversity of material textures which is sympathetic to the future character of the area.

### **1.8 Compliance with The Hills DCP 2012**

The proposal has been assessed against the relevant requirements under The Hills DCP 2012, in particular Part D Section 8 – Norwest Residential Precinct, and Part B Section 5 – Residential Flat Buildings. The amended proposal will result in further variations to development controls for building setbacks which were previously varied with the approved development.

#### **Part D Section 8 – Norwest Residential Precinct**

The proposal has been assessed against the relevant controls of Part D Section 8 – Norwest Residential Precinct as detailed in the table of compliance below:

3.1 Density	-	<p><b>The maximum permitted population density for the site is 175 persons per hectare</b> with a desirable range between 150-175 persons per hectare. The density is based upon the following occupancy rates:</p> <p>1 bedroom – 1.3 2 bedroom – 2.1 3 bedroom – 2.7 4 bedroom – 3.5</p> <p><i>Densities will therefore range from being generally lower than the allowable overall maximum site density in the West Precinct and Higher in the East Precinct.</i></p>	178.9 persons per hectare.	No variation proposed.	-
<b>3.2 – East Precinct Specific Controls</b>					
3.2.2 – Built Form Controls					
C. Setbacks		<p><b>Performance Criteria</b></p> <p>(a) Setbacks are to complement the Norwest Business Park setting and contribute to the landscaped character of the precinct while allowing flexibility in the siting of buildings.</p>	<p>The proposed building setbacks are considered to compliment the setting of the Norwest Business Park despite non-compliance with the setback controls detailed below.</p>	Yes	

	<p><b>Development Control</b></p> <p>(a) The setbacks for the Eastern Precinct shall be in accordance with the minimum setbacks outlined in Table 2.</p> <p>Table 2 – SETBACKS</p> <table><tr><td>Solent Circuit</td><td>10 metres</td></tr><tr><td>North boundary</td><td>14 metres</td></tr><tr><td>East boundary</td><td>12 metres</td></tr><tr><td>West boundary</td><td>12 metres</td></tr></table> <p>(b) The internal setbacks for the proposed residential flat buildings located in the East Precinct shall be in accordance with the minimum setbacks outlined in Table 3.</p> <p>Table 3 – INTERNAL SETBACKS</p> <table><tr><td>Main entry road</td><td>8 metres</td></tr><tr><td>Access street</td><td>4 metres</td></tr><tr><td>Between buildings (balcony to balcony)</td><td>8 metres</td></tr></table>	Solent Circuit	10 metres	North boundary	14 metres	East boundary	12 metres	West boundary	12 metres	Main entry road	8 metres	Access street	4 metres	Between buildings (balcony to balcony)	8 metres	<p><b>Solent Circuit:</b></p> <p>Ground Floor Awning – 3.7 metres</p> <p><b>Eastern Boundary:</b></p> <p>Ground Floor Awning – 1.2 metres</p> <p>North and western setbacks remain consistent with original approved plans.</p> <p>Internal setback with Building A1 and A2 remain consistent with original approved plans.</p>	<p>No variation proposed.</p> <p>No variation proposed.</p> <p>Yes</p>
Solent Circuit	10 metres																
North boundary	14 metres																
East boundary	12 metres																
West boundary	12 metres																
Main entry road	8 metres																
Access street	4 metres																
Between buildings (balcony to balcony)	8 metres																
F. Car Parking and Access	<p><b>Development Controls</b></p> <p>(a) Refer to Part C Section 1 - Parking</p> <p>DCP rates:</p> <p>One bedroom: 1 Space</p> <p>Two bedroom: 2 spaces</p> <p>Three bedroom: 2 spaces</p> <p>Visitor: 2 per 5 units</p> <p>Retail: 1 space per 18.5sqm</p>	<p><b>Required parking:</b></p> <p>Residential Parking – 149 spaces</p> <p>Visitor Parking – 32 spaces</p> <p>Retail Parking – 22 spaces</p> <p>Total: 203 spaces</p> <p><b>Provided:</b></p> <p>Residential Parking – 169 spaces</p> <p>Visitor Parking – 16 spaces</p> <p>Retail Parking – 22</p>	<p>No variation proposed.</p>														



		spaces  <b>Total</b>  207 spaces provided in stacked arrangement.  177 spaces excluding stacked spaces.	
<b>4. General Development Standards</b>			
4.3 – BASIX	All development applications will be required to demonstrate that they meet the BASIX targets.	BASIX Certificate is satisfactory	Yes

a) Density

The density of the proposed modification exceeds the maximum of 175 persons per hectare permitted by the DCP. The proposed development will provide for 178.9 persons per hectare based on a lot size of 4,000 square metres. Overall, a density of 171 persons per hectare across the Eastern Residential Precinct is proposed if the remainder is developed in accordance with the master plan.

The masterplan consent proposed a density of 171 persons per hectare for the East Precinct. The applicant has indicated that based on the original 2006 master plan, the overall density for the central, west and east precincts will be increased to 131.3 persons per hectare as a result of the development, which is below the maximum density permitted by the DCP.

It is noted that the masterplan consent involves a mix of dwelling types with the west and east edges of the development accommodating higher forms of density. The master plan envisages multi dwelling housing for the central portion of the East Precinct and it is likely that the density will be stabilised to be more in line with the DCP. Notwithstanding, the proposed development is generally consistent with the built form established with the masterplan. It is considered that the site is capable of supporting higher unit yields given the proximity to the Norwest Business Park and future train station.

Moreover, Council is currently considering a Planning Proposal for the remaining portion of the Eastern Residential Precinct. Council resolved on 8 November 2016 to forward a planning proposal to amend The Hills Local Environmental Plan 2012, as it relates to the remaining undeveloped portion of the site, to increase the maximum building height from RL 116 metres (approximately 10 storeys) to RL176 metres (up to 26 storeys), apply a 'base' Floor Space Ratio (FSR) of 1:1 and an 'incentivised' FSR of 2.9:1 and allow additional permitted uses on the site. Gateway determination (delegated) to proceed with the proposal was received on 31 January 2017. The Planning Proposal will result in a higher density envisaged for the remaining portion of the Eastern Residential Precinct. The density will be regulated in the form of a floor space ratio standard that will equate to approximately 480 persons per hectare which is consistent with The Hills Corridor Strategy.

In this regard, a variation to density is considered to be satisfactory.

b) Building Setbacks

The proposed modification includes variations to the Eastern Residential Precinct setback controls as outlined in the following table:

	DCP	Master Plan	Proposed Building Setbacks
Solent Circuit (South Boundary)	10 metres	10 metres	Ground Floor Awning - 3.7 metres Building Façade – 10 metres
Eastern Boundary (Link Road)	8 metres	6 metres	Ground Floor Awning – 1.2 metres Building Façade 7 metres (4.9 metres to balconies)

The DCP provides the following objectives relating to building setbacks:

- *To provide setbacks that complements the landscape setting of the Norwest Business Park.*
- *To provide privacy for future residents within a parkland setting.*
- *To minimise overshadowing of communal open space areas.*

**Solent Circuit Setback**

The setback to Solent Circuit is proposed to be 10 metres to the building façade which is consistent with the DCP. However an awning above ground level will encroach beyond the building line and will be setback 3.7 metres from Solent Circuit. The setback of 3.7 metres to Solent Circuit is proposed at ground level only with the setback of the building line increasing given the offset in the building form at upper levels. Additionally the building line is in a curvature form which is reflective of the proposed corner created by the link road and Solent Circuit. The awning is consistent with the curvature of the building and will provide a public benefit with all-weather shelter for the public and patrons of the neighbourhood shops located at ground level.

The setback is considered to be satisfactory given that the ground floor will comprise of neighbourhood shops which are intended to provide a ground level designed for active uses and to promote pedestrian activity.

The variation to the street setback of Solent Circuit is considered to be satisfactory.

**Link Road Setback (Eastern Boundary)**

The setback to the link road is proposed to be 7 metres and 4.9 metres for balconies on ground and level 1 only. It is noted that the original development was approved with a setback of 6 metres to the building façade and 3.8 metres to balconies. In this regard, the increased building setback is considered to be satisfactory. However, an awning above ground level will encroach beyond the building setback to the link road and will be setback 1.2 metres.

The primary objective of the reduced setback is to promote the active uses of the neighbourhood shops fronting the new link road on the ground floor. The reduced setback is designed to draw activity through the site from the new link road in order to provide a public domain area on private land. Additionally, the reduced setback will preserve vistas down to Norwest Lake when walking towards the Business Park.

The setback to the link road particularly with respect to the awning, is considered to be satisfactory in order to stimulate retail activation to the Link Road frontage. The awning will provide all-weather shelter for the public and patrons of the neighbourhood shops at ground level. Additionally, the setback will not result in any amenity impacts to adjoining residential properties.

Overall, the proposed setbacks for the proposed development are considered to be satisfactory.

#### c) Car Parking

##### Tandem Car Parking

The DCP prescribes that tandem parking is to be excluded in the assessment of the number of car parking spaces for retail, commercial, medium density residential and industrial development and the like. The proposed modification will result in the provision of 60 car spaces provided in a tandem arrangement which relates to residential car spaces. In this regard, 30 of these spaces are to be excluded in the overall parking provision which results in a non-compliant parking provision of 177 car spaces where 203 car spaces is required.

The tandem spaces are located in low traffic areas within the car park so as to minimise disruption to the flow of traffic. In addition, the applicant has indicated that the tandem spaces will be allocated to units that require two car parking spaces. In this regard, the tandem arrangement is considered to be satisfactory.

##### Visitor Car Parking

The visitor parking rate is inconsistent with the DCP rate of 2 spaces per 5 units. The proposal will provide a visitor rate of 1 space per 5 units. It is noted that the reduced rate is consistent with the rates adopted as part of the preceding masterplan (DA1347/2015/JP) and the parent consent. No further variation is sought and the visitor rate is considered to be satisfactory.

#### **Part B Section 5 Residential Flat Building**

The proposal has been assessed against the relevant controls of Part B Section 5 – Residential Flat Building as detailed in the table of compliance below:

<b>DEVELOPMENT STANDARD (CLAUSE NO.)</b>	<b>BHDCP REQUIREMENTS</b>	<b>PROPOSED DEVELOPMENT</b>	<b>COMPLIANCE</b>
3.11 Unit Layout and Design	Apartment Mix		
	(a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments.	A maximum of 14% of units will be one bedroom apartments.	Yes
	(b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.	41% of the unit yield will be three bedroom apartments.	Yes

	<p>Residential Flat Development (30 or more units) (d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following:</p> <table><tr><th>Apartment Size Category</th><th>Apartment Size</th></tr><tr><td colspan="2"><b>Type 1</b></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 or more bedrooms</td><td>95m<sup>2</sup></td></tr><tr><td colspan="2"><b>Type 2</b></td></tr><tr><td>1 bedroom</td><td>65m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>90m<sup>2</sup></td></tr><tr><td>3 or more bedrooms</td><td>120m<sup>2</sup></td></tr><tr><td colspan="2"><b>Type 3</b></td></tr><tr><td>1 bedroom</td><td>75m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>110m<sup>2</sup></td></tr><tr><td>3 or more bedrooms</td><td>135m<sup>2</sup></td></tr></table>	Apartment Size Category	Apartment Size	<b>Type 1</b>		1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 or more bedrooms	95m <sup>2</sup>	<b>Type 2</b>		1 bedroom	65m <sup>2</sup>	2 bedroom	90m <sup>2</sup>	3 or more bedrooms	120m <sup>2</sup>	<b>Type 3</b>		1 bedroom	75m <sup>2</sup>	2 bedroom	110m <sup>2</sup>	3 or more bedrooms	135m <sup>2</sup>		
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	<p>Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.</p> <p>Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.</p> <p>All remaining apartments are to comply with the Type 3 apartment sizes.</p>	<p>29% of units are Type 1.</p> <p>30% of units are type 2.</p> <p>41% of units are type 3.</p> <p><b>Individual units within a of dual key arrangement:</b></p> <p>30% of units are Type 1</p> <p>32% of units are type 2</p> <p>38% of units are type 3</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No – refer to variation below</p> <p>No – refer to variation below</p>																										
3.28 Developer Contributions	In accordance with the current Section 94 rate – to be conditioned.	S94 contributions have been levied in accordance	Yes																										

		with Contributions Plan No. 8. A revised condition of consent will be recommended requiring payment of contribution prior to the issue of the Construction Certificate.	
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a) Unit Layout and Design

The proposal complies with the unit layout and design requirements of the DCP with respect to apartment mix and size. However, when accounting for individual units within a dual key arrangement, the proposal will result in a variation to type 2 and type 3 apartments. It is noted that the parent consent was approved with a variation to type 2 apartments. A variation is considered to be satisfactory given that the apartment sizes will comply with the minimum apartment size requirements of the Apartment Design Guide.

It is also noted that Clause 30A of SEPP 65 '*Standards that cannot be used as grounds to refuse development consent for residential flat buildings*' states that apartment size cannot be a reason for refusal if the proposed area for each apartment is equal to, or greater than, the recommended internal area and external area for the relevant apartment type set out in the Apartment Design Guide. The apartment sizes all exceed the minimum requirements of the SEPP.

Furthermore, it is noted that the dual key units will be registered under a single title and will not be separately titled as individual apartments.

On this basis, it is considered that the proposed apartment sizes are satisfactory given the efficiency of the layout, the attainment of solar access and natural ventilation.

#### **SUBDIVISION ENGINEERING COMMENTS**

The Development Application was referred to Council's Subdivision Coordinator to review the design of car parking, vehicular access points and stormwater management. No objections were raised to the proposed development subject to conditions of consent.

#### **WASTE MANAGEMENT COMMENTS**

The Development Application was referred to Council's Resource Recovery Officer to review waste management. No objections were raised to the proposed development subject to conditions of consent.

#### **NSW DEPARTMENT OF PRIMARY INDUSTRIES – WATER**

The proposed modification was referred to the NSW Department of Primary Industries – Water. No objections were raised subject to the original General Terms of Approval.

#### **NSW POLICE COMMENTS**

The proposed modification was referred to The Hills Local Area Command, NSW Police in accordance with the requirements of "Safer by Design Guidelines" prepared by the NSW Police in conjunction with the Department of Planning and the in accordance with the memorandum of understanding between the Hills Shire Council and The Hills Local Area

Command, NSW Police. The NSW Police raise no objections subject to their previous recommendations provided in the original consent.

## CONCLUSION

The Development Application has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2012, The Hills Development Control Plan 2012, and State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and is considered satisfactory.

The proposal will provide additional housing choice for residents of the Shire. The external and internal design of the apartment buildings is satisfactory and will result in an appropriate streetscape outcome for the future character of the area.

The proposal was advertised and notified to adjoining property owners and no submissions were received.

The proposal is recommended for approval subject to conditions.

## RECOMMENDATION

The Section 96 (2) Application be approved subject to the following conditions:

## CONDITIONS OF CONSENT

Condition Nos. 1, 5, 30 and 68 be **deleted** and **replaced** with:

## 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
A01	Site Plan prepared by krikis taylor architects	17	01/02/2017
A02	Site Analysis prepared by krikis taylor architects	16	16/11/2016
A03	Basement 3 prepared by krikis taylor architects	15	16/11/2016
A04	Basement 2 prepared by krikis taylor architects	15	16/11/2016
A05	Basement 1 prepared by krikis taylor architects	15	16/11/2016
A06	Lower Ground Floor Plan prepared by krikis taylor architects	17	01/02/2017
A07	Ground Level Floor Plan prepared by krikis taylor architects	16	23/01/2017
A08	Level 1 Floor Plan prepared by krikis taylor architects	16	23/01/2017

A09	Level 2 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A10	Level 3 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A11	Level 4 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A12	Level 5 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A13	Level 6 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A14	Level 7 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A15	Level 8 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A16	Level 9 Floor Plan prepared by krikis taylor architects	16	23/01/2017
A17	Level 10 Floor Plan prepared by krikis taylor architect	16	23/01/2017
A18	Roof Plan prepared by krikis taylor architects	16	01/02/2017
A40	North Elevation prepared by krikis taylor architects	16	01/02/2017
A41	East Elevation prepared by krikis taylor architects	16	01/02/2017
A42	South Elevation prepared by krikis taylor architects	16	01/02/2017
A43	West Elevation prepared by krikis taylor architects	16	01/02/2017
A50	Site Section prepared by krikis taylor architects	14	16/11/2016
A51	East-West Cross Section prepared by krikis taylor architects	15	16/11/2016
A70	Materials Board prepared by krikis taylor architects	15	16/11/2016
A71	Perspectives prepared by krikis taylor architects	15	01/02/2017
A72	Perspectives prepared by krikis taylor architects	14	16/11/2016
A73	Perspectives prepared by krikis taylor architects	04	16/11/2016
A74	Retail Pergola and Glazed Roof Details prepared by krikis taylor architects	01	23/01/2017
100	Landscape Masterplan prepared by Site Image Landscape Architects	Q	02/02/2017
101	Landscape Plan prepared by Site	Q	02/02/2017

	Image Landscape Architects		
501	Landscape Details prepared by Site Image Landscape Architects	P	04/11/2016
502	Indicative Plant Schedule prepared by Site Image Landscape Architects	K	23/11/2015

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.

### **5. Provision of Parking Spaces**

The development is required to be provided with 207 off-street car parking spaces. 169 spaces are to be allocated to residential parking, 16 spaces are to be allocated for residential visitors and 22 spaces are to be allocated to neighbourhood shops. These car parking spaces shall be available for off street parking at all times.

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

### **30. 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:-

	<b>1br per Unit</b>	<b>2br per Unit</b>	<b>3br per Unit</b>	<b>1 Bedroom: 11</b>	<b>2 Bedroom: 33</b>	<b>3 Bedroom: 36</b>	<b>Section 94</b>
Open Space - Land	\$ 3,553.01	\$ 5,739.47	\$ 7,379.32	\$ 39,083.11	\$ 189,402.51	\$ 265,655.52	\$ 494,141.14
Open Space - Capital	\$ 1,461.34	\$ 2,360.62	\$ 3,035.08	\$ 16,074.74	\$ 77,900.46	\$ 109,262.88	\$ 203,238.08
Community Facilities - Land	\$ 76.56	\$ 123.68	\$ 159.02	\$ 842.16	\$ 4,081.44	\$ 5,724.72	\$ 10,648.32
Community Facilities - Capital	\$ 662.84	\$ 1,070.75	\$ 1,376.67	\$ 7,291.24	\$ 35,334.75	\$ 49,560.12	\$ 92,186.11
Studies and Administration	\$ 101.93	\$ 164.65	\$ 211.70	\$ 1,121.23	\$ 5,433.45	\$ 7,621.20	\$ 14,175.88
Roadworks - Land	\$ 585.41	\$ 945.66	\$ 1,215.85	\$ 6,439.51	\$ 31,206.78	\$ 43,770.60	\$ 81,416.89
Roadworks - Capital	\$ 1,391.80	\$ 2,248.29	\$ 2,890.66	\$ 15,309.80	\$ 74,193.57	\$ 104,063.76	\$ 193,567.13
<b>Total</b>	<b>\$ 7,832.89</b>	<b>\$ 12,653.12</b>	<b>\$ 16,268.30</b>	<b>\$ 86,161.79</b>	<b>\$ 417,552.96</b>	<b>\$ 585,658.80</b>	<b>\$ 1,089,373.55</b>

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 8.

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

### **DURING CONSTRUCTION**

### **68. 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. 634065M\_02 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.



The following condition to be **added**:

## **GENERAL MATTERS**

### **27A. Excavation/ Anchoring Near Boundaries**

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

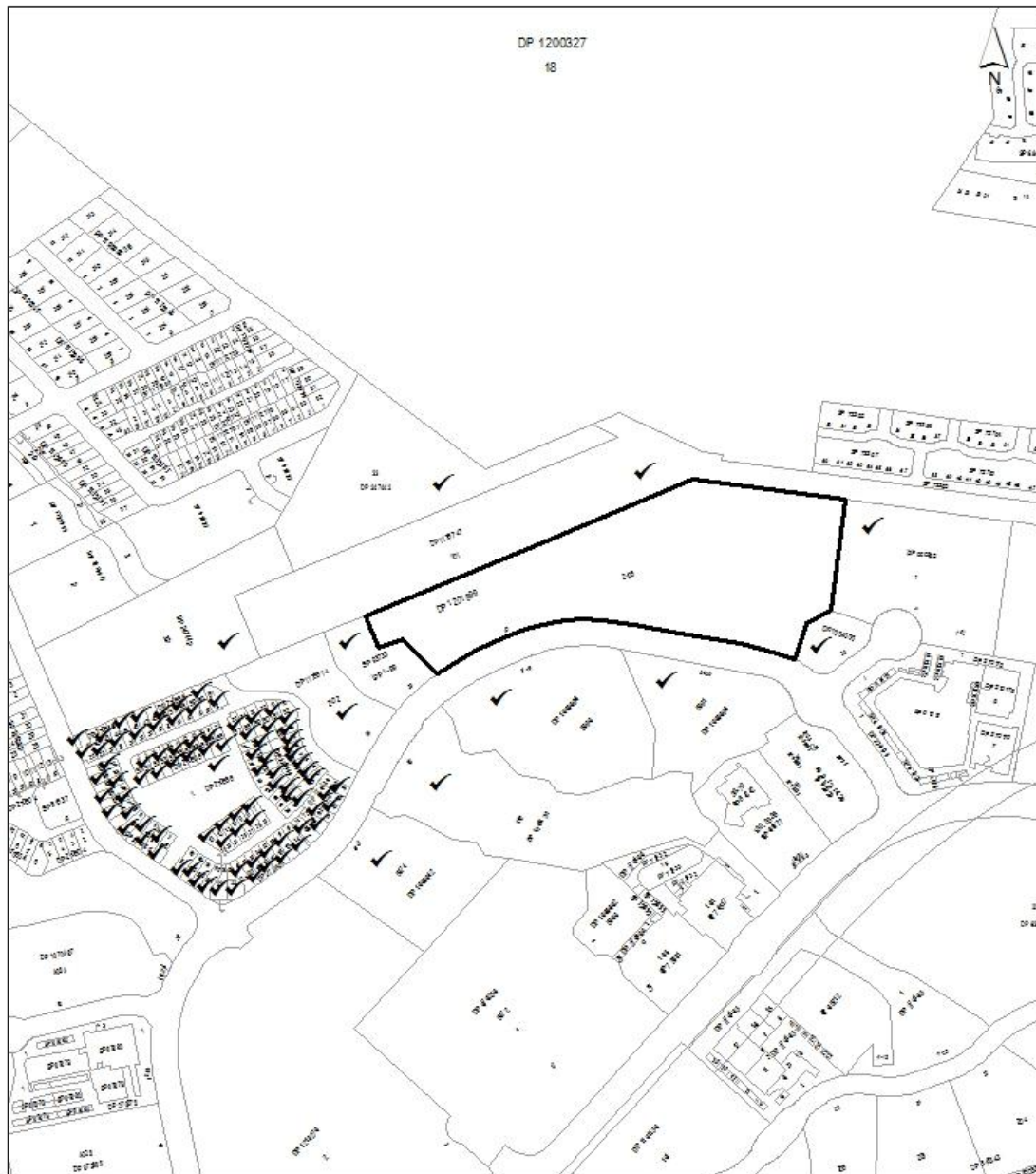
- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or the RMS in the case of a classified road.
- Where anchoring within public land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

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

## **ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Site Plan
5. Elevations
6. Section Plan
7. Perspectives

## ATTACHMENT 1 – LOCALITY PLAN



☐ SUBJECT SITE

☒ PROPERTIES NOTIFIED

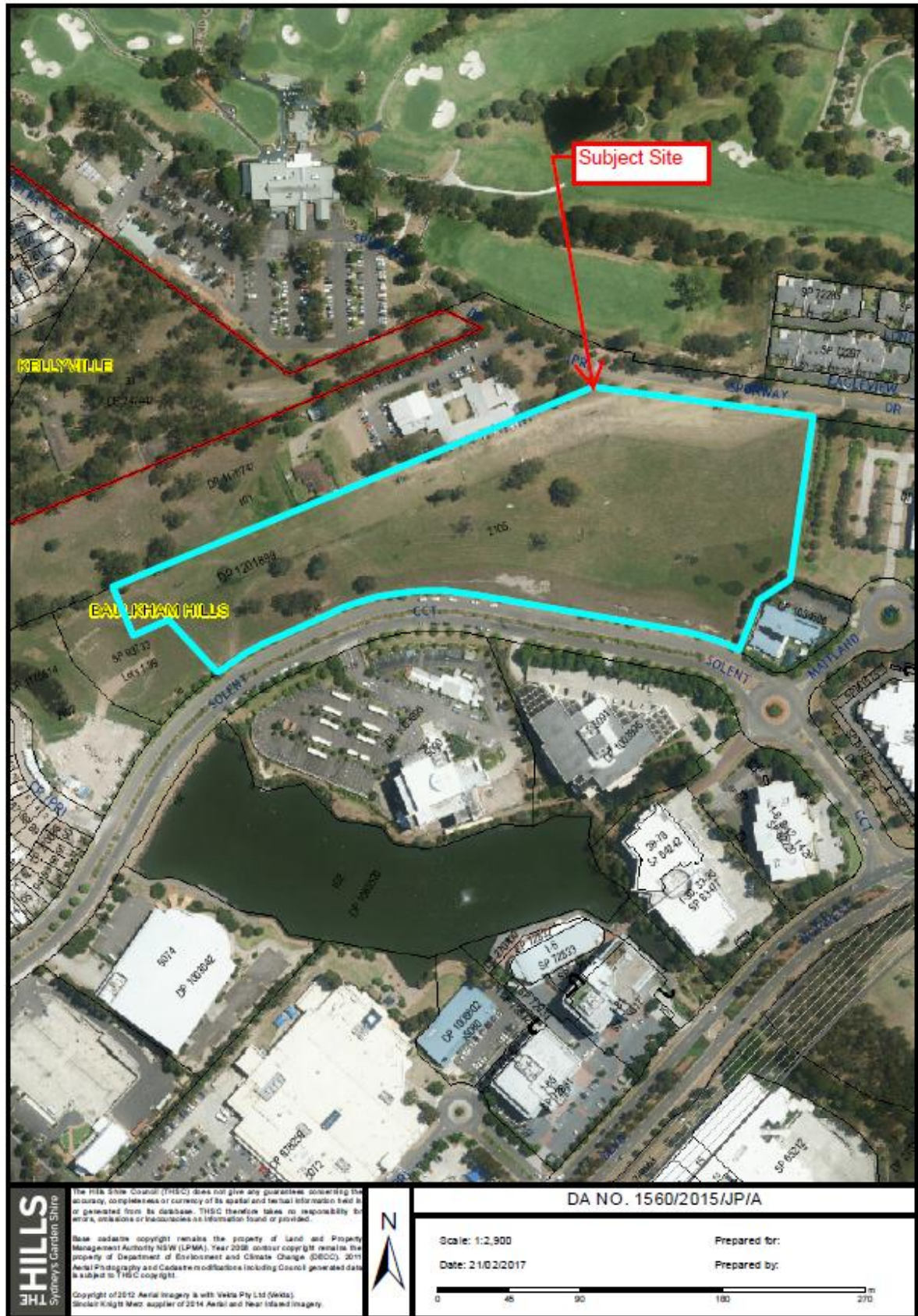
**THE HILLS**  
Sydney's Garden Shire

**THE HILLS SHIRE COUNCIL**

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

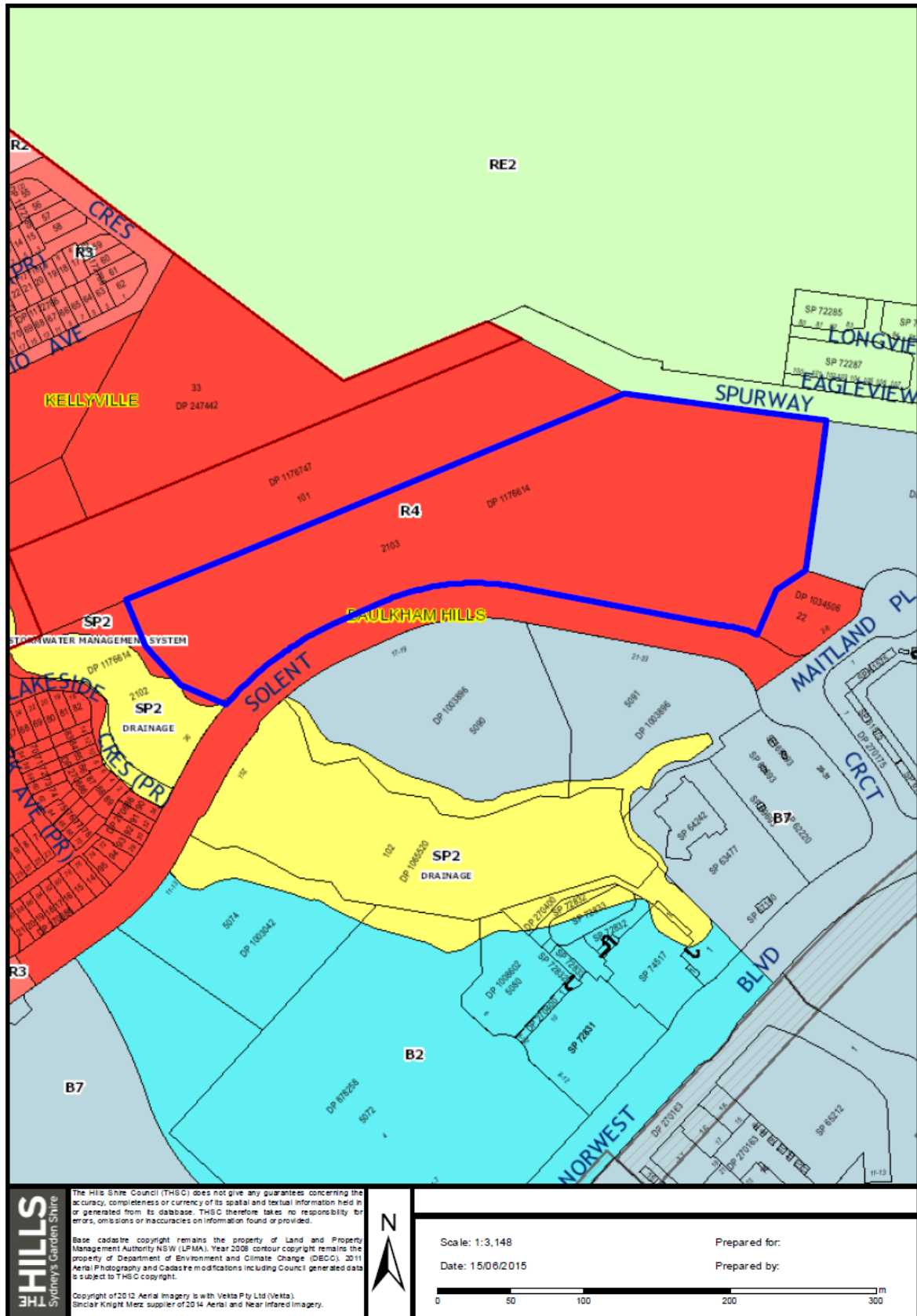
BASE CADASTRE COPY RIGHT LAND & PROPERTY INFORMATION NSW (LP I). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPY RIGHT.

## ATTACHMENT 2 – AERIAL PHOTOGRAPH





## ATTACHMENT 3 – ZONING MAP







[illegible]

- 1 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 2 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 3 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 4 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 5 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 6 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 7 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 8 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 9 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 10 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 11 Gaseous butadiene with aluminium foam to normal 1100mm AFL
- 12 Gaseous butadiene with aluminium foam to normal 1100mm AFL

NORTHWEST TOWN CENTRE  
EAST PRECINCT - 'THE GREENS'  
LOT 2103, DP 1175614, SOLENT CIRCUIT, BALUGRAM HILLS  
PROPOSED SECTION 96  
EAST ELEVATION

DATE 01/02/17  
SCALE 1:400 @ AS  
PROJECT NO. DRAWING NO. ISSUE  
2615 A41 16







### EXTERIOR FINISHES LEGEND

- 1 Gaseous butadiene with aluminium frame to nominal 1100mm AFU.
- 2 Tissue coated masonry balustrade to nominal 1100mm AFU.
- 3 Tissue coated masonry balustrade to nominal 800mm AFU, with glazed
- 4 under aluminium frame to nominal 1100mm AFU.
- 5 Tissue coated masonry wall / balustrade - (slate finish).
- 6 Tissue coated masonry wall / balustrade - (slate finish).
- 7 Tissue coated masonry wall / balustrade - (slate finish grey).
- 8 Tissue coated masonry wall / balustrade - (slate finish grey).
- 9 Perforated powder coated aluminium blades - (silver).
- 10 Colour backed glazing - (yellow).
- 11 Glazed windows/doors with aluminium frame.
- 12 Perforated metal louvers.
- 13 Perforated metal screen.
- 14

1 WEST ELEVATION 1:400

DO NOT SCALE DRAWINGS.  
VERIFY ALL DIMENSIONS ON SITE.  
REPORT ANY DISCREPANCIES TO  
THE SUPERINTENDENT BEFORE  
PROCEEDING WITH THE WORK.

**PROPERTON**

---

  
**MHPA NORTHWEST**  
L.L. 9th Mercantile Street  
Gulfview NSW 2100  
Tel: 02 9239 5500 Fax: 02 9239 5599

**BUILDING A3**  
NORTHWEST TOWN CENTRE  
EAST PRECINCT - "THE GREENS"  
LOT 2103, DP 1176514, GOLENT CIRCUIT, BALUBAHVA HILLS  
PROPOSED SECTION 96  
WEST ELEVATION

ARCHITECT

ALBERT T. BUCKLE LIGHTING  
NORTH HAVEN, CT 06460  
PO BOX 125 NORTH AVENUE NEW 2068  
P 1-800-860-8008 F 1-800-860-8877  
WWW.BUCKLELIGHTING.COM

**Idia**

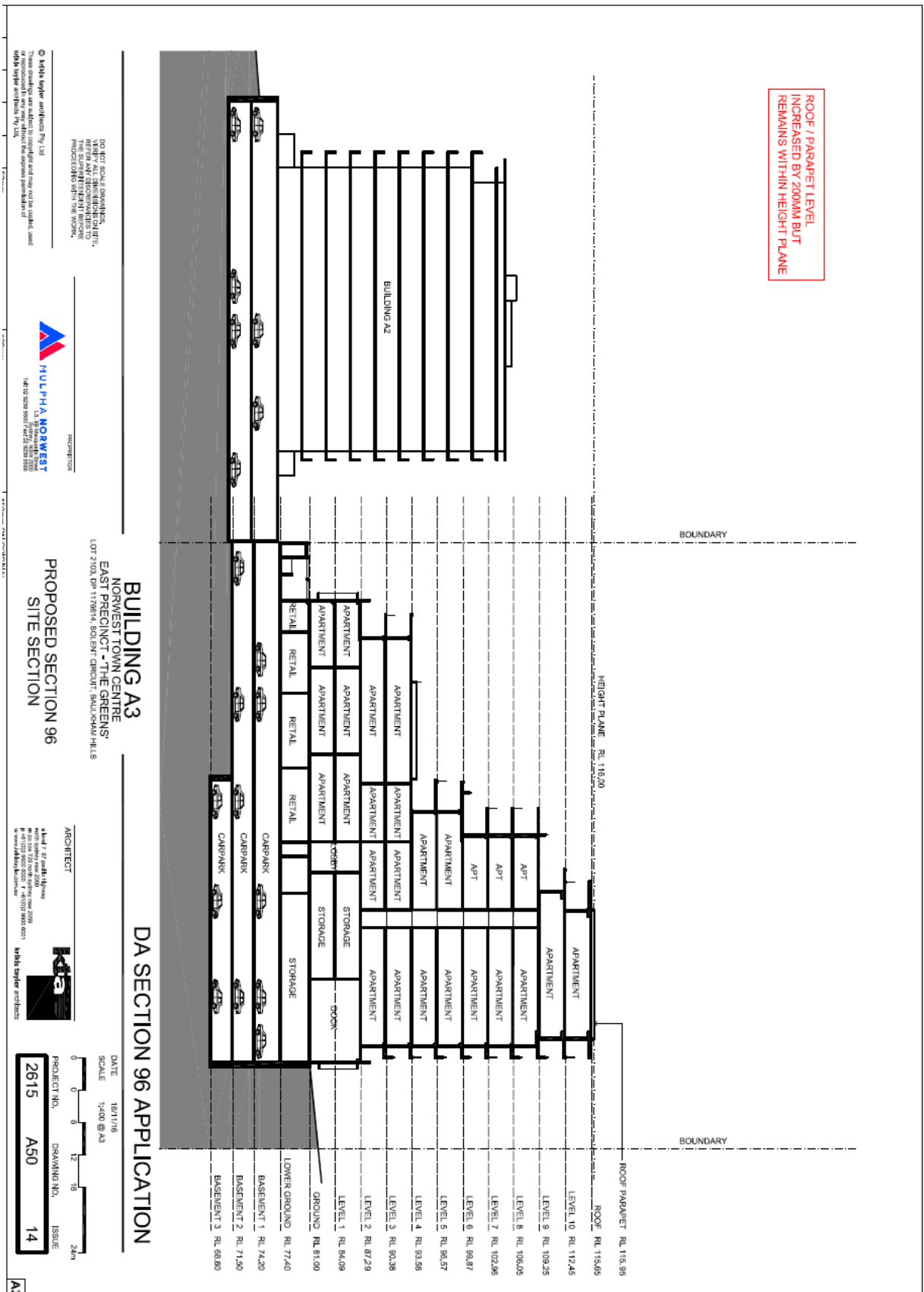
**Architect** **Idia** **Architect**

## DA SECTION 96 APPLICATION

1. REVISION TO FENESTRATION AND VARIOUS FACADE ELEMENTS RESULTING FROM APARTMENT LAYOUT MODIFICATIONS
2. ROOF/ PARAPET LEVEL INCREASED BY 200MM BUT REMAINS WITHIN HEIGHT PLANE

SCALE 1:400 @ AS  
PROJECT NO. DRAWING NO. ISSUE  
2615 A43 16

ROOF / PARAPET LEVEL  
INCREASED BY 200MM BUT  
REMAINS WITHIN HEIGHT PLANE

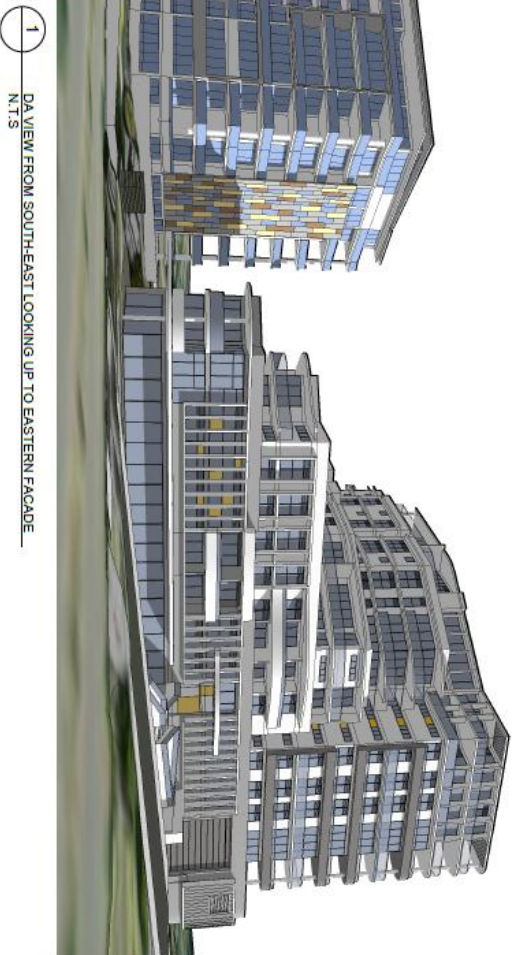


### 1. VARIOUS FACADE CHANGES



A3

ATTACHMENT 6 – PERSPECTIVES



1 DA VIEW FROM SOUTH-EAST LOOKING UP TO EASTERN FACADE  
N.T.S



2 SECTION 96 VIEW FROM SOUTH-EAST LOOKING UP TO EASTERN FACADE  
N.T.S

1. VARIOUS FACADE CHANGES

DA SECTION 96 APPLICATION

DATE: 18/1/18

PROJECT NO: 2615

DRAWING NO: A73

SHEET: 04

**BUILDING A3**

**NORTHWEST TOWN CENTRE**

**EAST FRECON TOWN CENTRE**

**LOT 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 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422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 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