

SYDNEY CENTRAL CITY PLANNING PANEL

Panel Reference	2017SWC057
DA Number	1582/2017/JP
LGA	The Hills Shire Council
Proposed Development	Construction of Building B within Stage 1 of the approved Circa Seniors Housing Development
Street Address	LOT 1 DP 1217654, 26-30 Norbrik Drive, Bella Vista
Applicant/Owner	Aveo Southern Gateway Pty Ltd
Date of DA lodgement	18 April 2017
Number of Submissions	Eight (8 submissions)
Recommendation	Approved subject to conditions
Regional Development Criteria	CIV Over \$30 Million – General Development
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> - State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy No. 55 – Remediation of Land - State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy (State and Regional Development) 2011 • 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: s4.15(1)(a)(ii) <ul style="list-style-type: none"> - Nil • List any relevant development control plan: s4.15 (1)(a)(iii) <ul style="list-style-type: none"> - The Hills Local Environmental Plan 2012 - DCP 2012 Part C Section 6 – Business - DCP 2012 Part B Section 5 – Residential Flat Buildings - DCP 2012 Part C Section 1 – Parking • 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: s4.15(1)(a)(iv) <ul style="list-style-type: none"> - Nil • List any coastal zone management plan: s4.151)(a)(v) <ul style="list-style-type: none"> - Nil • List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> - Environmental Planning and Assessment Act Regulation 2000

List all documents submitted with this report for the Panel's consideration	8 Submissions
Report prepared by	Cynthia Dugan Development Assessment Co-ordinator
Report date	11 April 2018

Summary of S.4.15 matters Have all recommendations in relation to relevant s4.15 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 (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

The Development Application is for the construction of an 11 storey building with 83 retirement living units and the provision of 90 car parking spaces. The building will replace a 9 Storey building (Building B) comprising 67 retirement living units approved under Development Application No. 992/2016/JP for a Master Plan which encompasses a Stage 1 built form component (Buildings A and B) for the Circa Seniors Housing Development. A Section 96(2) Modification to the Masterplan and Stage 1 consent has been lodged and assessed concurrently with the subject application to satisfy the provisions under Section 4.24 of the Environmental Planning and Assessment Act, 1979.

The Development Application is accompanied by a request to vary a development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). Clause 4.4 of the LEP prescribes a maximum floor space ratio of 1:1 for the subject site. The proposal results in a floor space ratio of 1.08:1 which represents an 8% variation to the LEP standard. A Clause 4.6 variation of 5% was supported under the Masterplan and Stage 1 built form consent. The proposal is considered to result in a better planning outcome as the two additional levels of Building B result in a height that is 5.15 metres below the maximum height development standard under LEP 2012, is consistent with Building A and provides continuity in architectural expression, meeting the design intent of Buildings A and B having been conceptualised as a pair of buildings. The further variation

to FSR is also consistent with Planning Proposal 19/2015/PLP for the Circa Precinct which proposes a floor space ratio of 1.2:1 for the subject site. The Planning Proposal was supported by Council and received Gateway Determination on 8 September 2016. The height and proportion of Building B is considered to be commensurate of the character envisaged for the Circa Precinct and does not result in further amenity impacts to adjoining residential properties.

The application was notified on two occasions and submissions from 8 property owners were received. The issues raised in the submissions primarily relate to the building height, design, privacy, noise, solar access, traffic, safety, density and environmental and health impacts during the construction phase. The matters raised in the submissions have been reviewed and do not warrant refusal of the application.

The proposal is recommended for approval subject to conditions.

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Aveo Southern Gateway Pty Ltd	1.	<u>Section 4.15 (EP&A Act)</u> – Satisfactory
Zoning:	B7 Business Park	2.	<u>SEPP (Housing for Seniors or People with a Disability) 2004</u> – Satisfactory, see report
		3.	<u>SEPP 65 – Design Quality of Residential Apartment Development</u> – Satisfactory, see report
Area:	5.944 Hectares	4.	<u>SEPP (State & Regional Development) 2011</u> – Satisfactory
Existing Development:	Dry detention basin and Buildings A and B (part) are currently being constructed.	5.	<u>LEP 2012</u> – Satisfactory
		6.	<u>The Hills DCP 2012</u> – Variations, see report
		7.	<u>Section 7.12 Contribution</u> – \$506,603.34

SUBMISSIONS

REASONS FOR REFERRAL TO SCCPP

1. Exhibition:	Not required	1.	Capital Investment Value in excess of \$30 million
2. Notice Adj Owners:	Yes 14 days during first notification period. 14 days during second notification period.		
3. Number Advised:	125		
4. Submissions Received:	5 submissions were received during the first		

	notification period. 3 submissions received during the second notification period.		
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HISTORY

22/11/2007

Development Application (82/2008/HA) was approved for landscaping and earthworks along the western and southern boundary and the erection of an entry wall, water feature and site identification signage at the Old Windsor Road and Norbrik Drive intersection.

1/04/2008

Development Application (1128/2008/HA) was approved for the construction of a data centre comprising three buildings and associated car parking. This consent was not enacted.

10/06/2008

Development Application (83/2008/HA) was approved for the construction of a wet and dry detention basin including discharge through Francesco Avenue Reserve.

25/03/2009

Development Application (900/2009/HA) was approved for the construction of a dry detention basin with storage capacity of 10,000m³.

18/03/2016

Development Application (485/2016/HC) was approved under delegated authority for the construction of a permanent wet detention basin (in the form of a lake) with a storage capacity of approximately 5,275m³. The proposal involved the construction of a supplementary dry storage detention facility with a storage capacity of 10,850m³ with associated earthworks and landscaping. A staged weir structure was proposed to be constructed to control the rate of discharge into the supplementary detention storage facility. The proposed detention basins form part of the overall stormwater drainage for the Circa Business Park and will connect to Lalor Creek to the south.

18/08/2016

Development Application (992/2016/JP) for the Master Plan and Stage 1 construction for the Circa Seniors Housing Development was approved by the SWCPP. The development comprised of 10 buildings including 446 self-contained dwellings, a residential aged care facility including 144 beds, retail and restaurants, common area facilities and a basement car park containing 512 car spaces. An FSR of 1.05:1 was approved.

8/09/2016

Planning Proposal (19/2015/PLP) received Gateway Determination by the Department of Planning and Environment. The Planning Proposal seeks to facilitate development of the Circa Precinct of Norwest Business Park by increasing the maximum building height from RL 108 and RL 116 to RL 116 and RL 140 (which would allow eight (8) to 17 storey buildings) and increase the maximum floor space ratio, in specific locations, from 1:1 to 1.2:1, 2:1 and 3:1.

10/02/2017	Planning Proposal (15/2015/PLP) was gazetted by the NSW Department of Planning and Environment. The Planning Proposal involved amendment to Schedule 1 'Additional Permitted Uses' and the associated Additional Permitted Uses Map to permit the use of land at 26, 28 and 30 Norbrik Drive, Bella Vista (Lots 1 and 2 DP1195652 and Lot 701 DP1198639) for the purposes of ' <i>seniors housing</i> ' with development consent.
18/04/2017	Subject Development Application (1582/2017/JP) lodged with Council.
17/07/2017	The applicant was requested to submit further advice pertaining to compliance with Section 83D of the Environmental Planning and Assessment Act 1979.
16/08/2017	Site inspection conducted confirming that physical commencement of works has commenced for Building B under DA 992/2016/JP. In this regard, the applicant was requested to lodge a Section 96 modification under the parent consent to ensure consistency with Section 83D of the Environmental Planning and Assessment Act, 1979.
24/08/2017	Meeting held with applicant to discuss outstanding issues related to the subject application and the lodgement of Section 4.55 modification to consent No. 992/2016/JP.
29/09/2017	Additional information/amended Statement of Environmental Effects submitted to rectify incorrect height RL's submitted in original documentation.
9/10/2017	Additional information re-notified to adjoining property owners.
24/10/2017	Section 96(2) modification to consent No. 992/2016/JP was lodged. This application is being assessed concurrently with the subject proposal.
11/11/2017	The applicant was requested to provide additional information concerning solar access, storage areas in units, clarification of plans and concerns raised in the submissions during the second notification period.
17/11/2017	Clause 7.7 Design Excellence was inserted in The Hills LEP 2012. The Clause specifies an objective to deliver the highest standard of architectural and urban design and applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more.
17/01/2018	The applicant was requested to address Clause 7.7 Design Excellence of The Hills LEP 2012.
22/02/2018	Design Excellence Panel Meeting held and the subject development application was presented by the applicant and considered by the Panel.
8/03/2018	Design Excellence Panel Meeting Minutes distributed to the applicant.
16/03/2018	Meeting held to discuss concerns raised at the Design Excellence Panel Meeting.

23/03/2018

Applicant submitted amended plans to address the Design Excellence Panel's concerns.

APPROVED MASTERPLAN AND STAGE 1 BUILT FORM DEVELOPMENT APPLICATION (992/2016/JP)

Development consent 992/2016/JP was granted for a Masterplan which encompasses the Stage 1 built form component for a Seniors Living Development pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The Masterplan comprises 10 buildings including 446 self-contained dwellings, a residential aged care facility including 144 beds, retail and restaurants, common area facilities and a basement car park containing 512 car spaces. The Masterplan is proposed to be carried out over six stages and will include an easement for public access through the site which will enable a pedestrian connection between the Circa Shopping Centre and the southern side of the site (through to Prestige Avenue). The proposed development is detailed in the Site Plan and Staging Plan below:



Figure 1: Site Plan approved under DA 992/2016/JP

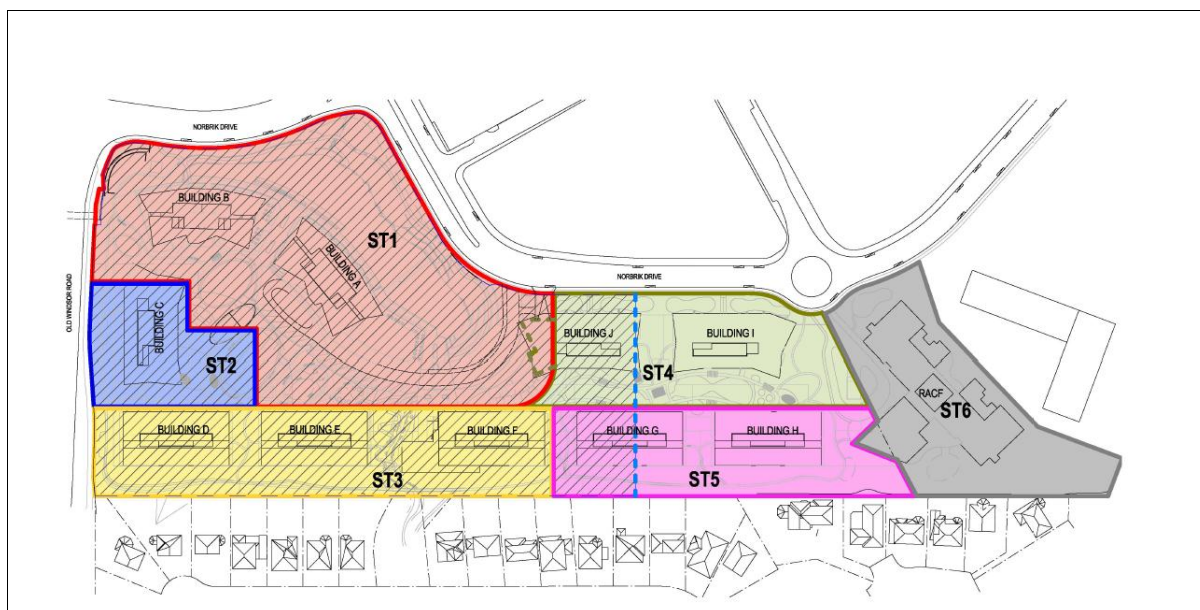


Figure 2: Staging Plan approved under DA 992/2016/JP

The approved development and staging are summarised in the table below:

Building	Stage	Height	Unit Yield
Building A	Stage 1A	10 Storeys and RL 109.87	64
Building B	Stage 1B	9 Storeys and RL 106.01	67
Building C	Stage 2	8 Storeys and RL 100.60	62
Building D	Stage 3	6 Storeys and RL 93.80	46
Building E	Stage 3	4 Storeys and RL 87.20	30
Building F	Stage 3	4 Storeys and RL 89.40	25
Building G	Stage 5	4 Storeys and RL 90.00	30
Building H	Stage 5	4 Storeys and RL 92.20	30
Building I	Stage 4	6 Storeys and RL 98.70	45
Building J	Stage 4	7 Storeys and RL 100.30	47
RACF	Stage 6	4 Storeys and RL 93.20	-
			TOTAL – 446 units

The Stage 1 built form component comprised the construction of two buildings being 10 storeys (Building A) and 9 storeys (Building B) in height. Building A is currently under construction and comprises of 64 retirement living units (7 x 1 Bedroom, 38 x 2 Bedroom, 19 x 3 Bedroom) and parking for 69 vehicles. Approved Building B comprises of 67 retirement living units (10 x 1 Bedroom, 38 x 2 Bedroom, 19 x 3 Bedroom) and parking for 70 vehicles. The buildings will to be located adjacent to a wet detention basin approved under DA 485/2016/HC. The buildings will be separated from Norbrik Drive by a wet detention basin and will be accessible via a boardwalk surrounding the perimeter. Buildings A and B will include the provision of communal facilities including two commercial tenancies, a communal library, resident dining, resident function room and communal open space facilities. A porte cochere is provided for secondary access adjacent to Building A in addition to 20 at-grade car parking spaces.

CIRCA PRECINCT PLANNING PROPOSAL (19/2015/PLP)

The site is subject to a precinct wide Planning Proposal to facilitate development of an additional 450,000m² of commercial floor space (under the current controls 240,000m² could be delivered) through a range of commercial office, café and restaurant developments which could provide up to 25,000 jobs. Specifically, the planning proposal seeks to:

- Increase the maximum building height from RL 108 and RL 116 to RL 116 and RL 140 (which would allow eight (8) to 17 storey buildings); and

- b. Increase the maximum floor space ratio, in specific locations, from 1:1 to 1.2:1, 2:1 and 3:1.

With respect to the subject site, the Planning Proposal seeks to increase the current height limit of RL 108 to RL 116 to RL 116 and RL 140 and increase the floor space ratio from 1:1 to 1.2:1.

The Planning Proposal was supported at Council's Ordinary Meeting of 26 April 2016 and received Gateway Determination on 8 September 2016 by the Department of Planning and Environment. On 6 October 2017, the delegate of the Greater Sydney Commission granted an extension of time to complete the Planning Proposal by 15 June 2018 through alteration of the Gateway Determination.

THE SITE AND SURROUNDING AREA

The site is located at 30 Norbrik Drive which is legally known as Lot 1 DP 1217654. The site has a frontage to Norbrik Drive and Old Windsor Road with a site area of 5.944 hectares. The site is undeveloped however was formerly used as a quarry and has since been remediated. The site also contains a dry detention system known as the Norbrik Detention Pond being the commencement of Lalor Creek, with several easements on the Site to allow water to drain into Council's stormwater infrastructure.

The site is bordered by Old Windsor Road to the west and low density residential dwellings to the south fronting Prestige Avenue, Sharleen Court, Patrine Place and Zane Close. To the east is 24 Norbrik Drive which contains a 5-8 storey serviced apartment building operated by Quest. To the north is the Norwest Circa Shopping Centre containing Woolworths and Norwest Private Hospital.



Figure 3: Aerial Map of Circa Precinct

On a wider context, the site is located in the southern part of the Norwest Business Park, and the State Heritage listed Bella Vista Farm Park located to the north-west.

The frontage of the site is relatively at-grade to Norbrik Drive with levels varying between RL's 73-75. Given the dry detention system on site, the site falls from Norbrik Drive to the

southern boundary with a low point of approximately RL 63-64 adjacent to the discharge point to Lalor Creek.

PROPOSAL

The subject application seeks consent for the construction of an 11 storey building (Building B) with 83 retirement living units. This would replace a 9 Storey building comprising 67 retirement living units approved under Development Application No. 992/2016/JP for a Master Plan and Stage 1 built form component (Buildings A and B) for the Circa Seniors Housing Development. The proposed works to Building B is substantially the same as approved under the parent consent for the Masterplan and Stage 1 Built Form works with the exception of the following changes:

- Two (2) additional levels which increases the building height from RL106.01 to RL110.85 or 4.84 metres;
- Increasing the number of apartments from 67 to 83 – an increase of 16;
- Increasing the floor area by 1,992m²;
- Decrease in floor to floor heights from 3260mm to 3100mm for all typical levels and from 4550mm to 3900mm for the Ground Floor;
- Improvements to the façade with regards to additional screening for privacy and balustrade treatment changed from solid to glazed in some areas;
- Pedestrian entry on the ground floor to the north has been deleted and replaced by a new Entry/Lobby space located to the south;
- Line of glazing to library amended on ground floor;
- Awning added at Level 1 to provide amenity and shading for patrons at ground floor seated in the area external to the library. The awning also serves to highlight the entry;
- Lift shaft and services cores revised and mirrored; and
- Structural system changed from Cross Laminated Timber (CLT) to a Concrete Framed Structure

The extent of proposed works is highlighted in red on the site plan below.

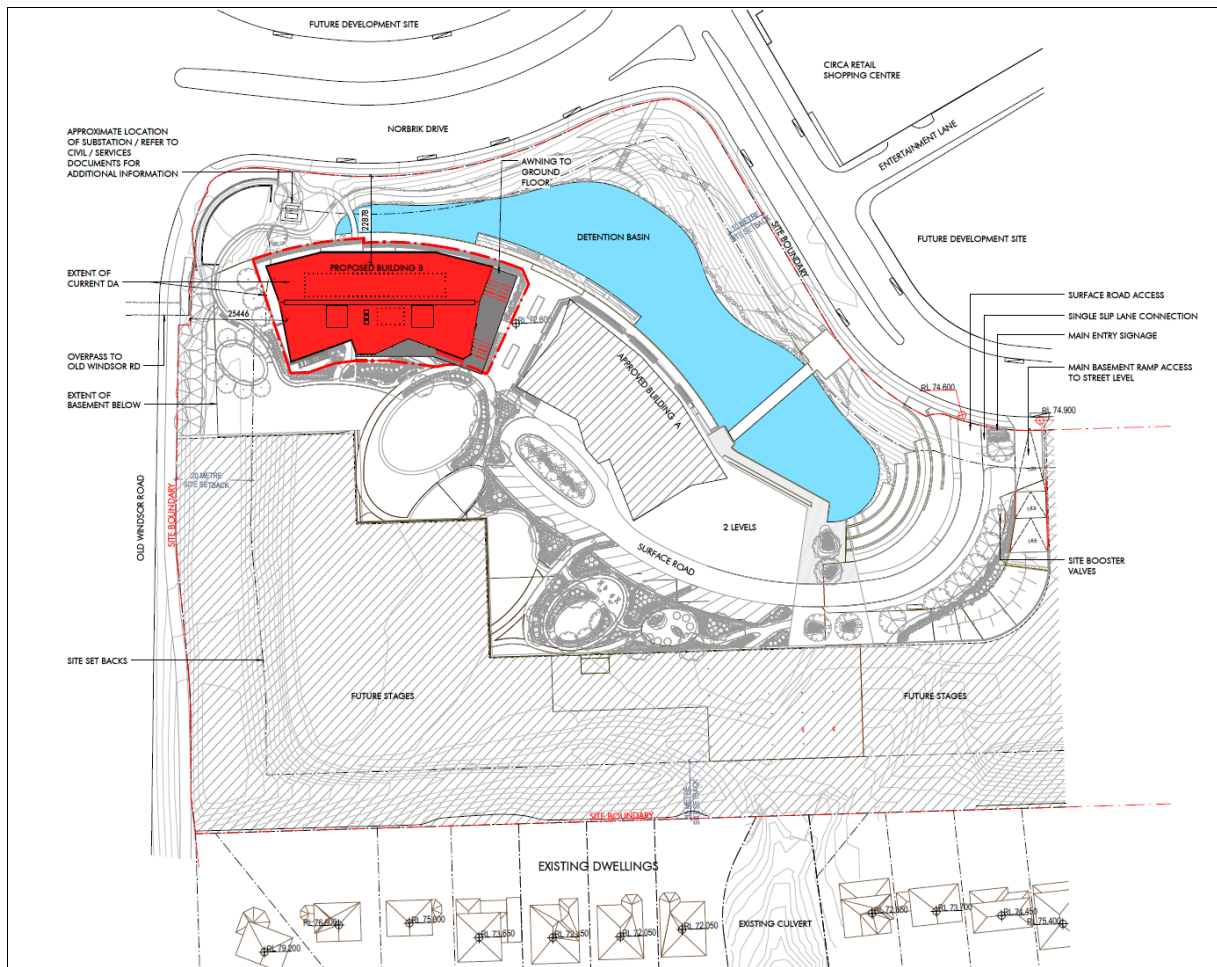


Figure 4: Site Plan showing location of proposed Building B

ISSUES FOR CONSIDERATION

1. SEPP (State and Regional Development) 2011

Clause 20 and Schedule 7 of SEPP (State and Regional Development) 2011 provides the following referral requirements to a Joint Regional Planning Panel:-

Development that has a capital investment value of more than \$30 million.

The proposed development has a capital investment value of \$46,054,849.00 thereby requiring referral to, and determination by, a Regional Planning Panel.

In accordance with this requirement the application was referred to, and listed with, the Sydney Central City Planning Panel for determination.

2. SEPP 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 assessment against SEPP 55 was undertaken under parent consent No. 992/2016/JP and included a historical investigation into previous land uses and potential sources of contamination carried out. The site was part of a large parcel of undeveloped vacant land with no specific usage noted prior to the early 1950s. The site was then used for brick manufacturing activities between the late 1950s and early 2000s.

The Development Application was accompanied by a Preliminary Contamination Assessment prepared by Geotechnique Pty Ltd and dated December 2015. The findings of the investigation revealed that soil tested at certain sampling locations will not present a risk of harm to human health and the environment under the proposed residential land use condition. The report indicates that additional soil sampling and testing will be required in accordance with the NSW EPA 'Sampling Design Guidelines for Contaminated Sites'.

Council's Senior Environmental Health Officer has reviewed the subject proposal and concurs with the findings and recommendations of the Preliminary Contamination Assessment under the original application. Accordingly, appropriate conditions of consent implemented under 992/2016/JP will be recommended in the subject consent to ensure that the recommendations of the report are implemented during the course of construction. (Refer condition 14).

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.

3. SEPP (Infrastructure) 2007

This Policy aims to facilitate the delivery of infrastructure and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. Specifically the SEPP contains provisions relating to development adjacent to a rail corridor, traffic generating development and development with access to a classified road.

3.1. Development with frontage to a classified road

Clause 101 'Development with frontage to classified road' of the SEPP states:-

(1) The objectives of this clause are:

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

The site is directly adjacent to Old Windsor Road which is a classified road under the Roads Act 1993. The proposed development does not rely on direct vehicular access to Old Windsor Road. Accordingly, the proposal will not adversely affect the safety, efficiency and ongoing operation of Old Windsor Road. Section 96(2) modification to DA 992/2016/JP/C

for the Masterplan and Stage 1 Built form application was referred to Roads and Maritime Services for comment as the development resulted in 200 or more vehicles with access to any road and was categorised as traffic generating development pursuant to Schedule 3 of the SEPP. RMS reviewed the application and noted that *"the proposed amendments are consequential to the changes to Building B within Stage 1 for Seniors Housing development"* and raised no objections to the proposed modification.

Under the Masterplan and Stage 1 Built Form application No. 992/2016/JP, it was concluded that the level of noise emitted by the proposed development would meet the noise level requirements of Clause 87 of the SEPP and the NSW Industrial Noise Policy and Road Noise Policy subject to the implementation of noise mitigation measures.

The subject Development Application was accompanied by an amended Acoustic Assessment prepared by Renzo Tonin and Associates and dated 21 February 2017. The assessment concluded that the appropriate controls can be incorporated into the building design to achieve a satisfactory noise environment consistent with the intended quality of the building and the NSW Industrial Noise Policy and Road Noise Policy.

Council's Senior Environmental Health Officer has reviewed the subject application and concurs with the findings and recommendations of the amended Acoustic Assessment. Accordingly, appropriate conditions of consent have been recommended to ensure that the recommendations of the Acoustic Assessment are implemented into the proposed development. (Refer conditions 13 and 32).

4. 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 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 recommended as a condition of consent. (Refer condition 50).

5. SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004

This Policy aims to encourage the provision of housing that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

Building B is 11 storeys and comprises 83 self-contained dwellings with the provision of 90 car parking spaces within the approved basement level. Building B was approved as 9 storeys within basement car parking under Stage 1 Built Form of Development Consent No. 992/2016/JP.

5.1 Clause 4 – Land to Which This Policy Applies

Clause 4 of the SEPP stipulates the land to which this policy applies.

- (1) General*

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

(a) development for the purpose of any of the following is permitted on the land:

- (i) dwelling-houses,*
- (ii) residential flat buildings,*
- (iii) hospitals,*
- (iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*

(b) the land is being used for the purposes of an existing registered club.

The site is zoned B7 Business Park under the provisions of the Hills Local Environmental Plan 2012. The proposed development is included in an approved masterplan development application for a Seniors housing development which includes a Residential Aged Car Facility and is permissible under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 by virtue of 'hospitals' being permitted in the B7 Business Park zone.

5.2 Clause 13 – Self Contained Dwellings

Clause 13 of the SEPP defines self-contained dwellings as follows:

In this Policy, a **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

The proposed development will comprise of 83 self-contained dwellings located in Building B. The proposed development is considered to be consistent with the definition of a self-contained dwelling.

5.3 Clause 18 – Restriction on Occupation of Seniors Housing

Clause 18(1) of the SEPP restricts the occupation of seniors housing as follows:

(1) Development allowed by this Chapter may be carried out for the accommodation of the following only:

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.*

(2) A consent authority must not consent to a development application made pursuant to this Chapter unless:

- (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and*

(b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).

A condition of consent is recommended to ensure that the proposed occupation is in accordance with the SEPP and that a restriction on title be imposed to limit the use of any accommodation to the kinds of people referred to in subclause (1). (Refer condition 4).

5.4 Clause 19 – Use of Seniors Housing in Commercial Zones

Clause 19 of the SEPP restricts the occupation of seniors housing as follows:

Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes.

The proposed development will involve the use of part of the ground floor of Building B, which fronts Norbrik Drive, for residential purposes.

The site is zoned B7 Business Park and accordingly is zoned primarily for commercial purposes. However in this instance, it is considered that the provision is not applicable to the site as the primary frontage does not directly adjoin the street. Given that Building B is setback in excess of 10 metres and contains landscaped areas including a detention basin between Norbrik Drive, it is considered that the building does not directly abut the street frontage of the site. It is considered that given the context of the site, the siting of Building B and the separation to the street, Clause 19 of the SEPP is not applicable. This view was supported under the Masterplan and Stage 1 Built Form application.

5.5 Clause 28 - Water and Sewer Services

The SEPP states that Council must not consent to a development application unless the Council is satisfied that the development will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. In this respect, regard must be given to the suitability of the site and availability of services.

The subject and masterplan and Stage 1 built form application was referred to Endeavour Energy and Sydney Water. No objections were raised by the service authorities and the existing infrastructure is adequate to service the proposed development.

5.6 Clause 32 – Design of residential development

Clause 32 states that a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (Clauses 33 - 39), addressed below.

5.7 Clause 33 - Neighbourhood Amenity and Streetscape

The proposed development should:

(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and

The proposed development is considered to be consistent with the character envisaged for the Circa Precinct. The Circa Precinct is currently undergoing re-development with the proposed built form commensurate with existing developments within the precinct including Norwest Private Hospital and Quest Serviced Apartments. The proposed built form for Building B does not deviate from the approved Stage 1 built form application apart from the addition of two levels and the design has been amended to satisfy concerns raised by a Design Excellence Panel. The proposed buildings will contribute to the quality and identity of the area.

- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*

The subject site is located in close proximity to Bella Vista Conservation Area which is located approximately 650 metres to the north of the subject site and is identified as a State listed heritage item. Bella Vista Farm Park comprises of a grouping of early farm buildings, surrounding parklands and a prominent row of Bunya Pines that sits above the Circa Precinct. The heritage listing of Bella Vista Conservation Area includes the built form and the Bunya Pines in addition to the protection of key vistas to and from the Park.

Further, the subject site is affected by height plane controls detailed in the Hills Development Control Plan 2012 which relate to the preservation of views to Bella Vista Farm Park and the prominent ridgeline from the key locations of Old Windsor Road and the Pearce Family Cemetery.

As acknowledged in the assessment of the approved masterplan and Stage 1 built form application, the view from the north to south has already been partially obscured by infill developments such as the Medical Centre and the Q-Central building. Similarly, the view from the south to the north on the "original" Old Windsor Road has been significantly impacted by the construction of buildings and public infrastructure including a T-way and pedestrian overpass. The subject application seeks consent for the construction of an eleven storey building, which is an extension of the built form for a nine storey residential flat building approved under 992/2016/JP. The additional height of 4.84m will result in a maximum height of RL 110.85 and still complies with the maximum RL under Clause 4.3 of the LEP and will not exacerbate the heritage impacts of the approved Building B. This has been further addressed under Section 7.3 and 11 of this report.

- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:*

- (i) providing building setbacks to reduce bulk and overshadowing, and*

The proposed building setbacks are considered to provide sufficient curtilage to property boundaries in order to reduce building massing, minimise the extent of overshadowing and to provide a sufficient landscape buffer between adjoining properties.

- (ii) using building form and siting that relates to the site's land form, and*

The proposed built form and siting is considered to respond appropriately to the sites land form.

- (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*

The height of building at the street frontage is considered to be compatible with the scale of existing buildings in the locality including Norwest Private Hospital and Quest

Serviced Apartments. The proposed building height at the street frontage is considered to be consistent with the desired future character of the area.

(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and

The proposed development will not result in buildings with walls that are located on the boundary.

(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and

The proposed front setback is considered to be in compatible with the established building lines within the locality.

(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and

The proposed landscaping and selection of plant species is considered to provide a high quality landscape outcome that will define landscaping for the Circa Precinct. Council's Landscape Assessment Officer has raised no objection to the landscaping scheme.

(f) retain, wherever reasonable, major existing trees, and

All existing trees within and surrounding the Stage 1 works are to be retained and protected.

(g) be designed so that no building is constructed in a riparian zone.

The proposed development will not result in any building being located within a riparian zone.

5.8 Clause 34 - Visual and Acoustic Privacy

Clause 34 of the SEPP stipulates the following:

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and

(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.

Proposed Building B will not result in adverse privacy and acoustic impacts given the separation distance and privacy mitigation measures provided between Building A and B to mitigate direct overlooking of habitable rooms and balconies. Furthermore, it is anticipated that any windows located on the southern elevation of the buildings will be treated as highlight windows to alleviate any potential for overlooking. With respect to the separation distance between Buildings B to C, the separation distance will need to be considered with a subsequent Development Application for Building C. Privacy measures such as the offsetting of habitable rooms and louvres will need to be incorporated into the design to mitigate the potential for direct overlooking.

With respect to acoustic privacy, the application was accompanied by an amended Acoustic Assessment prepared by Renzo Tonin and Associates referenced as Building B Acoustic Assessment for Development Application, dated 21st February 2017. The assessment identifies the main noise sources including mechanical plant equipment and

traffic noise associated with vehicular traffic generated by the proposed development. The assessment concludes that the level of noise emitted by the proposed development will meet the noise level requirements of the NSW Industrial Noise Policy and Road Noise Policy subject to the implementation of noise mitigation measures. Council's Senior Environmental Health Officer concurs with the recommendations of the report and has raised no objections in this regard.

5.9 Clause 35 - Solar Access and Design for Climate

The proposed development should:

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

Proposed Building B is located on the north western corner of the approved master planned development for Seniors housing and is located approximately 110m north of the closest residential property. In this regard, adequate daylight to the main living areas on adjoining southern properties would be available.

The building form and orientation takes advantage of the northerly aspect with windows facing north, enabling rooms to accommodate ESD principles such as the provision of natural light and ventilation.

5.10 Clause 36 - Stormwater

The proposed development seeks to discharge stormwater to an on-site detention system approved under a preceding consent. The detention system will discharge stormwater at a controlled rate to Lalor Creek located in the adjoining Council reserve. In addition to stormwater discharge, the proposal includes a number of Water Sensitive Urban Design measures such as rainwater collection and filtered landscape swales to improve water quality on site and downstream of the site. Council's Development Engineer has assessed the proposal and concurs with the proposed stormwater design and appropriate conditions are recommended.

5.11 Clause 37 - Crime Prevention

The application was accompanied by a Crime Prevention Report prepared by JBA Urban Planning Consultants. The report considers the key principles of Crime Prevention Through Environmental Design (CPTED) and the NSW Police Safer By Design Guidelines. The report concludes that the proposed development has been designed to promote casual surveillance, territorial reinforcement, lighting, space management and access control. The report recommends further measures to improve the safety and security of the development which will be recommended as a condition of consent. (Refer Condition 5).

Further, the application has been referred to the NSW Police Local Area Command for review and design recommendations pertaining to CPTED principles will be recommended as a condition of consent. (Refer Condition No. 8).

5.12 Clause 38 - Accessibility

Clause 38 of the SEPP stipulates the following:

The proposed development should:

- (a) *have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) *provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

The proposed development has clearly identified and easily accessible pedestrian links that provide for safe pedestrian movement within the site and to the public domain.

The proposed development provides appropriate, safe access to, from and within the facility for pedestrians and motorists using the site. The site contains adequate parking accessible via lift access for visitors, residents and staff.

5.13 Clause 39 - Waste Management

The proposed development will involve the on-site collection of waste by a private waste contractor. The proposed waste storage area is located adjacent to the loading dock within the basement car park and is accessible from Norbrik Drive. The proposed waste storage area will be constructed as part of Stage 1 approved under consent No. 992/2016/JP. The Development Application is accompanied by a detailed waste management plan prepared by Elephants Foot which involves the incorporation of a chute system for each building. Council's Resource Recovery Officer has reviewed the proposed development and raises no objection to waste management during construction and ongoing waste generated by the proposed development.

5.14 Clause 40 - Development standards—minimum sizes and building height

A consent authority must not consent to a Development Application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Site size	The size of the site must be at least 1,000m ²	59,440m ²	Yes
Site frontage	The site frontage must be at least 20 metres wide at the building line.	The site frontage is approximately 460 metres.	Yes
Height in zones where residential flat buildings are not permitted.	If the development is proposed in a residential zone where residential flat buildings are not permitted: (a) 8 metre maximum (b) 2 storeys where adjacent to a boundary (c) building within the rear 25% not be greater than 1 storey	The subject site is zoned B7 Business Park and accordingly is not a residential zone. Therefore, despite the fact that residential flat buildings are not permitted in the zone, the site is zoned for commercial purposes and is excluded from the application of this development standard.	N/A

5.15 Clause 50 – Standards that cannot be used to refuse development consent for self-contained dwellings

A consent authority must not refuse consent to a Development Application made pursuant to this chapter for the carrying out of development for the purpose of self-contained dwellings if the development standards for building height, density and scale, solar access, landscaping, private open space, deep soil and parking are complied with. This does not mean that development that does not comply with the standards cannot be approved on merit.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Height	Maximum 8 metres	Building B – 38.05m (RL 110.85) (Approximate height when expressed as a height in metres above ground level)	No, refer to discussion below
Density and Scale	Maximum FSR 1:1	1.08:1	No, refer to discussion below
Landscaped area	30% of the area of the site is to be landscaped.	Minor changes proposed to the building footprint and landscaped area approved under masterplan and stage 1 built form consent No. 992/2016/JP. The site comprises of 25,286 square metres of landscaped area which equates to 42% of the site.	Yes
Deep Soil Zones	15% of the site area. Two-thirds should preferably located at the rear of the site.	Minimal changes proposed to the building footprint or deep soil area approved under the masterplan consent. The site comprises of 20,218 square metres of deep soil zone which equates to 34% of the site.	Yes
Solar Access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	75% of units within Building B would receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter 70% of all dwellings within the masterplan will receive 2 hours direct sunlight between 9am and 3pm in mid-winter in accordance with the Apartment Design Guidelines.	No, refer to discussion below

Private Space	Open	15 square metres of private open space per dwelling.	All dwellings in Building B contain a balcony or private open space area that exceeds 15 square metres in area in accordance with the Apartment Design Guidelines.	Yes
Parking		0.5 space per each bedroom	<p>0.5 x 177 bedrooms = 89 spaces required for Building B.</p> <p>90 spaces provided for Building B.</p> <p>Condition No. 45 in consent No. 992/2016/JP requires 69 off street parking spaces for Building A and 70 off street car parking spaces for Building B and the provision of 532 off street car parking spaces for the masterplan.</p> <p>Notwithstanding, the approved plans indicate 637 off street car parking spaces for Buildings A, B, C, D, E, F, G, H, I and J, 55 spaces for the RACF, 10 additional spaces and 20 retail spaces, totalling a provision of 722 spaces which is a surplus of 190 spaces. In this regard, the addition of 20 spaces for 34 additional bedrooms for Building B is considered satisfactory.</p>	Yes

5.15.1 Height

The SEPP stipulates that a consent authority must not refuse a development on the basis of height if the building height does not exceed 8 metres. This does not mean a higher building cannot be approved. The maximum height of Building B is 38.5 metres

The applicant has provided the following justification:

Clause 40 and 48 refer to an 8m building height or less that cannot be used as ground for refusal. This development standard does not exclude a building height greater than 8m which is supported on merit. In this case, the height of Building B has been increased to accommodate 16 additional independent living units, resulting in two additional levels to the currently approved development. The resulting increase in height of the total building is only 5.02 metres as a result of modifying floor to ceiling heights throughout the whole building. Design of the proposal has regard to the approved LEP building height of RL116

metres and does not exceed the height limit. No change to setbacks is proposed when compared to the current approval and the design of the building is commensurate with a commercial development built that could be accommodated on the site; and the benefits of additional housing accommodation for seniors and people with a disability are considered to provide significant community benefit.

Comment:

The portion of the site in which Building B is located is subject to a height limit of RL 116 under the LEP which provides for a height that would exceed 8 metres. The SEPP typically applies to a lower scale form of seniors living development such as multi-unit dwellings or attached/detached dwellings. The proposed development is in the form of a residential flat building and it is considered more appropriate in this instance to consider the development in the context of the height limits prescribed for the site. Building B has already been approved for 9 storeys at a height of 33.86m or RL106.01 under the parent consent. In this regard, the proposed increase of 4.84m is considered satisfactory.

5.15.2 Density and Scale

The SEPP stipulates that a consent authority must not refuse a development on the basis of density and scale if the floor space ratio does not exceed 1:1. The approved floor space ratio of the masterplan is 1.05:1. The proposed development seeks to increase the floor area by 1,992m², resulting in a floor space ratio of 1.08:1 for the site.

The applicant has provided the following justification:

A note associated with Clause 48 states that "the provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant consent".

Design of the development application has had regard to the proposed LEP floor space ratio of 1.2:1 for this site and the proposed Building B does not exceed this proposed limit. The overall impact of the floor space is considered minor and the development will comply with the intended control when finalised.

The proposed development is in accordance with the proposed LEP building height provision and seeks a minor variation to the FSR provisions. As such the proposed development is in character with the development in the area with the bulk and scale commensurate with what the adjoining neighbours would expect in a business park.

Comment:

The site is subject to a maximum floor space ratio of 1:1 under the LEP. The application has been accompanied by a Clause 4.6 variation to vary the floor space ratio to 1.08:1 which is addressed in Section 7.1 of this report.

5.15.3 Solar Access

The SEPP stipulates that at least 70% of dwellings within the development receive a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter.

The applicant has provided the following justification:

The solar analysis undertaken by Architects Jackson Teece involved visual inspection of shadow diagram of every apartment which resulted in the tabled information submitted with the DA. A more detailed table showing this result is attached. This shows that 75.90% of units in Building B comply with ADG. The principles applied to the assessment of solar performance were depicted in Site Analysis Drawings submitted with Building B (SK-170309-1) and the overall Master Plan result is lower due to shadow impact of proposed Building B on future Building C, but still compliant with the required standards.

The impact of Building B on Building C in terms of solar access was assessed in the original Master Plan and Stage 1 (992/2016/JP) approval. The percentage of units with greater than 2 hours sunlight decreases from 43.5% in the master plan to 32.3% with the proposed Building B. Apartments with no direct sunlight in Building C are reduced from 14.5% to 11.3%, still below the maximum allowed under SEPP 65 of 15%.

Overshadowing plans for 12.00 noon winter and summer solstice shadow drawings indicate the majority of the year acceptable solar access to open space areas is retained. Building C is affected by the increase in height of Building B in terms of solar access; however the overall Master Plan solar performance of 70% direct solar access is achieved and all units still present opportunities for high levels of light penetration, quality liveable space and amenity for residents. Achieving a satisfactory solar access outcome will be a goal of any future detailed design for Building C.

In terms of neighbouring development there are no adverse or long term effects on neighbouring development adjoining the retirement building site.

Comment:

The SEPP typically applies to a lower scale form of seniors living development such as multi-unit dwellings or attached/detached dwellings. The proposed development is in the form of a residential flat building and it is considered more appropriate in this instance to assess the performance of solar access in accordance with the Apartment Design Guidelines prescribed under SEPP 65.

In this regard, the Apartment Design Guidelines specifies that at least 70% of dwellings within the development should receive a minimum of 2 hours solar access during 9am and 3pm at mid-winter. The proposed development will achieve 2 hours solar access during 9am and 3pm at mid-winter for 75% of units in Building B and 70% of all units on site and accordingly complies.

6. Section 4.24 of the Environmental Planning and Assessment Act 1979

Section 4.24 of the Environmental Planning and Assessment Act, 1979 requires the following:

4.24 Status of concept development applications and consents (cf previous s 83D)

- (1) The provisions of or made under this or any other Act relating to development applications and development consents apply, except as otherwise provided by or under this or any other Act, to a concept development application and a development consent granted on the determination of any such application.*
- (2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*
- (3) Subsection (2) does not prevent the modification in accordance with this Act of a consent granted on the determination of a concept development application.*

Note.

See section 4.53 (2) which prevents a reduction in the 5-year period of a development consent.

The Masterplan and Stage 1 Built Form consent No. 992/2016/JP is now operative, due to physical commencement of works having being undertaken for Stage 1 (Buildings A and B). To ensure consistency with the original staged development consent, a Section 4.55(2) modification to the Masterplan and Built Form consent has been lodged and is being assessed concurrently with the subject application.

7. The Hills Local Environmental Plan 2012

The site is zoned B7 Business Park under The Hills Local Environmental Plan 2012. Under the LEP, the proposed development is defined as 'seniors housing' as follows:

seniors housing means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.

The proposed development is permissible under The Hills Local Environmental Plan 2012 (Amendment No. 38) which creates Item 11 on Additional Permitted Uses Map and allows for seniors housing development with development consent on the subject site. The relevant development standards and provisions of the LEP are addressed below.

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

DEVELOPMENT STANDARD	LEP REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
Floor Space Ratio	1:1	1.08:1	No – refer to discussion below.
Building Height	RL 116	Building B – RL 110.85	Yes

7.1 Clause 4.6 Exceptions to development standards - Floor Space Ratio

The applicant has provided the following written request seeking a Clause 4.6 variation to the development standard for floor space ratio:

The site is subject to a floor space ratio control of 1:1 under Council's LEP. Previously when Council assessed the Master Plan and Stage 1 development application, Council approved a request to apply Clause 4.6 to permit a floor space ratio of 1.05:1. During the assessment process this floor space was reduced from 1.09:1 as a result of amendments to decrease the height of buildings adjacent to the southern boundary of the site. This amendment resulted in a reduction of 2,112m² in floor space.

Building B proposes two additional levels adding 16 independent living units or 1,992m² additional floor spaces when compared to the existing Master Plan and Stage 1 approval. As a result, the overall FSR for the retirement development will be 1.08:1 representing in

a 3% over the current approval. In support of a request to vary the approved floor space ratio control the following is relevant:-

- The proposed Building B will occupy the same footprint and location as the current approval with minimal change to building envelope, façade treatment and no change to its landscape setting or contribution to residents amenity;*
- The increase in height of 4.84m will still mean the Building B fits under the LEP height control of RL 116m with no impact on the key view corridors to Bella Vista Farm Park along Norbrik Drive, and Bella Vista Farm Park to and from Pearce's Cemetery;*
- Building B is remote from the neighbouring residential properties and the two additional levels will have no impact on the southern boundary overshadowing or overlooking to adjoining neighbours;*
- The design of Building B remains to be similar to Building A and commensurate with the character, bulk and scale of buildings in the developing commercial employment setting envisaged for the Circa Precinct;*
- There is no impact on overall approved site coverage, landscaped area or deep soil planting and the landscape scheme for the development is unaffected by the proposal;*
- The provision of additional independent living units is a positive outcome in terms of meeting demand for housing for seniors and people with a disability; and*

In addition the Circa Commercial Planning Proposal which increases the floor space ratio from 1:1 to 1.2:1 has received Gateway approval for public exhibition. For these reasons it is considered that application of the standard FSR of 1:1 is unreasonable and unnecessary and Council is requested to support the variation in this instance.

Comment:

The objectives of Clause 4.4 Floor Space Ratio of the LEP are:

- (a) To ensure development is compatible with the bulk, scale and character of existing and future surrounding development.*
- (b) To provide for a built form that is compatible with the role of town and major centres.*

The objectives of Clause 4.6 of the LEP are:

- (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.*

Clause 4.6(3) of LEP 2012 states:

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.*

Clause 4.6(4) of LEP 2012 states:

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

(a) The consent authority is satisfied that:

(i) The applicant has adequately addressed the matters required to be demonstrated by subclause (3)

(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 development is proposed to be carried out, and

The proposed development comprises a floor space ratio of 1.08:1 which exceeds the development standard of 1:1 by 8%. This is an additional increase of 1,992m² in floor area and 3% to the 1.05:1 floor space ratio that was supported under a Clause 4.6 variation to DA 992/2016/JP for the Masterplan Stage 1 Built Form.

The applicant seeks a variation to the above floor space ratio standard pursuant to clause 4.6 of LEP 2012 which allows Council to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

The objective of Clause 4.4 'Floor Space Ratio' is to ensure that development is compatible with the bulk, scale and character of existing and future surrounding development. Proposed Building B comprises a height of RL110.85 which is 5.15 metres below the building height development standard pursuant to Clause 4.3 of the LEP. In contrast, Building B would be 0.98 metres above the approved height of adjoining Building A (RL109.87) which also fronts Norbrik Drive. The additional height of Building B does not impose on the heritage view corridors between Bella Vista Farm and the Pearce Family Cemetery and complies with the height plane incorporated under the DCP.

The proposed development does not alter the building envelope of Building B approved under the masterplan and Stage 1 built form consent and therefore maintains the front setbacks, generous landscaped area and deep soil zones that exceed the requirements under SEPP (Housing for Seniors or People with a Disability) 2004. The secondary setback area will be embellished with additional landscaping which will assist in obscuring the base of the building from Old Windsor Road and will minimise adverse impacts to adjoining residential properties.

It is noted that a Planning Proposal proposing a floor space ratio of 1.2:1 for the subject site was supported by Council and received Gateway Determination on 8 September 2016. The height and proportion of Building B is considered to be commensurate of the character envisaged for the Circa Precinct and will form an iconic building at the gateway to the Circa Precinct. The building utilises a curvature footprint which seeks to maximise the northerly orientation and assists in minimising bulk and scale. Building B will incorporate high quality architectural elements inspired by the heritage significance of Bella Vista Farm Park and the Pearce Family Cemetery. Screening elements have been incorporated into the front facades to Building B which emphasises the height and prominence of the building to visually hold the corner. Other architectural design features include the provision of vertical fins and slots, horizontal banding elements, colours and finishes that break up the building mass into three distinct top, middle and bottom components and the modulation of the roof which is consistent with adjoining Building A and enhances the architectural quality and visual appearance of the development when viewed from the public domain. It is considered that the variation to floor space ratio will not result in a development of excessive bulk and scale given that the buildings are considered to be compatible with the existing and desired built form character of the Circa Precinct.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.4 'Floor Space Ratio' and the B7 Business Park Zone. In this regard, the variation to floor space ratio will not create a building of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining residential properties. A variation to the floor space ratio in this instance is considered to be satisfactory given that the application of the development standard in this instance is considered to be both unreasonable and unnecessary.

Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development is well founded. In relation to the 'five part test' the objection to the floor space ratio standards is well founded on Part 1 of the test as the objectives of these standards are achieved notwithstanding non-compliance with the standards.

Further to the five part test it was determined in that satisfaction of the objectives (Part 1 of the test) was not solely sufficient to satisfy the requirements of Clause 4.6(3). Accordingly, whether or not the variation results in a better planning outcome is considered. The proposal is considered to result in a better planning outcome as follows:

- The two additional levels that result in a further variation to the FSR are still 5.15 metres below the building height development standard and only 0.98m above approved Building A. Buildings A and B have been designed as a pair and the consistency in height levels would provide a continuity in architectural expression.
- The shadow cast by the additional two levels will not impacts on adjoining residential properties to the south of the site.
- The proposal ensures will be consistent with the approved Masterplan and Stage 1 Built Form Seniors Housing Development and which is consistent with the desired future character of the locality.
- The proposal complements and enhances the local streetscape by virtue of its corner location and landscaped setting to Norbrik Drive and Old Windsor Road which serves as a gateway to the Norwest Town Centre.

The proposal is considered to result in a better planning outcome and satisfies the requirements of Clause 4.6(3).

In view of the above, it is considered that the variation to the floor space ratio development standard satisfies Clause 4.6 of LEP 2012.

7.2 Design Excellence

On 17 November 2017, The Hills LEP 2012 (Amendment No. 43) amended Clause 7.7 Design Excellence. Clause 7.7 of the LEP specifies an objective to deliver the highest standard of architectural and urban design and applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more. The Clause also prescribes that development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) whether the development detrimentally impacts on view corridors,*
- (d) whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,*

- (e) *the requirements of any development control plan to the extent that it is relevant to the proposed development,*
- (f) *how the development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*
 - (xi) *the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*
- (g) *the findings of a panel of 3 or more persons that has been convened by the consent authority for the purposes of reviewing the design excellence of the development proposal.*

Comment:

The proposal comprises an eleven storey residential flat building known as Building B. Building B is an extension of the built form for a nine storey residential flat building approved under 992/2016/JP. The design excellence of the proposal was considered at a Design Excellence Panel meeting convened by Council and held on 22 February 2018. The meeting minutes of the Design Excellence Panel recommended that if the Development Assessment officer is satisfied that the applicant has addressed the concerns of the panel, the project need not return to the panel for further consideration. The concerns raised by the panel were as follows:

1. *The Panel acknowledges that whilst the submission is for an additional 2 storeys to an approved DA, the additional height and bulk raises issues that affect the overall bulk and scale to the effect that a reconsideration of architectural expression is warranted.*
2. *As noted the proposal deliberately creates a "family", grouping of buildings resulting in a built form of confronting bulk and scale that has a resort aesthetic. Is this appropriate to the context?*
3. *Typically buildings of this bulk and height break up the massing so as to mitigate the imposing nature of the built form.*
4. *The applicant's suggestion that the building has a 2 storey podium with a middle portion differentiated from the adjacent building, however this expression is lost in the overall appearance and the building facades present as a single element.*
5. *The panel recommends that the podium treatment is more strongly defined and a greater effort is made to introduce vertical articulation into the façade elements to purposefully break up the building façade into more clearly defined and legible elements. The patches of applied timber screens to the façade could do more to break up the overall massing of the built form. The application of this alternative façade treatment could be more driven by the plan, with full height vertically expressed elements to break up the mass.*
6. *The panel suggests that a setback or more pronounced change in materiality at the upper levels be considered (as previously recommended), to further break up the massing and to make the upper levels more recessive.*

- 7. As the applicant wants a strong visual identity at the western, corner of the building, one possibility would be to visually break the façade into two non-symmetrical elements with a vertical fenestration to the west and the existing horizontal fenestration to the wider eastern section.*
- 8. Conditions of consent should ensure that the visual impact of the building addresses these concerns.*
- 9. Communal open space has to be reasonably equitable and provide appropriate amenity (such as paving paths and solar access).*
- 10. The panel is concerned that that building B does not achieve compliance with ADG natural cross ventilation requirements.*

The concerns raised by the Panel have been addressed as follows:

With respect to points 1, 3, 5 and 7 the applicant has submitted amended plans to address these points and the plans seek to minimise the overall bulk and scale of the development. Considerable modifications to the architectural expression of the facades are proposed with the north and western façades being treated with the addition of a 7 storey vertical timber batten screen with non-symmetrical openings extending to the north western corner of the building. In addition, a 4 storey timber batten screen extending to the eastern end of the northern façade is implemented. The locations of the non-symmetrical vertical screens present as more purposeful and distinct feature elements on the façade rather than “patches” of smaller timber screens as originally proposed. This adds to the prominent visual identity to the north western corner of the building which will form an iconic building at the gateway of the Circa Precinct. The amended plans also include a seven storey vertical incision cut into the balcony elements adjoining the seven storey vertical screening to break up the horizontality of the façade. The vertical elements proposed increase the articulation of the facades and reduce the massing and bulk of the building by visually breaking up the northern façade into distinct eastern and western elements. The implementation of a horizontal banding element strongly defines the full length of the podium and a change in colour and balcony treatment to the top two levels breaks up the façade to delineate distinct bottom, middle and top elements of the building which would minimise the overall bulk and scale of the development and reduces the “imposing nature” of the built form.

With respect to point 2, the applicant has altered the materials and colours of Building B to differentiate between the two buildings. However the applicant has indicated that Buildings A and B were intentionally designed as a pair to signify the Aveo vertical seniors living environment and noted that future buildings will be of varied bulk, scale and architectural presentation aligned with a seniors living environment in accordance with the approved Master Plan.

With respect to point 4, the applicant has amended the plans to incorporate an accentuation of a podium band in a darker charcoal grey colour that extends to the full length of the building which makes it distinct from the upper section of the buildings.

With respect to point 6, the amended design includes a change in colour and materiality of the top two levels in a dark charcoal, recessive colour. This is juxtaposed with a lighter taupe colour which is utilised for the middle portion of the building. The implementation of defined vertical elements on the upper floor balconies also breaks up the horizontality of the façade.

With respect to point 8, a condition of consent is recommended requiring the external finishes and colours to be in accordance with the details submitted with the amended design.

With respect to point 9, as no change is proposed to the communal open space area which was approved under the original Master Plan consent. The approved Master Plan is

designed to achieve a liveable arrangement of open space, community facilities and walking paths in a landscaped setting which will provide a high level of amenity for residents.

With respect to point 10, it is assessed that Building B achieves 88% ventilation which complies with SEPP 65 – ADG requirement that at least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building and for 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.

It is considered that the concerns raised by the Design Excellence Panel have been satisfactorily addressed and need not return to the Panel for further consideration.

With regard to Clause 7.7(a), the standard of design, building materials, building type and location were assessed as part of the overall Master Plan and Stage 1. The current Development Application results in two extra levels comprising sixteen additional independent living units, results in a total of 83 independent living units for Building B, along with minor reconfiguration of the internal layout, and minor external façade changes when compared to the previous Master Plan and Stage 1 approval. In terms of architectural design, materials, and detailing, these are substantially the same as previously approved. Notwithstanding, amended plans have been submitted to address concerns raised by the Design Excellence Panel which further ensures a high quality of design and building materials is implemented. It is noted that the building type, location and standard of design had already been assessed as satisfactory under the original master plan and Stage 1 built form application for a 9 storey building.

With regard to Clause 7.7(b), there is no change proposed to the approved public and resident community domain as approved in the masterplan and Stage 1 consent. The approved development provides a high level of amenity for residents and public access to facilities on site and inter-connectivity with the locality.

With regard to Clause 7.7(c), the impact on heritage view corridors were assessed with the approved masterplan and Stage 1 development. The original application was referred to the Office of Environment and Heritage who raised no concerns to the development. As the siting and location of Building B has not been altered from the approved development, the additional two levels proposed under the subject application makes no further change to view corridors. Further discussion on Heritage impacts are detailed in Section 7.3.

With regard to Clause 7.7(d), the proposal results in no impact on adjoining properties in terms of overshadowing or solar access. The increase in building height by two levels does result in a minor impact on future Building C (Master Plan approved but not yet subject to a development application). Proposed Building B still results in an overall Master Plan compliance with solar access in accordance with SEPP 65 Apartment Design Guide.

With regard to Clause 7.7(e), the proposed development has been assessed in detail and addressed in Section 8 of this report. Where variations occur, these have also been considered on merit and have been found to meet the objectives of the controls.

With regard to Clause 7.7(f), site suitability and existing and proposed uses and mix were considered under the approved masterplan and Stage 1 Built form application. Given that the building footprint and envelope is substantially the same as previously approved, the proposal does not alter the streetscape constraints, relationship with adjoining development, environmental impacts, ecologically sustainable development, pedestrian, cycle, vehicular and service access and circulation. Notwithstanding, the bulk, massing and modulation of buildings have been addressed with amended plans that break up the northern and western facades that face Norbrik Drive and Old Windsor Road. The amended design provides distinct bottom, middle and top components of the building by the implementation of contrasting materials, colours and fenestration and the accentuation of a podium band that extends to the length of the building. The podium

band provides an architectural treatment to the street frontage height that reflects the human scale of the public domain. The relocated pedestrian access to the building is well landscaped and provides direct access to the communal open space area that directly adjoins the south of the building.

With regard to Clause 7.7(g), a Design Excellence panel of 3 persons has been convened by the Hills Shire Council and the findings of the panel have been considered and satisfactorily addressed as detailed above.

7.3 Heritage

Clause 5.10 of the LEP specifies objectives for the conservation of heritage items and conservations areas within The Hills. The subject site is not a heritage item nor is it located within a heritage conservation area. However, the subject site is located within the vicinity of two State listed heritage items known as "Bella Vista" Conservation Area, 650 metres to the north of the site and the "Pearce Family Cemetery" 1km south of the site and 50 metres west of an archaeological site of local significance known as "Original Section of road and culvert" within the road reserve of Old Windsor Road.

Bella Vista Conservation Area comprises of a grouping of early farm buildings, surrounding parklands and a prominent row of Bunya Pines that sits above the Circa Precinct. The heritage listing of Bella Vista Conservation Area includes the built form and the Bunya Pines in addition to the protection of key vistas to and from the Park.

Pearce Family Cemetery is located on Seven Hills Road and has been identified as providing an important view to and from Bella Vista Conservation Area.

The "original section of road and culvert" within the road reserve of Old Windsor Road is identified as an archaeological site. The view corridor to and from Bella Vista Conservation Area has been identified as an important view.

Further, the subject site is affected by height plane controls detailed in the Hills Development Control Plan 2012 which relate to the preservation of views to Bella Vista Farm Park and the prominent ridgeline from the key locations of Old Windsor Road and the Pearce Family Cemetery.

As assessed in the approved Masterplan and Stage 1 Development Application which was endorsed by the Office of Environment and Heritage, the proposed development would unlikely to have an adverse impact on the heritage significance of Bella Vista (the Homestead and ridge line) and the Pearce Family Cemetery. In addition, Building B is not located within the view corridor to and from Bella Vista Conservation Area and Pearce Family Cemetery.

An amended Heritage Impact Report was submitted with the subject application which identifies that Building B is located within the view corridor marked B as indicated in Section 2.6(h) of Part B Section 6 Business of The Hills DCP 2012. As acknowledged in the assessment of the approved masterplan and Stage 1 built form application, the view from the north to south has already been partially obscured by infill developments such as the Medical Centre and the Q-Central building. Similarly, the view from the south to the north on the "original" Old Windsor Road has been significantly impacted by the construction of buildings and public infrastructure including a T-way and pedestrian overpass. The subject application seeks consent for the construction of an eleven storey building, which is an extension of the built form for a nine storey residential flat building approved under 992/2016/JP. The additional height of 4.84m will result in a maximum height of RL 110.85 and still complies with the maximum RL under Clause 4.3 of the LEP and will not exacerbate the heritage impacts of the approved Building B.

The applicant has demonstrated that proposed Building B has been designed in a form and scale appropriate to its context and setting and its relationship to Bella Vista Conservation Area and the Pearce Family Cemetery and therefore meets the objectives of Clause 5.10.

8. The Hills Development Control Plan 2012

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

- Part D Section 6 – Business;
- Part C Section 1 – Parking; and
- Part B Section 5 – Residential Flat Buildings

8.1 Part C Section 6 – Business

The proposal has been assessed against the relevant controls of Part B Section 6 – Business as outlined in the table below.

CLAUSE	DCP STANDARD	REQUIRED	PROPOSED	COMPLIANCE
2.5	Setback – B7 Zoned Land	<u>Public Road Setback:</u> Minimum 20 metres to any public road with no parking forward of the building line.	Norbrik Drive – 20 metres.	Yes
		<u>Corner Lot Setback:</u> Minimum 20 metres with no parking forward of the building line to the primary road frontage and 20 metres to the secondary road <u>however</u> parking is permitted to be provided forward of this building line (secondary road frontage) to a minimum setback of 10 metres	Old Windsor Road – 17.5 metres	No – however consistent with the approved setbacks under Masterplan and Stage 1 Built Form DA 992/2016/JP. Refer to discussion below.
2.7	Building Materials	All external walls of buildings shall be constructed of brick, glass, pre-cast exposed aggregate panels of similar material. However, use of new materials that generate a lower environmental cost will be considered on their merits. Under no circumstances will masonry block work be permitted on	All external walls of buildings shall be constructed of brick, glass, pre-cast exposed aggregate panels of similar material.	Yes

		<p>external walls.</p> <p>Any roof structure or external wall south of Norwest Blvd which is visible from Bella Vista Farm Park shall be dark with non reflective muted colour tones.</p>	<p>The roof colour of any built structure to be located south of Norwest Boulevard, and which will be easily viewed from the Bella Vista Farm conservation area shall be of a dark, non-reflective colour.</p>	Yes
2.19	Pedestrian Access and Movement	<p>Pathways and ramps to conform to AS 1428 – 1 – 1998 Design for Access and Mobility.</p>	<p>The application was accompanied by an Accessibility Report prepared by Accessibility Solutions (NSW) Pty Ltd which indicates that all pathways and ramps conform to AS1428.10 2001 Design for Access.</p>	Yes
2.24	Heritage	<p>All development should be in accordance with Part C Section 4 – Heritage and Clause 5.10 <i>Heritage Conservation</i> of The Hills LEP 2012.</p> <p>Applications for development on any land adjoining the Bella Vista Farm conservation area are to be accompanied by a heritage impact assessment prepared in accordance with Part C Section 4 – Heritage</p> <p>Development is to demonstrate how the proposal mitigates impacts upon the Bella Vista Farm Park including consideration of building design, colours, finishes, landscaping and impacts on view corridors.</p>	<p>Council's Forward Planner has reviewed the impacts of the proposed development on the heritage significance of Bella Vista Farm Park and Pearce Family Cemetery. No objections are raised to the proposed development on heritage grounds. Refer to Section 7.1.2 of this report.</p>	Yes

		A Heritage Impact Assessment is likely to be required giving consideration to the Bella Vista Farm Conservation Management Plan (2000).		
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8.1.1 Building Setbacks

The DCP requires a 20m front setback to the secondary road frontage. The proposed development maintains a 2.5m variation to the Old Windsor Road setback as approved under the masterplan and built form Development Application No. 992/2016/JP.

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.*

The applicant has provided the following justification:

Building B encroaches to a small extent at its north-western corner of 2.5m as previously approved. This encroachment does not produce any adverse impact given the setback area adjoins Old Windsor Road and is not used as frontage. The variation to encroach into the required setback is considered to be satisfactory given the existing landscape mound and level change between the proposed buildings and Old Windsor Road.

The secondary setback area will be embellished with additional landscaping which will assist in shielding the base of the buildings from Old Windsor Road and will not result in undue amenity impacts to adjoining properties. Building B is sufficiently articulated to enhance the depth and visual appearance of the building. For these reasons the small building encroachment by Building B will have a negligible impact upon the streetscape with respect to bulk and scale. Furthermore, Building B has been designed to address the corner of Old Windsor Road and Norbrik Drive and will identify the site as a gateway to the Circa Precinct. This setback is unchanged from the Master Plan and Stage 1 approval.

Comment:

The variation to encroach 2.5 metres into the required setback is considered to be satisfactory given the existing landscape mound and level change between the proposed building and Old Windsor Road. The secondary setback area will be embellished with additional landscaping which will assist in shielding the base of the buildings from Old Windsor Road. The proposed building encroachments to the secondary street setback will not result in adverse amenity impacts to adjoining properties. The buildings fronting Old Windsor Road are sufficiently articulated which enhances the depth and visual appearance of the buildings. The building encroachment will have a negligible impact upon the streetscape with respect to bulk and scale. Furthermore, Building B has been designed to address the corner of Old Windsor Road and Norbrik Drive and will identify the site as a gateway to the Circa Precinct.

8.2 Part B Section 5 – Residential Flat Buildings

The proposal has been assessed against the relevant controls of Part B Section 5 – Residential Flat Building. It is noted that the DCP has been used as a guide to evaluate

the performance of the development given that the proposed buildings are comparable to a residential flat building. The table below details compliance with applicable controls:

DEVELOPMENT CONTROL (CLAUSE NO.)	PROPOSED DEVELOPMENT	COMPLIANCE
3.5 Building Separation and Treatment 12 metres	17 metres (Building A to Building B) 15 metres (Building B to Building C)	Yes Yes
3.7 Building Length Max. 50m	Building B – 62 metres	No – however consistent with building length approved under DA 992/2016/JP. Refer to discussion below.
3.8 Building Design and Streetscape Must refer to Council's "Multi-Unit Housing: Urban Design Guidelines 2002" Designs must be in harmony in terms of form, mass, colour and structure with existing and likely future development in the street. Siting and design to ensure clear definition of street edge and reinforce street corners. Building lines together with landscaping treatments should distinguish the public and private realms. Must not be repetitive in design and incorporate harmonious design variations such as verandas, entrances, facades, etc. <u>Walls and Rooflines:</u> - Articulation provided to reduce bulk - With variety of colours to reduce monotony and add enhance the streetscape - With windows to enhance façade appearance - Well balanced vertical and horizontal proportions - Break up large horizontal facades (whether walls or roofs) into	The proposal is consistent with the Multi-Unit Housing: Urban Design Guidelines 2002. The proposed design of the development is considered to be in harmony with respect to the form, mass, colours and finishes of existing and likely future development. The siting of the buildings, predominately to the alignment of the street will reinforce street corners. The curvature form of the development results in a harmonious design. Building B will comprise of distinguishing massing and features that will not result in a mirroring effect of the building. The proposed façades of the development fronting Norbrik Drive and Old Windsor Road will comprise of high quality materials and finishes. The facades to each street frontage are sufficiently	Yes Yes Yes Yes Yes

<p>smaller sections no longer than 10m</p> <ul style="list-style-type: none"> - Use of well-proportioned and balanced projections and recesses on facades. - Provision of architectural features in the façade such as entry porches, pergolas, etc. <p><u>Garages:</u></p> <ul style="list-style-type: none"> - Comprise more than one material and colour to enhance visual attractiveness and interest. - Concealed or screened by planting from the street and public view, as much as possible. <p><u>Entrances:</u></p> <ul style="list-style-type: none"> - Clearly visible from the public and semi-public areas. Lighting to be provided for safety at night. - Entries to be readily apparent from the street and clearly visible from inside the dwelling for casual surveillance. - Space around building entrance to be sufficiently large to stand out and have a distinctive architectural form. - Entries to be distinctive, attractive and welcoming. - Provide sheltered transitional areas around building entries. - All ground floor dwellings to have their own entry at ground level. - Building entries to be visible from, or address the site front boundary, and clearly delineated and observable from the driveway. <p><u>Views and Siting:</u></p> <ul style="list-style-type: none"> - Siting of building to take advantage of any views to nearby/adjoining landscaped open space or any public reserve. - Siting and design to take advantage of any views to open space, public reserves and bushland to promote natural surveillance and enhance visual amenity for residents. - Avoid blank courtyard walls along boundaries shared with open space or reserves. 	<p>articulated which reflects the alignment of each corner of the site. Balustrading to balconies have been incorporated as a design feature which follows the curvilinear lines of the building line.</p> <p>The overall design of the building facades is considered to convey the civic quality intended for the Circa Precinct.</p> <p>The proposed development will comprise of a basement garage and parking will be predominately concealed from public view.</p> <p>The main entry into Building B has been relocated from the northern façade, adjacent to the boardwalk and detention basin to the southern façade. This is considered suitable as it provides direct pedestrian access from the new vehicular access road and communal open space area. The entry is suitably articulated and is identifiable to residents and visitors.</p> <p>The siting of the proposed built form responds to the setting of the site and takes advantages of views in all directions. The orientation of living spaces and balconies within the development will promote the natural surveillance of the public and private domain.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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<p>3.14 Solar Access</p> <p>Adjoining buildings / open space areas – 4 hours between 9am and 3pm on 21 June</p>	<p>The closest adjoining residential property is located 110 metres south of Building B. Only internal overshadowing would result from the proposed development. Solar diagrams were submitted with the masterplan application that demonstrated that all adjoining residential properties would receive 4 hours of solar access between 9am and 3pm on 21 June.</p>	<p>Yes</p>
<p>3.15 Ventilation</p> <ul style="list-style-type: none"> - Consider prevailing breezes in relation to building orientation, window design and internal circulation. - Place windows to allow for cross ventilation i.e. on opposite sides of the building rather than adjacent walls where possible. These windows are to be lockable in a partly open position. - Promote air circulation and consider the installation of fans, roof vents, louvered windows and high-level windows to aid air circulation. 	<p>The proposed orientation and internal configuration of the development responds to prevailing breezes in order to maximise natural ventilation to apartments. At least 88% of apartments are naturally ventilated which exceeds the 60% requirement of the Apartment Design Guidelines.</p> <p>Windows have been located on opposite sides or to a different aspect where possible.</p> <p>The proposed development will provide for sufficient air circulation to apartments and common areas.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>3.16 Lighting</p> <ul style="list-style-type: none"> - Lighting to be in accordance with the Building Code of Australia. - Adequate lighting to ensure the security and safety of residents and visitors. - Maximise the use of natural lighting through window placement and skylights. 	<p>A condition of consent will be recommended to ensure compliance with the Building Code of Australia.</p> <p>Adequate lighting will be provided for the safety and security of residents.</p> <p>Natural lighting maximised to apartments and common areas where possible.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>3.20 Storage</p> <p>10m³ with an area 5m² and dimension 2 metres</p>	<p>The storage area has been provided as an overall volume based on the masterplan. Accordingly, the DCP would require 4,620m³ of storage area. It is noted that SEPP 65 would require 3,714m³ of storage area. The proposal would increase the overall storage area for the masterplan and built form to 4,400m³. This would retain an average storage area of 9.5m³ per unit.</p>	<p>No – however storage requirements comply with SEPP 65.</p>
<p>3.21 Access and Adaptability</p> <p>Lift provided if greater than 2 storeys</p> <p>Accessible housing: 5% in a development >20 units</p> <p>Each unit so provided above shall have an accessible car-parking bay complying with AS 2890 for people with a disability, and be accessible to a pick-up and drop-off point. An accessible route between the car parking space and unit shall be provided.</p>	<p>All levels of the development are accessible by lift. Lift cores will be provided in each building and will service the basement level.</p> <p>The Development Application was accompanied by an Access Report prepared by Accessibility Solutions. The report indicates that the proposed development demonstrates compliance of visitability by virtue of 100% of units having access to wheelchair accessible pathways. Further, 100% of the units will be accessible in compliance with the design standards as required by Schedule 3 of the SEPP.</p> <p>Accessible parking is provided in accordance with Schedule 3 of the SEPP.</p> <p>A condition of consent is to be recommended to ensure that the proposed development is consistent with the methodology of the Access Report.</p>	<p>Yes</p> <p>Yes</p>
<p>3.22 Pedestrian/Bicycle Links</p> <p><u>Within the Site</u></p> <ul style="list-style-type: none"> - Access to dwellings should be direct and without unnecessary barriers. No steps between the street frontage and the principal building entrances. - Provide clearly defined pedestrian pathways between proposed 	<p>The proposed development will accommodate for direct access from the street frontage and building entrance.</p> <p>Internal pathways within the development will be clearly defined as detailed on the</p>	<p>Yes</p> <p>Yes</p>

<p>development and proposed footpaths along sub-arterial roads.</p> <ul style="list-style-type: none"> - Adequate lighting in common and access areas. - All pathways and ramps to conform to the minimum dimensional requirements set out in AS1428 Part 1-1998 Design for Access and Mobility and AS1428 Part 2-1992. and Council's Policy "Making Access for All" (2002). - All surfaces to be stable, even and constructed of slip resistant materials. Any stair nosings should have a distinctive colour and texture. - Building and unit numbering and all signage is to be clear and easy to understand. International Symbols of Access should be displayed where buildings, crossings, amenities, car parking, pathways and ramps are accessible, as detailed in The Hills Shire Council policy entitled "Making Access For All" (2002). - Pathway locations must ensure natural surveillance of the pathway from primary living areas of adjoining units. Dwelling entries must not be hidden from view and must be easily accessible. <p><u>Local Pedestrian Links</u></p> <ul style="list-style-type: none"> - Where possible, a pedestrian link through the site must be provided as part of the development to increase the connectivity of the area for local pedestrians. The following factors should be considered when identifying the most appropriate location for the link of the pathway: <ul style="list-style-type: none"> - The link must be no less than 3m wide; - Should be a straight-line link through the site linking streets or other public spaces; and - Cannot include stairs and any ramps. Must have a reasonable gradient - refer to AS 1428.1 - 1988 Design for Access and -) The design and layout of any building adjoining and landscaped spaces adjoining the pathway should ensure there is natural 	<p>Landscape Plan as approved under DA 992/2016/JP.</p> <p>Adequate lighting to be provided to common open areas as approved under DA 992/2016/JP.</p> <p>All access paths and ramps are to comply with relevant Australian Standards.</p> <p>All surfaces will be stable and even to provide for safe pedestrian passage.</p> <p>Signage and unit numbering will be clear and legible.</p> <p>Apartments are orientated to ensure the natural surveillance is maximised.</p> <p>Local pedestrian links maintained as per Masterplan and Stage 1 Built Form approval. Access will be provided via a boardwalk surrounding the perimeter of the lake. Access will be available to the public however will form part of a public access easement.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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<p>surveillance of the pathway to protect the amenity of users. A solid fence along the boundary of the pathway restricting views of the pathway from adjoining properties <u>not acceptable</u>.</p> <p>- The pedestrian link must be dedicated to Council as a public footway and the footpath, and lighting must be provided at no cost to Council.</p>		
<p>3.23 Privacy – Visual and Acoustic</p> <p>- Minimise direct overlooking of main internal living areas and private open space of dwellings both within and adjoining the development through building design, window locations and sizes, landscaping and screening devices.</p> <p>- Consider the location of potential noise sources within the development such as common open space, service areas, driveways, and road frontage, and provide appropriate measures to protect acoustic privacy such as careful location of noise-sensitive rooms (bedrooms, main living areas) and double glazed windows.</p> <p>- Dwellings adjoining arterial roads to be designed to acceptable internal noise levels, based on AS</p>	<p>Units have been designed to minimise the potential for direct overlooking through the sufficient separation of Buildings A and B in addition to the appropriate placement of balconies and windows.</p> <p>Furthermore, given the substantial distance to adjoining residential properties to the south, the proposal will not result in undue overlooking into adjoining residential properties.</p> <p>The Development Application was accompanied by an Acoustic Assessment prepared by Renzo Tonin and Associates and dated 21 February 2017. The assessment identifies the main noise sources including existing and future traffic noise from Old Windsor Road and Norbrik Drive and mechanical plant equipment. The assessment concludes that the level of noise emitted by the proposed development will meet the noise level requirements of the NSW Industrial Noise Policy and Road Noise Policy subject to the implementation of noise mitigation measures. Council's Senior Environmental Health Officer concurs with the recommendations of the report and has raised no objections in this regard.</p> <p>The Acoustic Assessment considers existing levels of traffic noise pursuant to Clause</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

3671 – Road Traffic Noise Intrusion Guidelines.	87 of the SEPP. The assessment recommends noise mitigation measures to offset the impact of traffic noise such as glazing design requirements and façade and roof sound insulation. The assessment concludes that subject to recommendations being carried out, the proposed development will comply with and Clause 87 of the SEPP.	
3.24 Services <ul style="list-style-type: none"> - Development consent not to be granted until satisfactory arrangements are made with relevant authorities for the provision of services. - Site services and facilities (such as letterboxes, clothes drying facilities and garbage facility compounds shall be designed so as: <ul style="list-style-type: none"> - To provide safe and convenient access by residents and the service authority; and - Visually integrated with the development and have regard to the amenity of adjoining development and streetscape. - Laundries shall be provided to each dwelling. 	<p>A condition of consent will be recommended to ensure satisfactory arrangements are made with the relevant service authorities for the provision of services.</p> <p>Services and facilities for residents and visitors have been designed for safe and convenient access.</p> <p>Each apartment will be provided with an internal laundry, typically adjacent to the kitchen.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3.25 Waste Management – Storage and Facilities <ul style="list-style-type: none"> - Waste collection and separation facilities to be provided for each dwelling. Each dwelling should have a waste storage cupboard in the kitchen capable of holding at least a single days waste, and sufficient to enable separation of recyclable material. - Adequate storage for waste materials must be provided on site and any such waste must be removed at regular intervals and not less frequently than once per week for garbage and fortnightly for recycling. - Screen views of waste and storage facility from any adjoining property or public place while ensuring there is some natural surveillance from within the development to minimise 	<p>Communal waste storage area proposed within basement area.</p> <p>No objections were received by Council’s Resource Recovery Officer and accordingly conditions are recommended.</p>	<p>Yes</p>

vandalism and other anti-social activity. - Waste storage areas to be kept clean, tidy and free from offensive odours at all times.		
3.26 Waste Management Planning Submission of a Waste Management Plan – demolition, construction and on-going use.	No objections were raised by Council's Resource Recovery Officer and accordingly conditions are recommended.	Yes
3.28 Developer Contributions In accordance with the relevant Section 94 Rate	A condition has been recommended requiring the payment of S94/7.12 contributions.	Yes

8.2.1 Building Length

The DCP requires a maximum 50m building length for a residential flat building. The proposed development maintains a 62m building length as approved under the masterplan and built form Development Application No. 992/2016/JP.

The DCP provides the following objectives to Building Length:

- *To reduce the visual bulk and scale of residential flat building development.*
- *To ensure that development will enhance and contribute to the streetscape and desired character of the future and existing neighbourhood.*

The applicant has provided the following justification:

The DCP limits the maximum linear length of any residential flat building to 50 metres. Both Buildings A and B exceeded the 50 metre maximum building length (both being 62m) and were approved as part of the Master Plan and Stage 1 development application.

At that time, a variation was considered reasonable given that the control relates primarily to reducing bulk and scale for residential flat buildings constructed within a suburban context. The subject site is located within the context of a business park and is consistent with the scale of buildings envisaged within the Circa Precinct.

Building A and B incorporate a curvature design which assists in modulating the façade of the building to reduce the perceived bulk and scale, and are connected at the ground floor plan. In addition, the substantial setback to Norbrik Drive provides adequate separation to the streetscape in order to alleviate bulk and scale. It is also noted that the proposed length of the buildings when combined will not result in adverse shadowing impacts given the physical separation between the buildings ranging from 17 to over 22 metres. In this regard, it is considered that a variation to the control can be supported in this instance.

Comment:

The proposed development maintains the existing building length for Building B approved under the original masterplan and built form Development Application. Compliance in this instance is considered to be unreasonable given that the control relates primarily to reducing bulk and scale for residential flat buildings constructed within a suburban

context. The subject site is located within the context of a business park and is consistent with the scale of buildings envisaged within the Circa Precinct.

Building B incorporates a curvature design which assists in modulating the façade of the building to reduce the perceived bulk and scale. It is also noted that the proposed length of the building will not result in adverse shadowing impacts. In this regard, a variation to the control can be supported.

8.2.2 Unit Layout and Design

The DCP requires a maximum of 30% Type 1 apartments, a maximum of 30% Type 2 apartments and all remaining units to comply with the Type 3 apartment size. The following table outlines the apartment type categories:

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

The proposed apartment sizes are inconsistent with the minimum apartment size typology required by the DCP. The proposal will provide for the following apartment sizes:

- One Bedroom: 67m² to 97m²
- Two Bedroom: 92m² to 115m²
- Three Bedroom: 132m² to 152m²

With respect to compliance, 0% of units are Type 1, 83% of units are Type 2 and the remaining 17% of units will be Type 3. In this regard, the proposal significantly exceeds the maximum permitted Type 2 apartment size by 53%.

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

An assessment of unit sizes proposed for Building B shows clearly the distinction between housing needs to accommodate seniors and people with a disability compared the DCP control focused on the needs of young families. Building B and the Master Plan and Stage 1 development approval is designed for people at a different stage in their life cycle as well as those needing care and support. Issues such as wheel chair accessibility and adaptability have significant influence on the size of units required for seniors and people with a disability. Consequently it can be viewed that these DCP controls are not a relevant measure for performance or accommodation need for the clientele likely to accompany units in the retirement development. Rather these units are purpose built and the variation to Council's DCP should be recognised.

Comment:

The applicant has also justified the variation by relying upon the minimum apartment size requirements of the Apartment Design Guide.

In this regard, SEPP 65 contains the following minimum apartment sizes:

- 1 bedroom unit – 50m²
- 2 bedroom unit – 70m²
- 3 bedroom unit – 90m²

It is also noted that Clause 30 of SEPP 65 '*Standards that cannot be used as grounds to refuse development consent*' 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.

The apartments are satisfactory in regard to the minimum unit sizes required by SEPP 65 and are designed to take advantage of views, solar access and cross ventilation.

Given the context of the site within the Seniors Living Circa Precinct, the proposed apartment sizes and mix is considered to be satisfactory.

8.2.3 Storage

The DCP requires at least 10m³ of storage space per dwelling within a lockable garage and must cover a minimum area of 5m³ with a minimum dimension of 2m. The proposal does not provide 10m³ to the 1 and 2 bedroom units. To ensure consistency with the original Masterplan and Stage 1 Built Form consent, the storage area for the subject application has been provided as an overall volume.

The applicant has provided the following justification for the variation to storage areas:

In the current approved Master Plan storage area has been provided as an overall volume based on 446 units. With the current application comprising an addition 16 units in Building B, taking the total number to 462 units overall, Council's DCP would require 4,620m³ of storage area. In comparison, it is noted that SEPP 65 only requires 3,714m³ of storage area. All units in proposed Building B are provided with adequate internal storage similar to the current building.

At present the approved Master Plan provides 4,277m³ of storage area. With the new Building B additional storage (total 4,400m³) has been provided to retain the average storage area of 9.5m³ per unit as approved in the Master Plan. The proposal complies with the storage requirements of SEPP 65 and in this regard, the variation from Council's DCP may be accepted on merit.

Comment:

The proposed storage areas satisfy the requirements of SEPP 65 by providing 6m³ for each 1 bedroom unit, 8m³ for each 2 bedroom unit and 10m³ for each 3 bedroom unit and at least 50% of the required storage is to be located within the apartment. In this regard, a variation is considered to be satisfactory.

9. State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide

The primary objective of SEPP 65 is to improve the design quality of residential apartment development in NSW. In determining a Development Application for consent to carry out residential flat development, a consent authority must take into consideration the design quality of the residential flat development when evaluated in accordance with the design quality principles. A consent authority must also consider provisions of the Apartment Design Guide.

9.1 SEPP 65 Quality Design Principles

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

Principle 1: Context

The subject site and surrounding area form part of the Circa Precinct and will be subject to substantial urban renewal for commercial, retail and mixed use developments in the future. The site and the broader precinct comprise building heights ranging between RL 108 and RL 116. The proposal responds to the desired future character of the precinct as envisaged by Council for a Seniors Living Residential Flat building development with a height of 11 storeys with sufficient building articulation, peripheral landscaping and basement car parking which is consistent with the approved master planned precinct.

Once the development of the precinct is completed, the proposal would integrate with the surrounding sites and would be in keeping with the future urban form. Building B will anchor the site as a Gateway to the Circa Precinct being located adjacent to the corner of Norbrik Drive and Old Windsor Road. The proposed development will contribute to the identity and future character of the precinct.

Principle 2: Scale

The scale of Building B responds to the site and is considered to be appropriate to the desired future character of the Circa Precinct. The development achieves a scale consistent with the desired outcome for well-articulated buildings that are set back to incorporate landscaping, open space and separation between buildings.

The building has been designed to respond to the alignment of the boundaries by adopting a curvilinear form which is translated vertically in height. The height of the development overall is acceptable in terms of solar access to the development site and adjoining sites.

The spatial relationships of the building have been considered. The proposed building will maintain adequate separation with appropriate distances between internal buildings and adjoining properties. The building separation will allow for landscape areas, entrances and a public domain area which will act as a thoroughfare between Circa Shopping Centre and the low density residential area to the south.

The proposed design addresses matters such as privacy, acoustic impact, wind impact, and solar access.

Principle 3: Built Form

The proposed building achieves an appropriate built form for the site and its purpose, in terms of building alignment, proportions, and the manipulation of building elements. The proposal has been subject to review by a Design Excellence Panel and amendments have been made to address the concerns raised by the Panel. The amended design includes a balanced juxtaposition of vertical and horizontal elements that break up the massing and minimise bulk and scale of the 11 storey building. Horizontal banding is proposed on the ground floor levels of the building to distinguish the podium from the rest of the building and provide human scale to the community and public domain. The building will appropriately contribute to the character of the desired future streetscape and include articulation to minimise the perceived scale.

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

Principle 4: Density

The proposed development for an additional 16 self-contained dwellings to the approved 446 self-contained dwellings and a 144 bed residential aged care facility on site is considered to be appropriate within the locality and within the context of the Circa Precinct.

The proposed density is considered to be sustainable as it responds to the regional context, availability of infrastructure, public transport, community facilities and environmental quality and is acceptable in terms of density.

Principle 5: Resources, Energy and Water Efficiency

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

The energy rating of the residential units has been assessed and the accompanying BASIX Certificate will be recommended as a condition of consent to ensure the commitments are fulfilled.

Principle 6: Landscape

Minimal changes to the landscaping approved under the masterplan are proposed. The submitted landscape plan demonstrates that open spaces will be appropriately landscaped with appropriate tree species and shrubs to provide a high quality landscape setting. Large canopy trees supported by native shrubs and grasses will be planted. The proposed landscaping integrates with the overall appearance of the development and will be further reviewed with subsequent development applications.

Deep soil areas approved under the masterplan consent and provided around the building envelope would enhance the development's natural environmental performance and provide an appropriate landscaped setting which is critical given the interface to low density residential properties to the south.

Principle 7: Amenity

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

Principle 8: Safety and Security

The design orientates the balconies and windows of individual units in order to provide passive surveillance of the public domain and communal open space areas.

The adequacy of Safety and Security was assessed in the original Masterplan and Built form Development Application and remains relevant to the subject proposal. The Crime Prevention Report prepared by JBA Urban Planning Consultants include details of surveillance, access control, territorial reinforcement and space management such as artificial lighting in public places; attractive landscaping whilst maintaining clear sight lines; security coded door lock or swipe card entry; physical or symbolic barriers to attract, channel or restrict the movement of people; security controlled access to

basement car park; intercom access for pedestrians; and security cameras located at the entrance of the building and publicly accessible areas. The report considers the key principles of Crime Prevention Through Environmental Design (CPTED) and the NSW Police Safer By Design Guidelines. A condition of consent is recommended requiring the development to comply with these principles. (Refer condition 8).

Principle 9: Social Dimensions

The proposed development is designed to provide accommodation for seniors or people with a disability pursuant to SEPP (Housing for Seniors or People with a Disability) 2004. The proposed design will meet the accessible standards pursuant to Schedule 3 of the SEPP and will provide support services on-site to cater for residents. The site satisfies the locational criterion of the SEPP.

Principle 10: Aesthetics

The architectural treatment of the building incorporates a balance between vertical and horizontal elements that provide distance architectural features to break up the building mass. The use of differing contrasting colours and balcony treatments to define the podium level and top levels from the middle section of the building minimises the bulk and scale of the development. Horizontal banding along the bottom of the building provides human scale to the eleven storey building. The use of large vertical timber batten screens with non-symmetrical openings adds to the prominent visual identity to the north western corner of the building. The combination of materials, colours and finishes will assist in conveying the development as a gateway site. The design is modern in style and appropriate for the Circa Precinct.

The articulation of the building, composition of building elements, textures, materials and colours would achieve a built form generally consistent with Clause 7.7 Design Excellence of The Hills LEP 212 and the design principles contained in the ADG and DCP.

9.2 Apartment Design Guide

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

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Complies. No change proposed to communal open space area approved under parent consent.
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 .	Complies. No change proposed to deep soil zone approved under parent consent.

Separation	For habitable rooms, 12m for 4 storeys, 18m for 5-8 storeys and 24m for 9+ storeys.	<p>No, variation required. All building separation distances comply with the exception of the following building interfaces:</p> <p>Buildings A-B</p> <p>Buildings B-C</p> <p>Refer to discussion below.</p>
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	<p>Complies.</p> <p>The visual privacy of the development has been considered with the placement of windows and balconies. Separation distances between habitable / non habitable spaces are considered to be adequate. Additional screening to the approved built form under the original DA for privacy and balustrade treatment have been provided to further enhance mitigation measures for potential overlooking of adjoining properties. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties.</p>
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.</p>	Car parking requirements pursuant to SEPP (Housing for Seniors or People with a Disability) 2004 prevail.

	0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).	
Designing the Building		
Solar and daylight access	1. Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	Complies. The proposed development will achieve 2 hours solar access during 9am and 3pm at mid-winter for 70.13% of units.
Natural ventilation	1. At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.	Complies. The proposed development will achieve natural ventilation for 88% of units.
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.	Complies. Floor to ceiling height approximately 3 metres for all apartments. Ground floor – no change
Apartment size	1. Apartments are required to have the following internal size: Studio – 35m ² 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.	Complies. One Bedroom: 67m ² to 97m ² Two Bedroom: 92m ² to 115m ² Three Bedroom: 132m ² to 152m ²
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.	Complies. The maximum habitable room depth is 8 metres from a window.

Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.</p>	<p>Complies.</p> <p>The proposed development provides for the minimum balcony size and depth for Building B.</p>
Storage	<p>Storage is to be provided as follows:</p> <p>Studio – 4m³ 1 bedroom – 6m³ 2 bedroom – 8m³ 3+ bedrooms – 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>Complies.</p> <p>Each unit contains the minimum storage area.</p> <p>Yes – Storage requirements met.</p>
Apartment mix	<p>A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.</p>	<p>The mix is satisfactory.</p>

9.2.1 Building Separation

The ADG requires that habitable rooms provide a 12m building separation for 4 storeys, 18m for 5-8 storeys and 24m for over 9 storeys.

The separation distance between Building A and B is 19 metres whilst the ADG requires a separation distance of 24 metres. The separation distance between Building B to C is 15 metres whilst the ADG requires a separation distance of 18 metres.

The ADG provides the following objectives relating to building separation:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual amenity.

The applicant has submitted the following justification:

In the Master Plan and Stage 1 application it was indicated that the development would incorporate building separation distances that comply with the ADG with the exception of Buildings A to B, Buildings B to C and Building C to D. The separation distance between Building A and B ranges from 17m to over 22m whilst the ADG requires a separation distance of 24 metres. The separation distance between Building B to C is 15 metres whilst the ADG requires a separation distance of 18 metres.

In this regard reference was made to the ADG and the following objectives relating to building separation:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual amenity.

Comment

Whilst the separation distance between Building A and B does not meet the separation distance of 24 metres required for Level 9 and 10, the interface between the buildings

provides for a design that minimises direct placement of habitable rooms. Where habitable rooms do interface, full height privacy screens have been incorporated to balconies to offset direct overlooking whilst capturing direct sunlight given the northerly aspect.

With respect to the separation distance between Buildings B to C, the separation distance of 15 metres will need to be considered with a subsequent Development Application for Building C however privacy measures such as the offsetting of habitable rooms and louvres will need to be incorporated into the design to mitigate the potential for direct overlooking.

In this regard, a variation to the guide can be supported.

10. Issues Raised in Submissions

The proposal was notified to adjoining property owners on two separate occasions. In response, five individual submissions received during the first notification period. During the second notification period, three submissions were received. In total, eight submissions were received from different property owners.

The issues raised in the submissions relate to building height, design, bulk and scale, overshadowing, loss of privacy, noise, traffic, security and car parking. The matters raised in the submissions have been summarised below:

ISSUE/OBJECTION	COMMENT	OUTCOME
The proposed height of two additional levels to Building B is out of character with the Bella Vista area and is inconsistent with the surrounding development, resulting in visual amenity impacts to existing residents.	The proposed development is located within a Business Park. Building B is located at the north western corner of Old Windsor Road and Norbrik Drive and at least 110m from the closest residential properties to the south. Proposed Building B has a maximum height of RL110.85 which is 5.15 metres below the building height development standard pursuant to Clause 4.3 of the LEP. The proposed height is consistent with the surrounding Circa Precinct and is assessed as satisfactory. In addition, the building has been redesigned and satisfies the requirements of Clause 7.7 Design Excellence of The Hills LEP.	Issue addressed.
The approval of an increase in height to Building B sets an undesirable precedent for further increases in height to future built forms located to the southern portion of the site which are located closer to existing low density residential properties.	The masterplan and built form development consent restricts the southern buildings D, E, F, G, H and the RACF to 4-6 storeys with a maximum RL of 93.80 which is 3.88 metres below the height of a previously approved data centre development. Whilst separate Development Applications are required for the built form of these buildings, the heights	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	proposed for the subsequent applications are to be consistent with the approved masterplan.	
Visual and acoustic impacts from Buildings A, B, C and D to adjoining low density residential properties to the south.	<p>The proposal is for the construction of Building B. 9 levels comprising 67 units have already been approved under DA 992/2016/JP. The proposal is an addition of two residential levels incorporating 1,992m² floor area and 16 additional units for Building B. Building B is located 110m from the southern adjoining property. Given the substantial distance to adjoining residential properties to the south, the proposed increase in height and number of units will not result in detrimental overlooking and noise impacts to adjoining residential properties.</p> <p>An acoustic report was submitted with the application that demonstrates that the level of noise emitted by the proposed development will meet the noise level requirements of the NSW Industrial Noise Policy and Road Noise Policy subject to the implementation of noise mitigation measures. Council's Senior Environmental Health Officer concurs with the recommendations of the report and has raised no objections in this regard.</p> <p>In addition, mass planting along the southern property boundary is required as part of the masterplan consent which would provide some privacy mitigation for adjoining southern properties.</p> <p>The built form including visual and acoustic impacts for Buildings C and D will be assessed under a separate development application when lodged.</p>	Issue addressed.
Loss of solar access to the private open space of adjoining southern properties.	Proposed Building B is located 110m from the closest adjoining residential property to the south. During the winter solstice, the	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	longest length of shadow cast from Building B to the south falls within the site. In this regard, the adjoining southern residential properties would not be impacted as only internal overshadowing impacts would result from the development.	
Increase in mechanical equipment/air conditioning can increase health issues for adjoining residents to the south of the site.	Whilst the proposal increases the amount of mechanical equipment and air conditioning units for the building, there is no substantial evidence to suggest that this would result in increased health issues to adjoining residents. The building is located at least 110m from the southern property boundary and acoustic impacts have been addressed above. The proposed development has been referred to Council's Environmental Health section. No concerns were raised regarding this matter.	Issue addressed.
Noise and dust hazards to adjoining residents during construction phase. There should be a construction program/completion date for construction.	<p>The proposal is to increase the height of an approved Building. No changes to the building footprint would occur. Conditions of consent to mitigate noise and dust impacts from construction have been implemented under DA 992/2016/JP. Council has investigated several service requests lodged for breach of these consent conditions. This is a separate compliance matter and is not a matter for consideration under this subject application.</p> <p>There is no legislative requirement to enforce developers to provide a completion date for construction of development under development consent.</p>	Issue addressed.
Proposed development would exacerbate existing local traffic congestion issues	The proposal includes the addition of 16 independent living units. Council's Principal Co-ordinator – Road & Transport has assessed the application and indicates that 7 additional peak hour trips will be generated above the original 27 peak hour trips from the approved number	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	<p>of independent living units. It was determined that this additional peak hour traffic would have minimal impact on the operational efficiency of the surrounding road network or nearby intersections and raised no objections to the proposal. In addition, the RMS has reviewed the application and raise no objections to the proposed development.</p>	
<p>The Police Traffic comments have not been considered by Council officers for the original Masterplan Development Application No. 992/2016/JP and are required to be addressed in the subject application.</p>	<p>The subject application was referred to the NSW Police for comment who raised no objections to the proposal provided previous comments submitted under 992/2016/JP were addressed. The original comments provided by the NSW Police dated 10 August 2016 state that <i>"The traffic generation potential of the site would be consistent with the Aveo Norwest Masterplan traffic study and it is unlikely that this stage 1 of the development would have any unacceptable traffic implications on the road network within the immediate vicinity."</i> As proposed Building B relates to Stage 1 of the approve development, the proposal is consistent with the NSW Police recommendations in relation to traffic.</p> <p>Council's Roads and Transport Section reviewed the NSW Police Traffic comments relating to the original Master Plan Application and notes that the NSW RMS are in the process of identifying solutions to rectifying the existing delays that currently occur at several of the major nearby intersections such as Norwest Boulevard and Lexington Drive. Service levels at these intersections have however been in decline over an extended period of time as a result of intensified development in the Norwest precinct generally. Notwithstanding, the impact the expected additional 7 peak hour trips from the subject</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
	proposal will have on service levels at these intersections is considered negligible.	
The additional two storeys proposed for Building B could compound in a fire hazard associated with high rise structures.	<p>The proposal includes the change in structural system from Cross Laminated Timber (CLT) to Concrete Framed Structure. As this is a new development, the only prescribed condition that Council can impose with regard to fire safety/structural capacity at the Development Application stage is a condition of consent that requires that fire safety/structural capacity to comply with the provisions of the Building Code of Australia (refer to condition No. 3).</p> <p>The assessment of technical matters such as operational requirements for NSW Fire and Rescue access to a building is assessed at Construction Certificate stage. If the development is proposed to be 11 storeys in height it is likely to exceed 25m effective height and the building would be required to be fully sprinklered, require 2 exits from each storey, stair pressurisation will be required in each of fire isolated stairways and the building will also require emergency lifts. Depending on the how the building is proposed to be assessed at Construction Certificate stage (either via the deemed to satisfy provisions (DTS) or a performance solution) it may be required to be referred to NSW Fire and Rescue for comment if a performance solution is proposed for any category 2 fire safety provisions.</p> <p>If the building is proposed to be built as DTS, then the additional fire safety measures required by the BCA for a building over 25m effective height are considered to be sufficient for the operational requirements for NSW Fire and Rescue.</p>	Issue addressed.

<p>On-going construction for an indefinite period of time would result in detrimental impacts to physical and mental health of adjoining southern residents. Concern is raised that there is no construction program or end date for completion of development for the whole site.</p>	<p>Conditions of consent to mitigate noise and dust impacts from construction have been implemented in the original consent. Council has investigated several service requests lodged for breach of these consent conditions. This is a separate compliance matter and is not a matter for consideration under this subject application.</p> <p>There is no legislative requirement to enforce developers to provide a completion date for construction of development under development consent.</p>	<p>Issue addressed.</p>
<p>Heritage concerns regarding the proposal not complying with the building height planes to protect the view from Windsor Road to Bella Vista House.</p>	<p>The subject site is affected by height plane controls detailed in the Hills Development Control Plan 2012 which relate to the preservation of views to Bella Vista Farm Park and the prominent ridgeline from the key locations of Old Windsor Road and the Pearce Family Cemetery. As detailed in the body of the report, the approved development includes a 9 storey building (Building B) which was endorsed by the Office of Environment and Heritage who assessed that the development would unlikely have an adverse impact on the heritage significance of Bella Vista (the Homestead and ridge line) and the Pearce Family Cemetery. In addition, Building B is not located within the view corridor to and from Bella Vista Conservation Area and Pearce Family Cemetery. Notwithstanding, Building B is located within the view corridor marked B as indicated in Section 2.6(h) of Part B Section 6 Business of The Hills DCP 2012. As acknowledged in the assessment of the approved masterplan and Stage 1 built from application, the view from the north to south has already been partially obscured by infill developments such as the Medical Centre and the Q-</p>	<p>Issue addressed.</p>

	Central building. Similarly, the view from the south to the north on the "original" Old Windsor Road has been significantly impacted by the construction of buildings and public infrastructure including a T-way and pedestrian overpass. The additional height of 4.84m will result in a maximum height of RL 110.85 and still complies with the maximum RL under Clause 4.3 of the LEP and will not exacerbate the heritage impacts of the approved Building B.	
Lack of security for the proposed development.	The application was referred to NSW Police who raised no objections to the proposal and referenced previous comments under the original masterplan application. The original consent (condition No. 5) includes NSW Police requirements such as surveillance, lighting and technical supervision, environmental maintenance, access control and additional security measures. In addition, a condition of consent was recommended requiring compliance with Crime Prevention Through Environmental Design Report (refer condition No. 8).	Issue addressed.
The proposal would result in overcrowding of the locality.	The additional 16 units would result in an overall yield of 462 units for the subject site which is not considered unreasonable for the subject site which has been approved as a masterplan for Seniors Housing.	Issue addressed.
Devaluation of adjoining residential properties	There has been no evidence submitted to indicate that loss of property values will occur. This is not a planning matter.	Issue addressed.

11. Referral Comments

NSW POLICE COMMENTS

The application was referred to NSW Police. The NSW Police made reference to previous advice provided for the Masterplan and Stage 1 Built Form DA 992/2016/JP. As such, design recommendation as reviewed in the previous application pertaining to CPTED principles are recommended as conditions of consent.

SYDNEY WATER

The proposal was referred to Sydney Water to ensure that the proposed development can be adequately serviced by connection to the water main located in Norbrik Drive and sewer main located within the development site. Sydney Water has reviewed the proposed development and raises no objections to the proposal.

ENDEAVOUR ENERGY

The proposal was referred to Endeavour Energy. Endeavour Energy made reference to previous advice provided for the Masterplan and Stage 1 Built Form DA 992/2016/JP and noted that previous recommendations and comments provided remain valid. Endeavour Energy has reviewed the proposed development and raises no objections.

SUBDIVISION ENGINEERING COMMENTS

The application was referred to Council's Engineering section. No objections were raised subject to conditions of consent.

TRAFFIC MANAGEMENT COMMENTS

The application was referred to Council's Roads and Transport Section who has reviewed the submitted Traffic memo from TDG Consulting dated 17 January 2017. No objections were raised to the proposal. Council's Principal Coordinator – Road and Transport found that for the additional 16 units proposed, 7 additional peak hour trips over the original 27 peak hour trips approved under the Masterplan application. This was based on the rate of 0.4 peak hour trips per unit. It was determined that this additional peak hour traffic will have minimal impact on the operational efficiency of the surrounding road network or nearby intersections.

Council's Principal Coordinator – Road and Transport also noted that with respect to the comments from NSW Police, the RMS are in the process of identifying solutions to rectifying the existing delays that currently occurs at several of the major nearby intersections such as Norwest Boulevard and Lexington Drive. Service levels at these intersections have however been in decline over an extended period of time as a result of intensified development in the Norwest precinct generally. The impact of the expected additional 7 peak hour trips from this proposal is negligible in with regard to the service levels at these intersections.

TREE MANAGEMENT COMMENTS

The application was referred to Council's Landscape Assessment Officer. No objections were raised to the proposal subject to conditions requiring suitable planting depths for planting on slabs, replacement planting requirements and tree protection measures.

HEALTH & ENVIRONMENTAL HEALTH COMMENTS

The application was referred to Council' Environmental Health Section to review acoustic design. No objections were raised to the proposal subject to conditions of consent.

WASTE MANAGEMENT COMMENTS

The 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.

LAND AND SPATIAL INFORMATION COMMENTS

The Application was referred to Council's Land and Spatial Information Section. No objections were raised to the proposed modification subject to conditions of consent.

SECTION 94 COMMENTS

The Application was referred to Council's Section 94 Section. No objections were raised to the proposed modification subject to conditions of consent.

HERITAGE COMMENTS

The application was referred to Council's Forward Planning Section to review the heritage impacts. It was concluded that Building B is not directly located within the view corridors to and from Bella Vista Conservation area and the Pearce Family Cemetery. It was acknowledged that given the already severely compromised state of view cone B following considerable infrastructure works on Old Windsor Road, the additional levels for Building B would not exacerbate existing heritage concerns noted in previous advice granted for the Masterplan and Stage 1 Development Application. Subsequently, no objections are raised on heritage grounds.

CONCLUSION

The Development Application has been assessed against the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, The Hills Local Environmental Plan 2012, The Hills Development Control Plan 2012, and State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and is considered satisfactory.

The proposed development is for the construction of an 11 storey residential flat building (Building B) which is an addition of two levels to an approved residential flat building for seniors housing under the Masterplan and Stage 1 Built Form Development Application No. 992/2016/JP. The addition of 4.84m height and 1,992m² floor area results in an increase of 16 units which is generally consistent with the previously approved design. The proposal retains a good urban design outcome that responds appropriately to the streetscape and Circa Precinct in Norwest Business Park and would continue to provide a sympathetic interface to adjoining residential properties.

The proposal was notified to adjoining properties on two separate occasions. In response, five individual submissions received during the first notification period. During the second notification period, three submissions were received. In total, eight submissions were received from different property owners.

The issues raised in the submissions primarily relate to the building height, design, privacy, noise, solar access, traffic, safety, density and environmental and health impacts during the construction phase. The matters raised in the submissions have been reviewed and do not warrant refusal of the application.

The proposal is recommended for approval subject to conditions.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

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

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans (as amended)

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent.

REFERENCED PLANS AND DOCUMENTS

DA-1215	Building B – Site Analysis - prepared by Nettleton Tribe	A	11/04/2017
DA-1216	Building B Basement Plan - prepared by Nettleton Tribe	A	11/04/2017
DA-1217	Building B Ground Floor Plan – prepared by Nettleton Tribe	A	11/04/2017
DA-1218	Building B L1 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1219	Building B L2 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1220	Building B L3 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1221	Building B L4 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1222	Building B L5 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1223	Building B L6 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1224	Building B L7 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1225	Building B L8 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1226	Building B L9 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1227	Building B L10 Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1228	Building B Roof Plan prepared by Nettleton Tribe	A	11/04/2017
DA-1229	Building B – Typical Level (Revised Design)	A	23/03/2018
DA-3213	Building B North and West Elevations prepared by Nettleton Tribe	A	23/03/2018
DA-3211	Building B South and East Elevations prepared by Nettleton Tribe	A	11/04/2017
DA-3222	Building B Typical Materials	A	23/03/2018
DA-4210	Building B Section	A	11/04/2017
DA-4211	Building B Section Comparison	A	11/04/2017

REFERENCED PLANS AND DOCUMENTS – LANDSCAPE PLANS

DRAWING NO.	DESCRIPTION	Sheets	DATE
101-103 200-202	Stage One Development Application including Design Certificate by Arcadia Landscape Architecture P/L	1-8	March 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. SEPP (Housing for Seniors or People with a Disability) 2004

The seniors housing shall be restricted to the housing of older people and / or people with a disability in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

5. NSW Police Comments

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

Surveillance

- The ceiling of the carpark is to be treated as far as practicable with the proposed insulation material in a white tone to help reflect light.
- CCTV shall be installed at entry points into the car park, exit points and scattered throughout the car park including entrances to the flats and the community facilities within the site such as in the lifts, stairwells, fire doors, etc., covering the disabled parking and the motorcycle/bike parking.
- CCTV footage is effective in criminal matters when the images display shots of an alleged offender from the shoulder upwards. CCTV cameras need to be able to zoom in on a person of interest without loss of focus and/or quality. The owner is to train all relevant staff of how to use the CCTV cameras.
- Installation of height indicator stickers on the entrance/exit doors. These used in conjunction with CCTV, will give police an indication of an offender's height as they enter or exit, and in turn will assist in the identification of possible offenders.
- Security access shall be utilised at the entrance of the car parking area through the use of fob, remote or code access.
- Shrubs and shade trees must be kept trimmed at all times. Lower tree limbs should be above average head height and shrubs should not provide easy concealment.
- 3-5 metres of cleared space is to be located either side of residential pathways and bicycle routes. Thereafter, vegetation can be stepped back in height to maximise sightlines.

Lighting and Technical Supervision

- Lighting shall meet minimum Australian Standards.

- Special attention shall be made to lighting the entry and exit points from the buildings, car park and access/exit driveways. Transition lighting is needed throughout the site to reduce vision impairment, i.e. reducing a person walking from dark to light places.

Environmental Maintenance

- Porous building surfaces shall be avoided when selecting materials for construction to minimise maintenance cost relating to graffiti vandalism.

Access Control

- Warning signs shall be strategically posted around the building to warn intruders of what security treatments have been implemented to reduce opportunities for crime, e.g. *'Warning, trespasser will be prosecuted'* or *'Warning, these premises are under electronic surveillance'*.
- Ensure the section of the security roller shutter near the manual door release is solid, improved strength to garage doors and better quality locking mechanism.
- All fire doors are to be alarmed so that no unauthorised access is permitted. A magnetic strip is also recommended so that the door will shut closed. Signage is recommended on all fire doors to show that doors are alarmed and to only be used in emergencies.
- Outer ledges capable of supporting hands/feet shall be avoided and that balustrades should not provide anchor points for ropes. Also, for any fencing proposed for the development, palings are to be placed vertically to stop unauthorised access by persons using horizontally placed palings as a ladder to access ground floor units. If spacing is left between each paling, it should be at a width that limits physical access.

Other Matters

- To prevent children/ the aged from falling from windows, all strata buildings in NSW must be fitted with devices that enable their windows to be locked at 12.5cm when the devices are engaged. Owner's corporations must have devices installed on all common property windows above the ground floor by 13 March 2018. The safety devices must be robust and childproof. Residents will still be able to open their windows.
- Ground level units shall have upgraded security measures put in place such as doors and window being alarmed, thickened glass and sensor lights etc.
- Use of security sensor lights and a security company shall be engaged to monitor the site while construction is in progress. A signage shall be placed on construction site that outlines an after hour's number as well as other contact details if the location has been broken into etc.
- High quality letterboxes shall comply with Australian Standards - ISO9001:2008 and shall be under CCTV surveillance to help deter letterbox mail theft.
- Signs shall be placed around the car park warning residents to watch those who come in the entry/exit door behind them. Residents are encouraged to wait until the door is fully closed behind them before continuing into the underground car park. This will help prevent potential offenders from gaining entry via the open door.
- Park smarter signage shall be installed to help educate people to not leave valuable items in their cars and to ensure they secure their vehicles.

6. Compliance with Wind Report

The recommendations contained within the Wind Assessment prepared by Cermak Peterka Peterson and dated December 2015, supplementary statements dated 25 January 2016 and 8 April 2016 are to be incorporated into the design of the development.

7. Compliance with Access Report

The recommendations contained within Access Report prepared by Accessibility Solutions Pty Ltd and dated 10 February 2017 are to be incorporated into the design of the development.

8. Compliance with Crime Prevention Through Environmental Design Report

The recommendations contained within Crime Prevention Through Environmental Design Report prepared by JBA and dated May 2016 are to be incorporated into the design of the development.

9. Compliance with Norwest Association Requirements

The development is required to comply with the requirements of Norwest Association as outlined within correspondence dated 13 April 2017.

10. Reflective Qualities

Construction materials are to exhibit low reflective qualities and are to blend in with the surrounding environment.

11. External Finishes

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

12. Property Numbering for Integrated Housing, Multi Unit Housing, Commercial Developments and Industrial Developments

The responsibility for property numbering is vested solely in Council.

The property address for this development **(Building B)** is 28 Norbrik Drive Bella Vista

Approved unit numbering is as per plans and tables submitted and are as follows:

Building B

Ground	Units 65-70
First	Units 71-78
Second	Units 79-86
Third	Units 87-94
Fourth	Units 95-102
Fifth	Units 103-110
Sixth	Units 111-118
Seventh	Units 119-126
Eighth	Units 127-134
Ninth	Units 135-142
Tenth	Units 143-147

Unit numbering cannot be repeated throughout the development. These numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances.

Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. A schematic drawing is to be mounted at entry point to indicate each building and the unit numbers they contain. Unit numbering signage is also required on stairway access doors and lift/lobby entry doors. It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and speed.

Position of mailboxes is to be approved by Australia Post.

13. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Renzo Tonin and Associates Pty Ltd, referenced as Building B Acoustic Assessment for Development Application, dated 21st February 2017 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- The INP LAeq(15min) intrusive project specific noise levels as outlined in Table 7 are to be complied with.

14. Contamination Assessment & Site Remediation

The recommendations of the Site Assessment and Report prepared by Geotechnique Pty Ltd, referenced as Report No 13451/3-AB, dated 8 December 2015 and submitted as part of the Development Application are to be implemented as part of this approval.

15. Adherence to Operational Waste Management Plan

All requirements of the Operational Waste Management Plan submitted as part of this Development Application must be implemented during the construction (design of facilities) and the operational phases of the development, unless if contrary to other conditions of consent, which must take precedence.

16. Construction of Bin Room

All work involving construction of the bin room must comply with the construction requirements for garbage rooms as specified in the Waste Management Plan submitted as part of this Development Application. In addition to bins, the room must be sized to contain the e-diverter chute and a compactor for compacting bulk garbage bins housed underneath the chute.

17. Garbage Chute System

An e-diverter chute system must be provided and maintained with openings on every residential floor. The chute must terminate in the basement bin room and discharge garbage and separated recyclables into bulk bins. A compactor attachment for compacting garbage at a ratio of 2:1 must be provided and maintained. No compaction is permitted for recycling. Additionally, each residential floor must contain a recycle bin room near the location of the chute openings for the management of items unsuitable for chute disposal.

18. Separate Application for Subdivision

No subdivision is approved/ included with this consent. Any proposal to separately title the buildings or stages needs separate development consent. The same applies to the strata title subdivision of the development. This cannot occur as complying development because parking spaces have not been allocated to individual units as part of this proposal.

19. Protection of Public Infrastructure

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

20. Structures Adjacent to Piped Drainage Easements

Buildings and structures, including footings and brick fences, adjacent to existing or proposed drainage easements must be located wholly outside the easement. A design must be provided by a structural engineer certifying that the structure will not impart a load on the pipe in the easement.

21. Requirements for Council Drainage Easements

No works are permitted within existing or proposed public drainage easements unless approved by Council. Where works are permitted, the following requirements must be adhered to:

- Provision for overland flow and access for earthmoving equipment must be maintained.
- The existing ground levels must not be altered. No overland flow is to be diverted out of the easement.
- No fill, stockpiles, building materials or sheds can be placed within the easement.
- Open style fencing must be used. New or replacement fencing must be approved by Council.

22. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

Before a Construction Certificate can be issued for any stage/ building, a statement of compliance from a traffic engineer must be submitted to the PCA confirming the off-street car parking area complies with the requirements listed above. Any development application lodged for stage two onwards must be accompanied by plans that include sufficient detail to enable an assessment to be carried out with respect to the above.

23. Gutter and Footpath Crossing Application

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

24. Minor Engineering Works

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

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

a) Driveway Requirements

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

The proposed driveways used by passenger vehicles only must be built to Council's medium duty standard.

The proposed driveways used by service vehicles must be built to Council's heavy duty standard.

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

b) Disused Layback/ Driveway Removal

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

c) Concrete Footpath Paving

A 1.5m wide concrete footpath (or an alternate finish/ type approved by Council in advance), including access ramps at all intersections, must be provided/ maintained across the Norbrik Drive frontage of the development site transitioning into the existing footpath adjacent in accordance with the above documents.

d) Footpath Verge Formation

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

This includes 0.5m wide berm extending into the site before the batter associated with the basin/ water feature starts.

e) Site Stormwater Drainage

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

f) Earthworks/ Site Regrading

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

No change to the previously approved overland flow path/ outlet within the "stage three" area below the supplementary storage is permitted as part of these works. The design of any such amendments will need to be submitted for approval as part of a future development application for "stage three".

25. Finished Floor Level – Flooding

The finished floor level (or levels) of the structure must reflect the approved plans, the stormwater management plan prepared by AECOM (Figure 5) and the supplementary information from AECOM dated 31 May 2016 approved with DA 992/2016/JP.

26. Stormwater Management Requirements

The Construction Certificate must include details demonstrating compliance with/ the inclusion of the stormwater management measures described in the letter/ memo from AECOM dated 31/05/2016 (item six) approved with DA 992/2016/JP.

27. Planting Requirements

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

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

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

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

28. Replacement Planting Requirements

To maintain the treed environment of the Shire five (5) minimum 200 litre pot size replacement trees selected from following list are to be planted to the north/northwest of Building B, clear of line of basement and services.

Eucalyptus saligna

Blue Gum

Eucalyptus tereticornis

Forest Red Gum

If there are any planting constraints, further approval is required for alternative tree planting locations by Council's Environment and Health Manager.

29. Separate Application for Signs

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

30. Section 94A Contribution

Pursuant to section 80A (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 94A Contributions Plan, a contribution of **\$506,603.34** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 94A Contributions Plan.

The contribution is to be paid prior to the issue of the Construction Certificate or Complying Development Certificate.

You are advised that the maximum percentage of the levy for development under section 94A of the Act having a proposed construction cost is within the range specified in the table below;

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 %
More than \$200,000	1%

31. Erosion & Sediment Control Plan

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

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

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

32. Acoustic Consultant – Traffic Noise

An appropriately qualified acoustic consultant shall be engaged to certify that the design of the traffic noise affected portions of the building complies with the NSW Road Noise Policy by Department of Climate Change and Water. A copy of this certification shall be submitted.

33. Protection of Internal Noise Levels (Residential Unit/Townhouse/Villa Development)

An acoustic statement is required to be submitted providing methods of noise attenuation (if any) prior to the issue of a Construction Certificate ensuring the following noise levels are achieved:

- a) 35 dB (A) in any bedroom between 10pm am 7am.
- b) 40dB (A) elsewhere (other than garage, kitchen, bathroom and hallway) anytime.

34. Security Bond Requirements

A security bond may be submitted in lieu of a cash bond. The security bond must:

- Be in favour of The Hills Shire Council;
- Be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking);
- Have no expiry date;
- Reference the development application, condition and matter to which it relates;
- Be equal to the amount required to be paid in accordance with the relevant condition;
- Be itemised, if a single security bond is used for multiple items.

Should Council need to uplift the security bond, notice in writing will be forwarded to the applicant 14 days prior.

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

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

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

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

- Sediment fencing.
- Barrier fencing and no-go zones.
- Stabilised access.
- Waste receptacles.
- Stockpile site/s.

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

An INSERT is required for this development.

36. 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 \$217,600.00 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 (320m) multiplied by the width of the road (8m).

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.

This relates to stage one only. If later stages commence before the stage one works are completed, additional bonds will apply based on the scope of those works/ their road frontage in line with the above.

The same bond can be relied upon for both DA 992/2016/JP and this application.

PRIOR TO WORK COMMENCING ON THE SITE

37. Principal Certifying Authority

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

38. 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.

39. 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.

40. 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.

41. 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.

42. 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.

43. 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.

44. Erosion and Sediment Control/ Soil and Water Management

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

45. 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.

46. Protection of Existing Trees

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

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

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

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

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

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

47. 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.

DURING CONSTRUCTION

48. 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.

49. Provision of Parking Spaces

The development is required to be provided with 90 off-street car parking spaces for Building B. The masterplan will require the provision of 532 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

50. 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.782437M 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.

51. Survey Certificate

A survey certificate signed and dated (including contact details) from a registered land surveyor may be requested by the Principal Certifying Authority at formwork stage. The certificate shall indicate the location of the building/structure in relation to all boundaries, and shall confirm the floor level prior to any work proceeding on the building.

52. 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.

53. Rock Breaking Noise

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

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

54. Construction Noise

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

55. 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.

56. 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.

57. 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.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

58. Compliance with Sydney Water Conditions

A letter from Sydney Water must be submitted confirming the works have been completed to their satisfaction.

59. Compliance with Endeavour Energy

A letter from Endeavour Energy must be submitted confirming the works have been completed to their satisfaction.

60. 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.

61. 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.

62. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled Building B Acoustic Assessment for Development Application prepared by Renzo Tonin & Associates dated 21st February 2017. Certification is to be provided.

63. 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.

64. 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.

65. Creation of Restrictions / Positive Covenants

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

a) Restriction – Restricted Access

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

b) Restriction – Bedroom Numbers

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

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

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

d) Restriction/ Positive Covenant – Onsite Stormwater Detention

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

e) Positive Covenant – Onsite Waste Collection

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

Where these matters have already been addressed/ registered on the title of the subject site as part of a preceding stage, they do not need to be created again (the existing restrictions and covenants can be relied upon with respect to satisfying this condition).

66. 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.

67. Landscaping Prior to Issue of any Occupation Certificate

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

THE USE OF THE SITE

68. 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 main bin store (Building A), which includes provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. Under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided onsite.

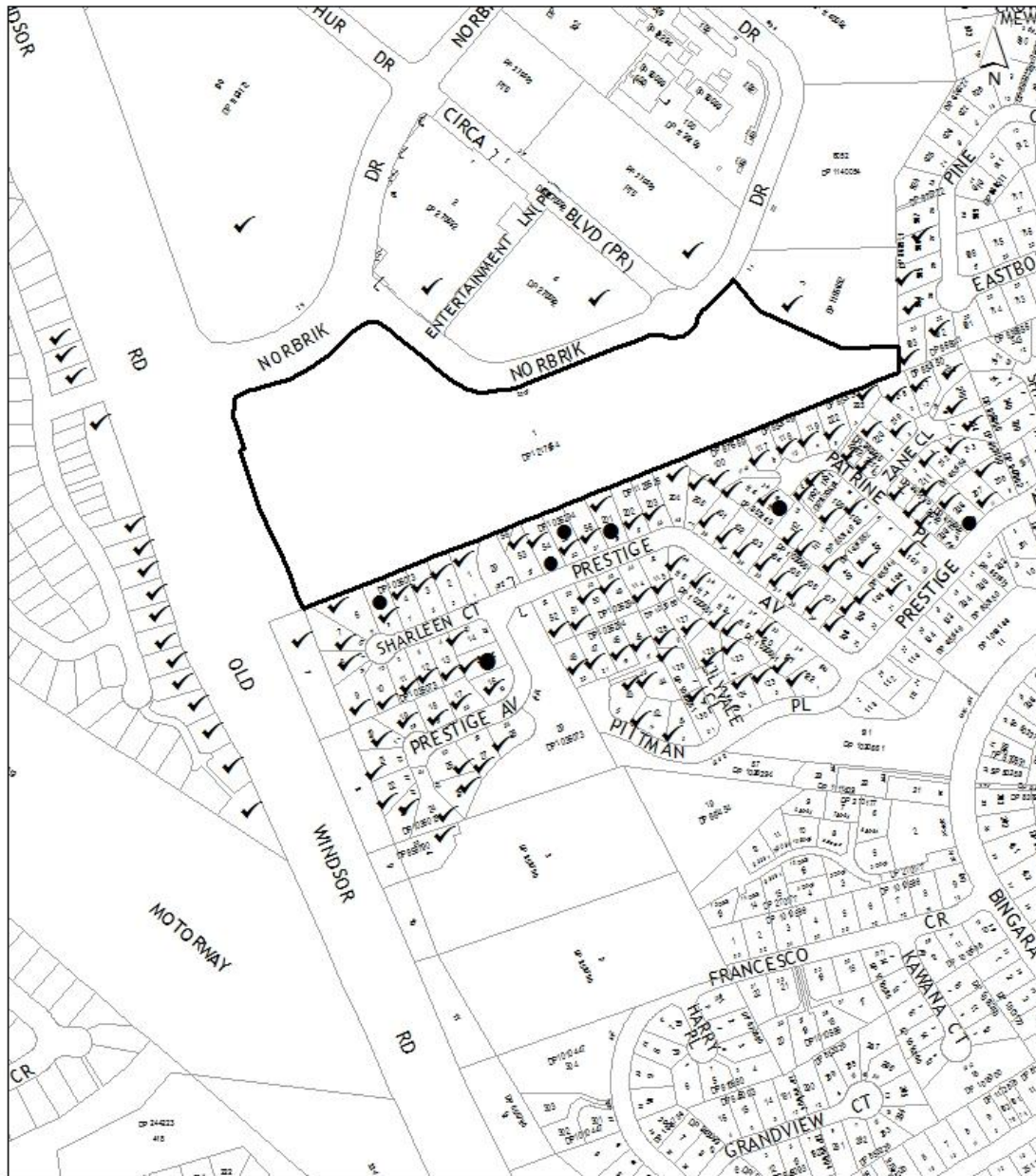
69. Compliance with Operational Waste Conditions

All operational conditions relating to waste management and collection applicable to the premises under Development Consent 992/2016/JP apply to this application and are to be complied with at all times.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP 2012 Zoning Map
4. LEP 2012 Floor Space Ratio Map
5. LEP 2012 Height of Building Map
6. Approved Masterplan
7. Approved Staging Plan
8. Approved Stage 1A and 1B Site Plan
9. Site Plan for Proposed Building B
10. Building B Elevations (2 pages)
11. Building B Finishes Schedule
12. Building B Shadow Diagrams (3 pages)
13. Building B Landscape Plan
14. Northern Elevation (Building A and B)
15. Design Excellence Panel Meeting Minutes (4 pages)
16. Clause 4.6 Variation (2 pages)

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

THE HILLS DISTRICT HISTORICAL
SOCIETY AND BLACKTOWN CITY
COUNCIL ALSO NOTIFIED

1 SUBMISSION RECEIVED
OUTSIDE THE MAP

THE HILLS
Sydney's Garden Shire

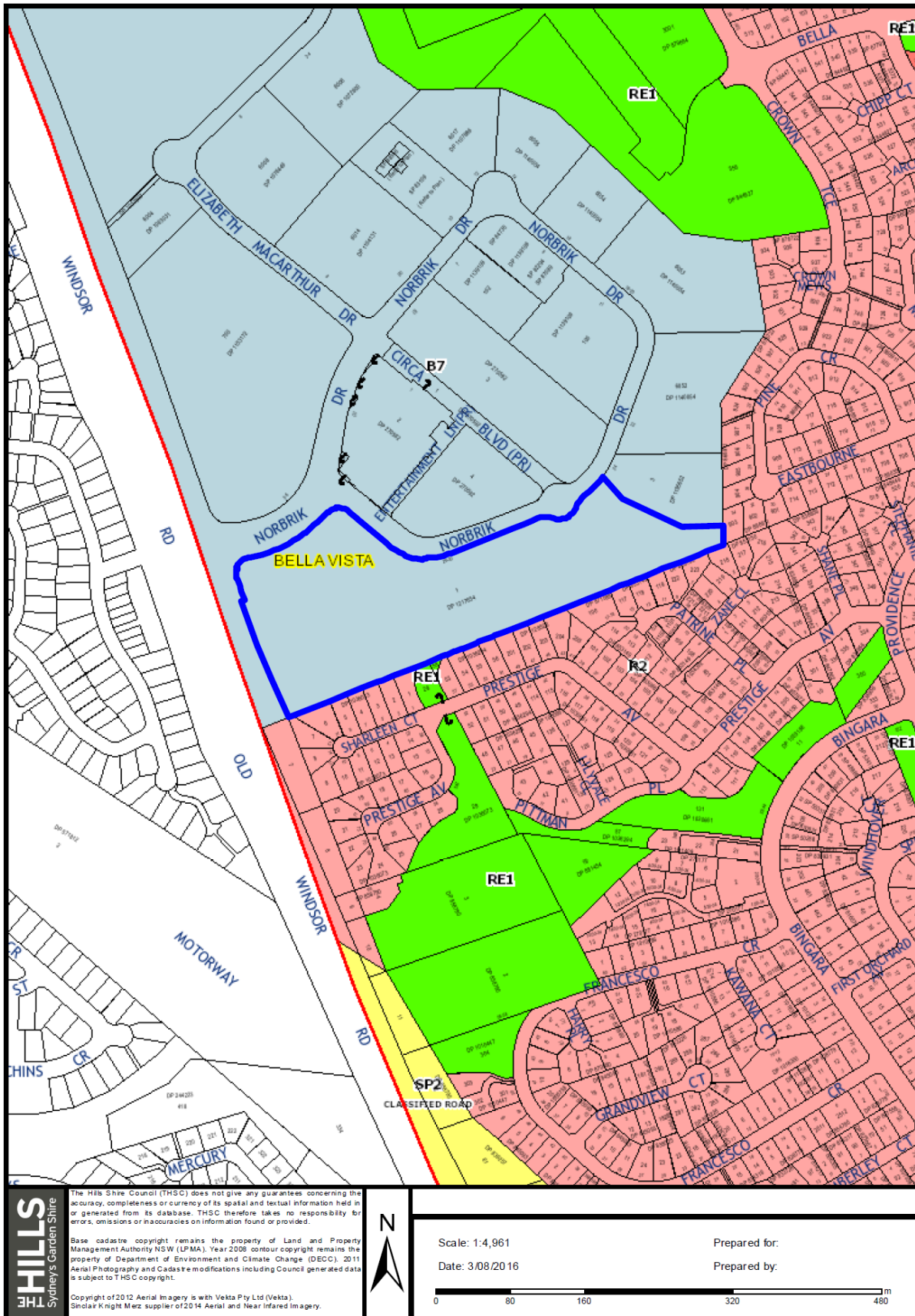
THE HILLS SHIRE COUNCIL

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 (LP1), CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

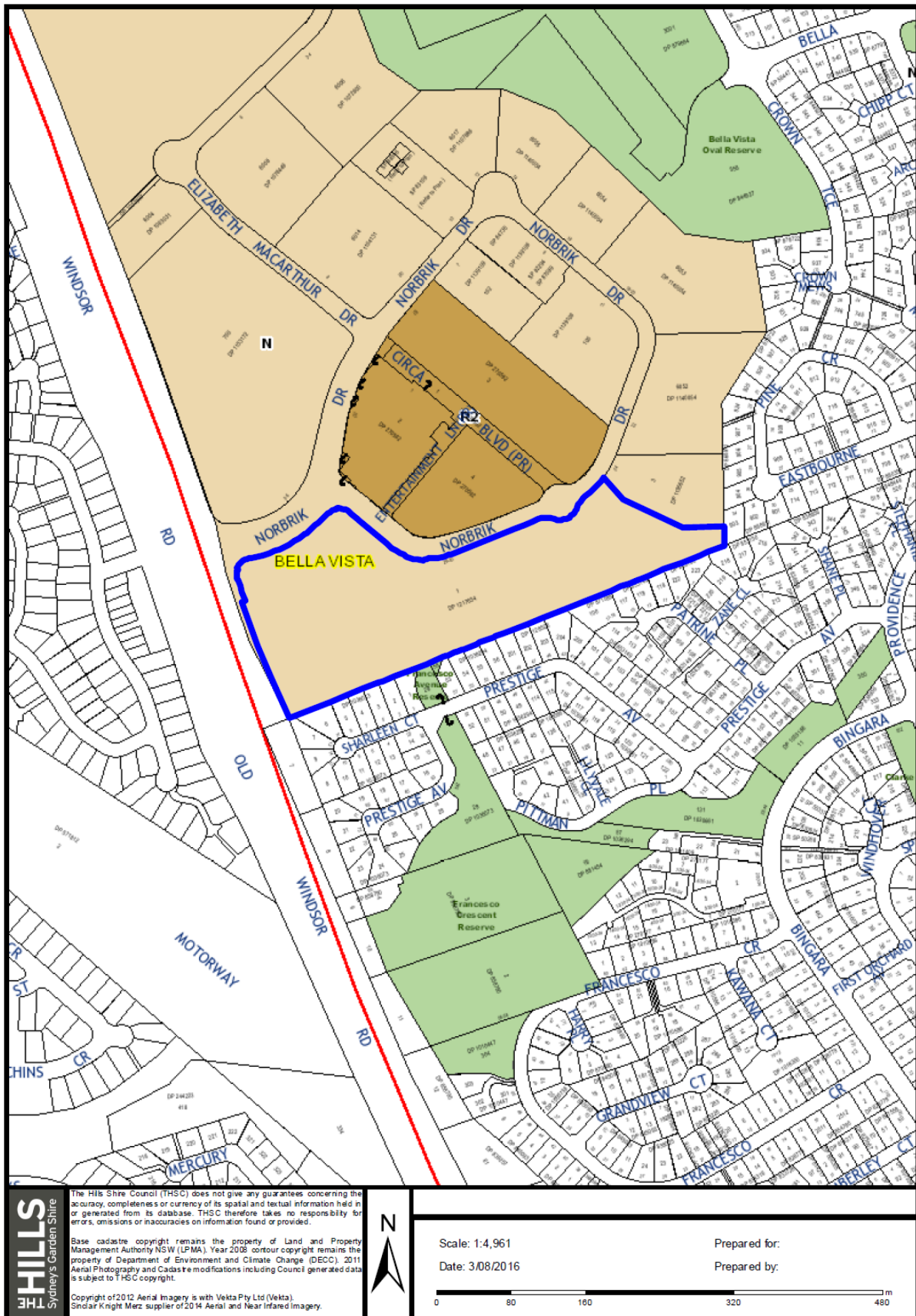
ATTACHMENT 2 – AERIAL PHOTOGRAPH



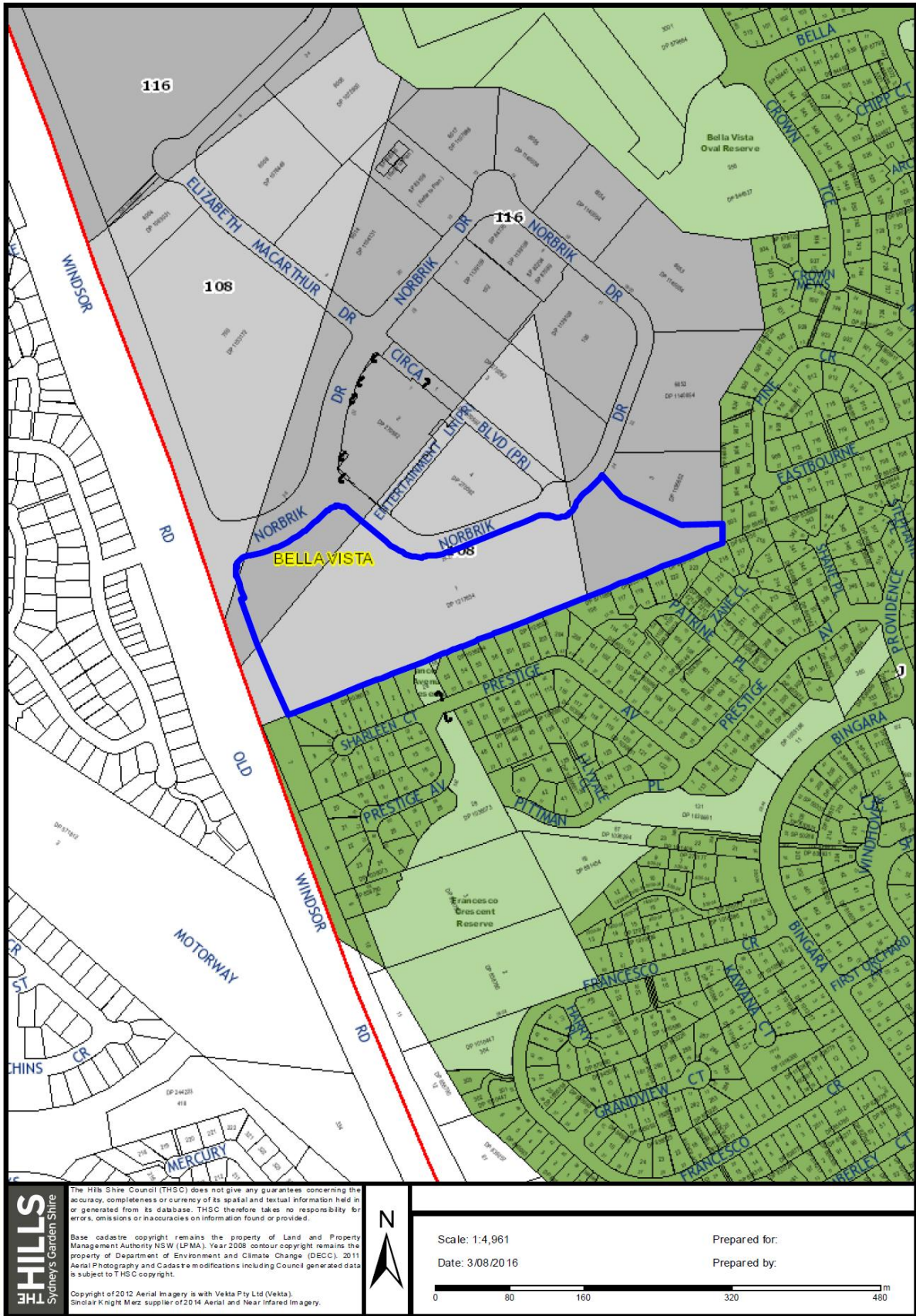
ATTACHMENT 3 – LEP 2012 ZONING MAP



ATTACHMENT 4 – LEP 2012 FLOOR SPACE RATIO MAP



ATTACHMENT 5 – LEP 2012 HEIGHT OF BUILDINGS MAP



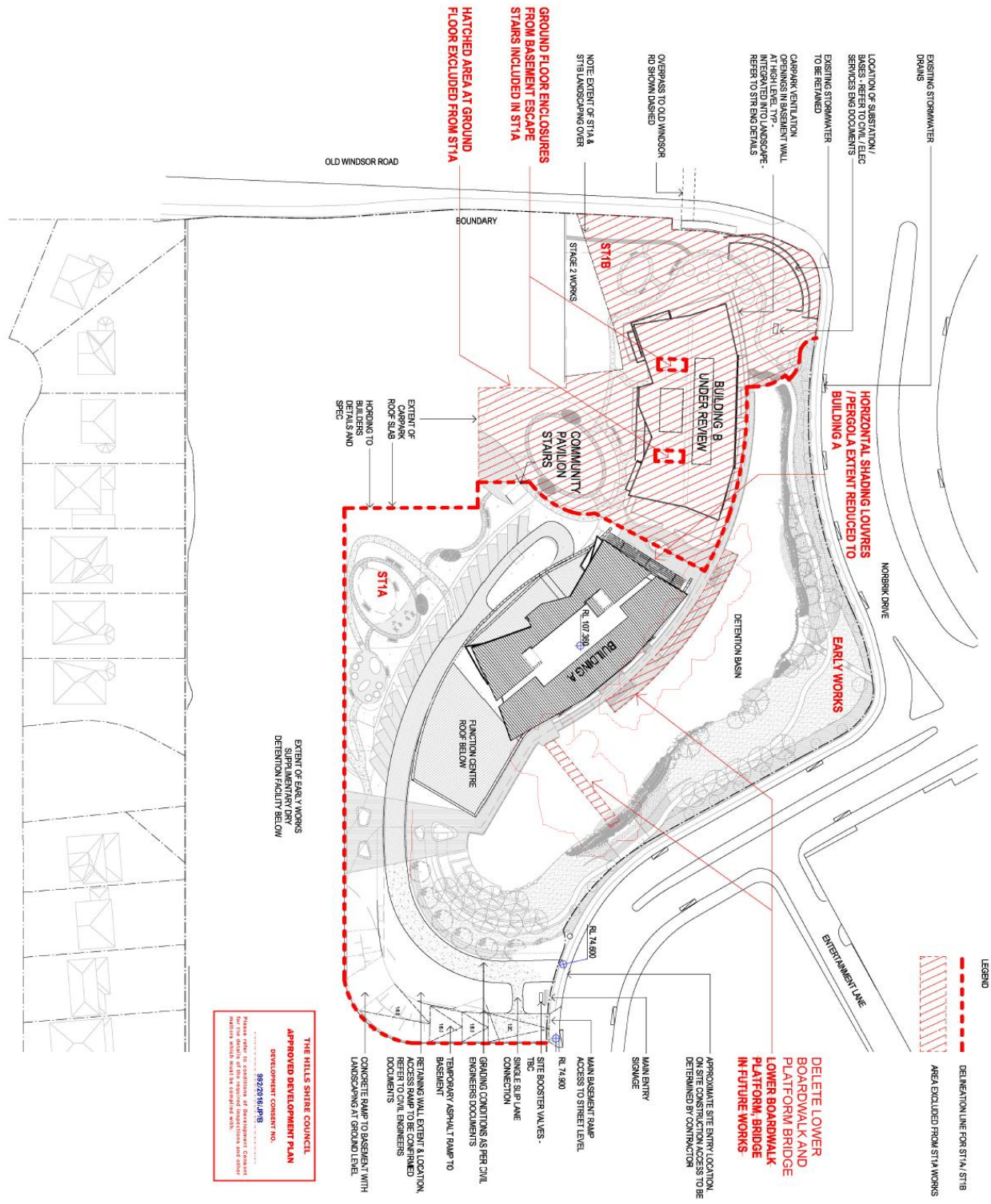
THE HILLS SHIRE COUNCIL
APPROVED DEVELOPMENT PLAN
DEVELOPMENT CONSENT NO.
9122016/SP



ATTACHMENT 7 – APPROVED STAGING PLAN

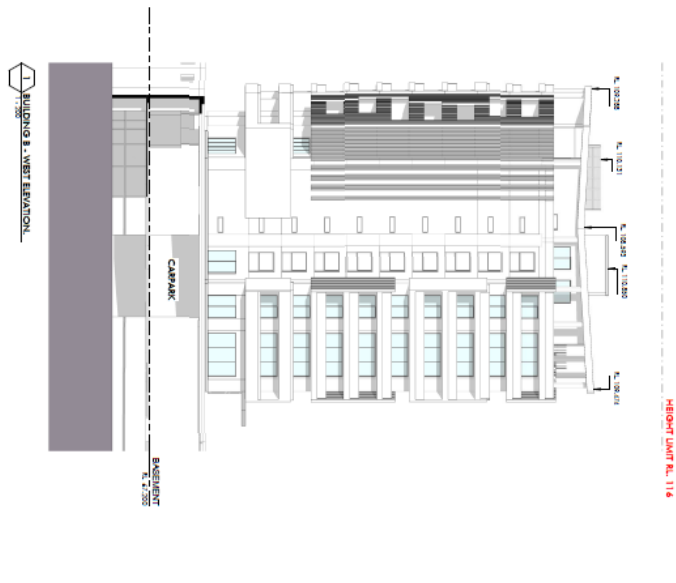
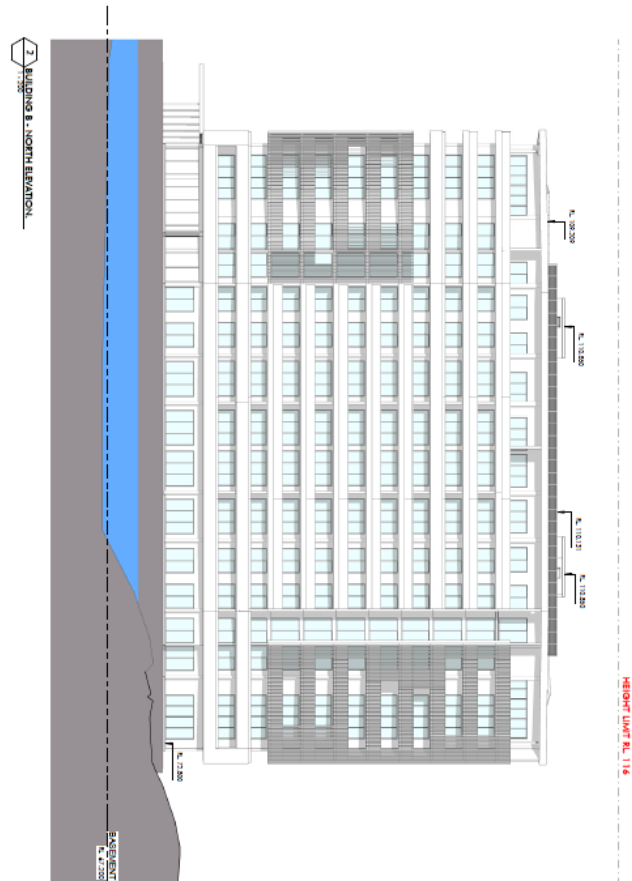


ATTACHMENT 8 – APPROVED STAGE 1A AND 1B SITE PLAN



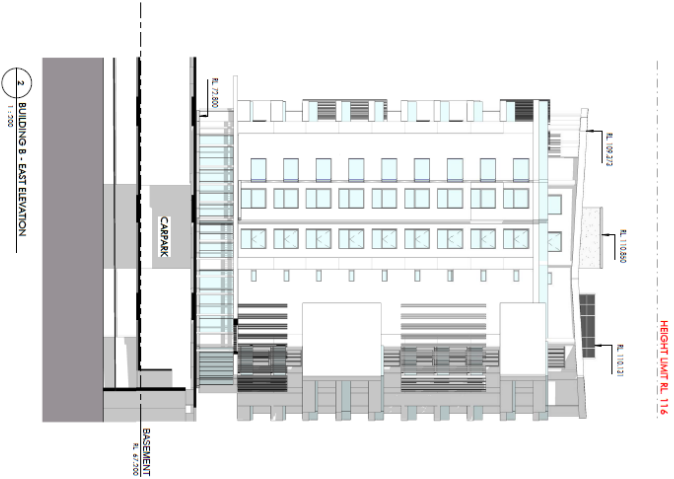
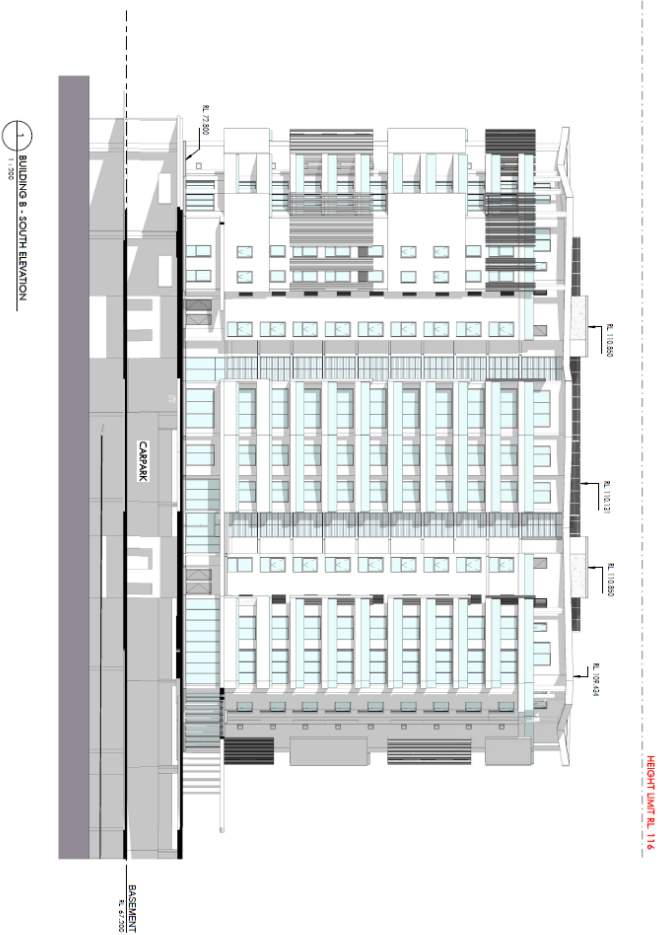
[illegible]

ATTACHMENT 10 –BUILDING B ELEVATIONS



REVISED DESIGN
FOR DEVELOPMENT APPLICATION

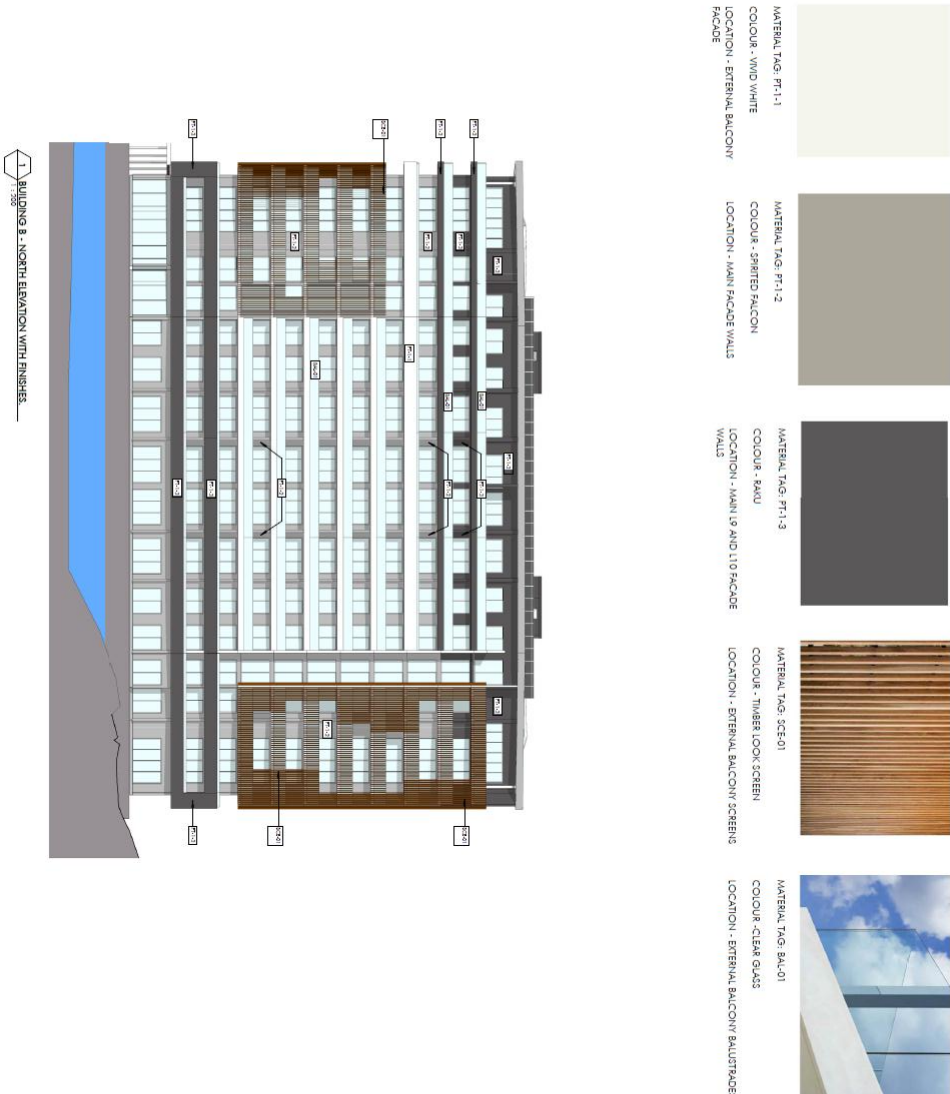
ATTACHMENT 10 –BUILDING B ELEVATIONS



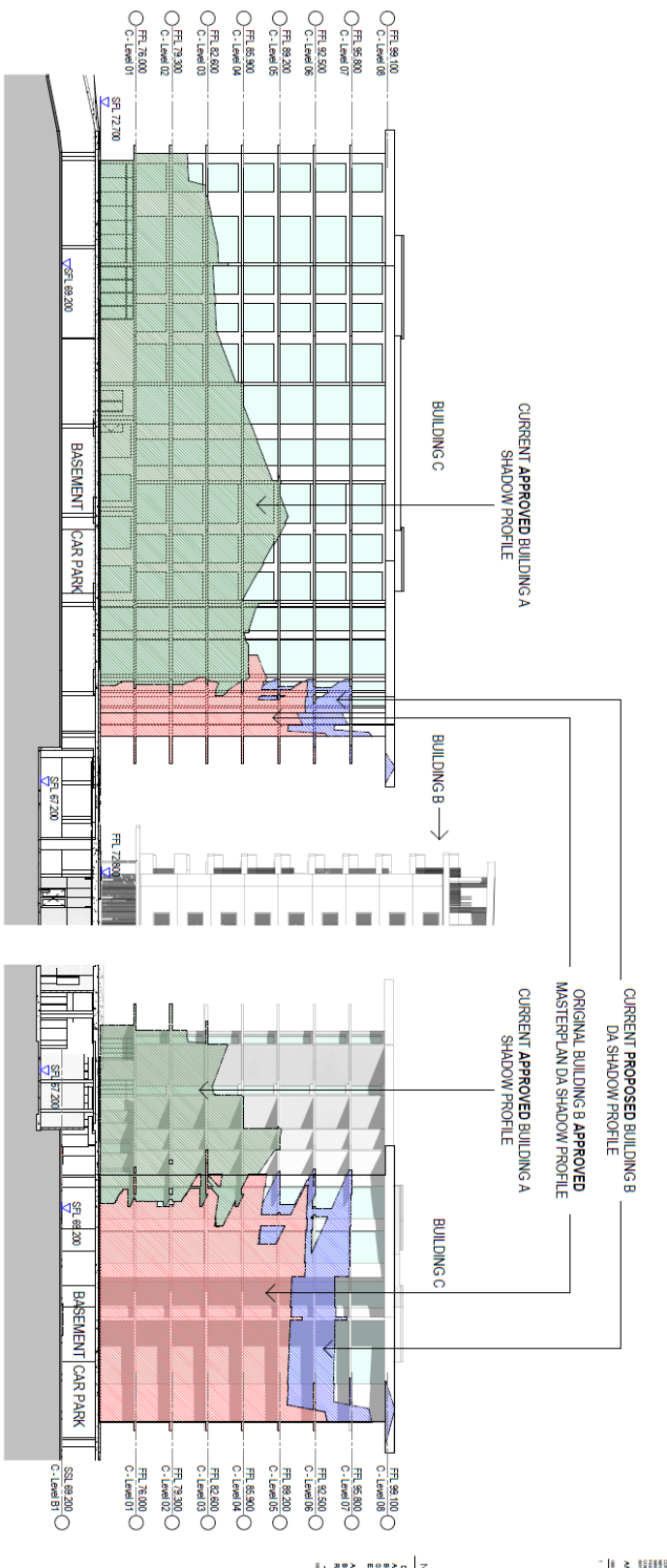
FOR DEVELOPMENT APPLICATION

ATTACHMENT 11 – BUILDING B FINISHES SCHEDULE

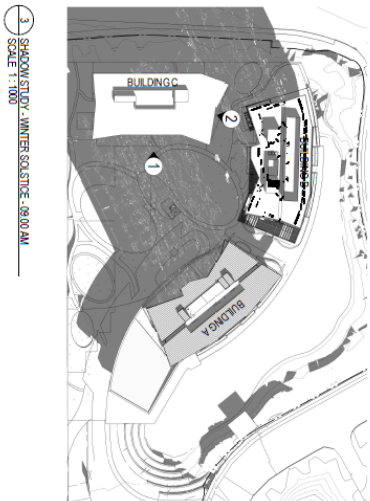
not to be used without the consent of the Architect



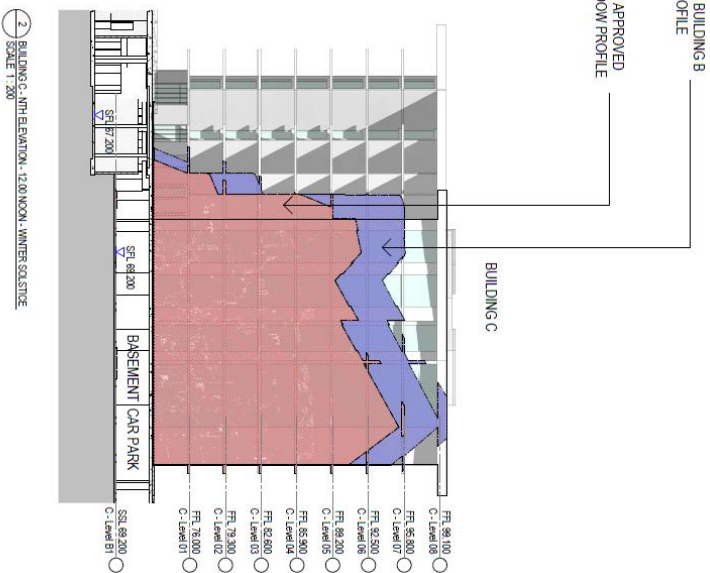
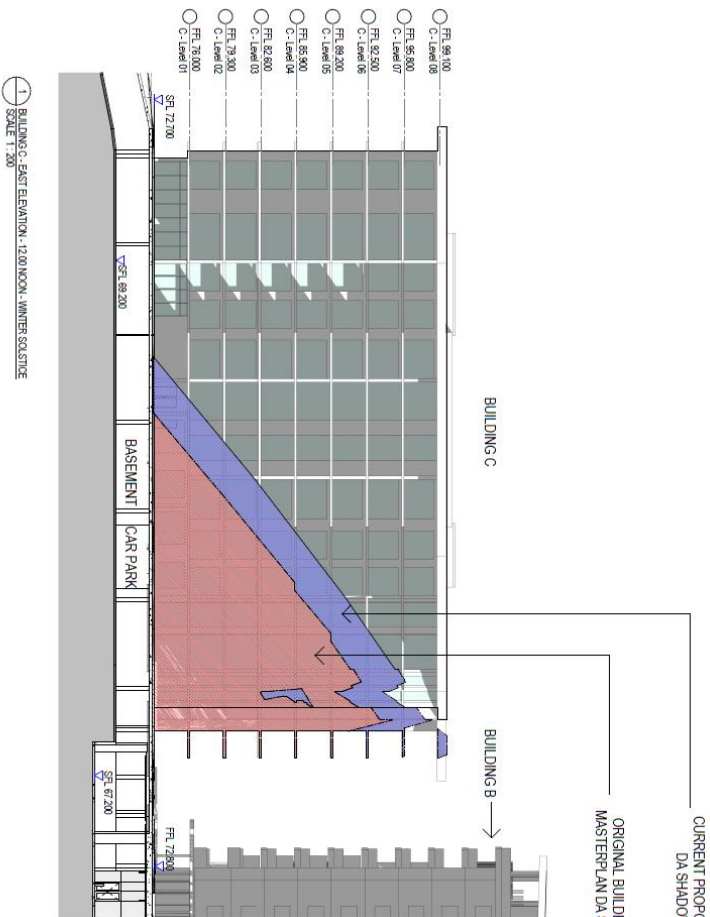
ATTACHMENT 12 – BUILDING B SHADOW DIAGRAMS



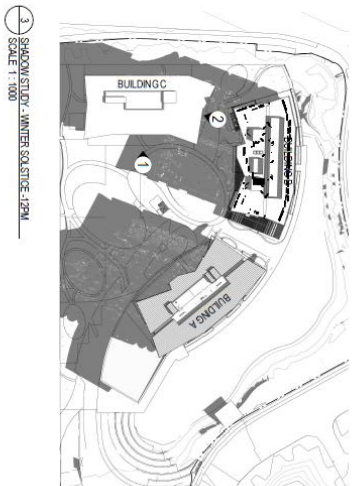
NOTE:
BUILDING C IS NOT FULLY DESIGNED/DOCUMENTED AT THIS STAGE.
SHADOW CREATED BY BUILDING B ON BUILDING C ARE REPRESENTATIVE ONLY.



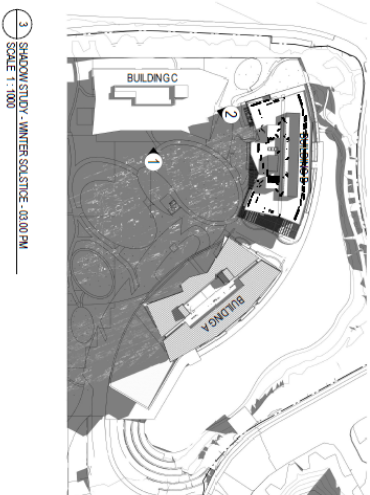
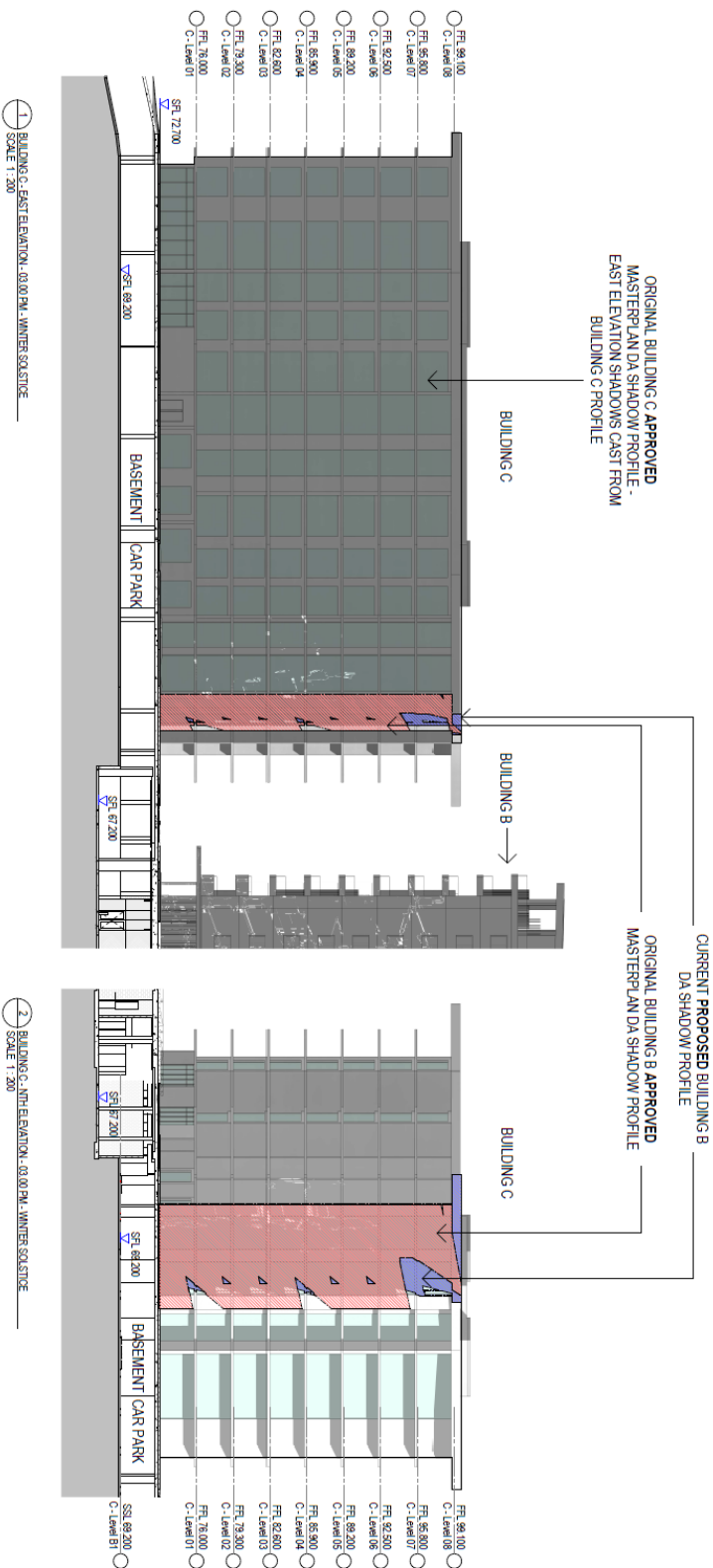
ATTACHMENT 12 – BUILDING B SHADOW DIAGRAMS



NOTE
BUILDING C IS NOT FULLY DESIGNED/DOCUMENTED AT THIS STAGE.
SHADOW CREATED BY BUILDING B ON BUILDING C ARE REPRESENTATIVE ONLY.



ATTACHMENT 12 – BUILDING B SHADOW DIAGRAMS



NOTE:
BUILDING C IS NOT FULLY DESIGNED/DOCUMENTED AT THIS STAGE.
SHADOW CREATED BY BUILDING B ON BUILDING C ARE REPRESENTATIVE ONLY.

ATTACHMENT 13 – BUILDING B LANDSCAPE PLAN



1 BUILDING A & B - NORTH ELEVATION
1 : 200



ATTACHMENT 15 – DESIGN EXCELLENCE PANEL MEETING MINUTES



MEETING MINUTES DESIGN EXCELLENCE PANEL

Date:	22/02/18	Time:	11am-5pm
Location of Meeting:	Community Rooms 1+2		
Panel Members:	Chairperson - Stewart Seale, Manager Forward Planning, THSC Panel Member - Tony Caro, Independent Design Expert Panel Member - Mark Colburt, Group Manager THSC		
Councillors:	None in attendance		
Council Staff:	Paul Osborne, Marika Hahn, Cynthia Dugan, Robert Buckham, Kristine McKenzie, Janelle Atkins		
Guests:	Georgios Anagnostou, Jackson Teece (architecture) Gary Lo, Nettleton Tribe (architecture) Jeremy Bishop, Nettleton Tribe (architecture) Michael Watt (planner - Mulpha) Altaf Shaikh (Aveo) (Developer) Andreas Brohl (Aveo) (Developer)		

BUSINESS ITEM AND MEETING MINUTES

1. Welcome and Opening

The Hills Shire Council is committed to achieving design excellence in the built form environment and ensuring new high density buildings are of a high quality design.

The Hills Shire Design Excellence Panel (The Panel), is an advisory panel which provides an opportunity for applicants to receive expert design feedback on their developments and to provide comments to assist The Hills Shire Council in its consideration for development application.

The Panel provides recommendations on the following:

- any development which contains a building with a height of 25 metres or more; or
- Any strategic planning matters for which design excellence is relevant.

ATTACHMENT 15 – DESIGN EXCELLENCE PANEL MEETING MINUTES

The role of the Panel is to evaluate and critique design aspects of proposed development and provide recommendations on whether development exhibits "Design Excellence".

The Design Excellence Panel is an Independent Panel, not a SEPP 65 Panel and the absence of comment with reference to matters pertaining to SEPP 65 does not mean that matters assessed under SEPP 65 have been satisfactorily addressed.

2. Declaration of interest

"Nil"

3. Confirmation of previous minutes

NA

4. Presentations

Item 4.1	11am-12.30pm
DA Number	DA 1582/2017/JP, DA 992/2016/JP/C
Property Address	26-30 Norbrik Drive, Bella Vista
Proposal	DA 1582/2017/JP, 26-30 Norbrik Drive, Bella Vista – Circa Seniors Living Development Construction of an 11 storey building with 83 retirement living units. This would replace a 9 Storey building (Building B) comprising 67 retirement living units approved under Development Application No.992/2016/JP for a Master Plan which encompasses a Stage 1 built form component (Buildings A and B) for the Circa Seniors Housing Development DA 992/2016/JP/C, 26-30 Norbrik Drive, Bella Vista – Circa Seniors Living Development (Provided for context and information).
Applicant representative address to the design review panel	Michael Watt – Planner - Mulpha Jeremy Bishop – Architect - NettleTribe Georgios Anagnostou - Architect - Jackson Teece
Background	The site was inspected by the panel: 9.15am - 9.45am February 22/02/18
Key Issues	DA 992/2016/JP/C <ul style="list-style-type: none">As an approved master plan the Panel advises that although the master plan is approved, the development master plan will be revisited by the panel as individual building blocks are developed. DA 1582/2017/JP <ul style="list-style-type: none">Overwhelming bulk and scaleAestheticsImpact on communal open space to south of development due to additional heightConcern that this large project will be isolated and project quality of enclave or gated community

ATTACHMENT 15 – DESIGN EXCELLENCE PANEL MEETING MINUTES

PANEL COMMENT

RE: DA 992/2016/JP/C

1. Solar access to remaining proposed development blocks is removed by building blocks A and B and future development may struggle to reach compliance with SEPP65/ADG.
2. The future lower blocks appear too repetitive and the panel recommends alternative layouts to improve orientation, minimise overlooking to south neighbours to create more communal open space variety.
3. Impact on heritage views between Bella Vista Farm and the Pearce Family Cemetery does not seem to be fully resolved with Office of Environment & Heritage.
4. Delineation of public and private open space is by many long fence lines, visual quality, variety and integration with landscape fencing is to be considered along with security.
5. Spatial diversity and human scale must be carefully considered in development of the public domain and built form. Most 55's wishing to downsize are used to a domestic scale not an institutional scale.
6. Safety and Security, prevention of members of public including children from falling into the lake is unclear. How this is to be resolved, needs to be addressed.
7. Public access lines and ease of access to pedestrian bridge across Windsor Road are unresolved and do not seem to encourage public access to site. Why has the bridge been deferred?
8. Location of public open space that has access to sunlight should be expanded to provide greater accessibility particularly the boardwalk along the lake edge. Width of proposed boardwalk could be increased to provide more amenity, given that the proposed communal open space is mostly overshadowed between 9am to 3pm during mid-winter.
9. Circulation and access to residents of proposed community is unclear. More clarity is needed on how access is to be provided for residents to easily leave the community to go shopping in the adjacent block. Pedestrian paths of access and proposed crossing points need to be diagrammatically plotted and illustrated.
10. The interaction of the buildings with the greater context is unclear; the master plan needs to demonstrate how the development does not present as a gated community. Integration with the wider community is not yet convincing.
11. Location and height of buildings A and B have a significant impact within the wider landscape setting due to the bulk and scale of the built forms which due to close adjacency present as a single building form approximately 150m in length.
12. The panel recommended that building B be distinguished from Building A in its architectural aesthetic to break down the scale and create more visual diversity.

RE: DA 1582/2017/JP

1. The Panel acknowledges that whilst the submission is for an additional 2 storeys to an approved DA, the additional height and bulk raises issues that affect the overall bulk and scale to the effect that a reconsideration of architectural expression is warranted.
2. As noted the proposal deliberately creates a "family", grouping of buildings resulting in a built form of confronting bulk and scale that has a resort aesthetic. Is this appropriate to the context?

ATTACHMENT 15 – DESIGN EXCELLENCE PANEL MEETING MINUTES

3. Typically buildings of this bulk and height break up the massing so as to mitigate the imposing nature of the built form.
4. The applicant's suggestion that the building has a 2 storey podium with a middle portion differentiated from the adjacent building, however this expression is lost in the overall appearance and the building facades present as a single element.
5. The panel recommends that the podium treatment is more strongly defined and a greater effort is made to introduce vertical articulation into the façade elements to purposefully break up the building façade into more clearly defined and legible elements. The patches of applied timber screens to the façade could do more to break up the overall massing of the built form. The application of this alternative façade treatment could be more driven by the plan, with full height vertically expressed elements to break up the mass.
6. The panel suggests that a setback or more pronounced change in materiality at the upper levels be considered (as previously recommended), to further break up the massing and to make the upper levels more recessive.
7. As the applicant wants a strong visual identity at the western, corner of the building, one possibility would be to visually break the façade into two non-symmetrical elements with a vertical fenestration to the west and the existing horizontal fenestration to the wider eastern section.
8. Conditions of consent should ensure that the visual impact of the building addresses these concerns.
9. Communal open space has to be reasonably equitable and provide appropriate amenity (such as paving paths and solar access).
10. The panel is concerned that that building B does not achieve compliance with ADG natural cross ventilation requirements.

RECOMMENDATION

RE: DA 992/2016/JP/C: That the panel recommendations be considered and the master plan variation does not need to return to the panel.

RE: DA 1582/2017/JP: If the DA officer is satisfied that the applicant has addressed the concerns of the panel, the project need not return to the panel for further consideration. Alternatively revisions could be provided to panel for comment to avoid additional meeting.

5. Next Design Excellence Panel meeting to be held on March 29th 9am -3pm

6. Close

ATTACHMENT 16 – CLAUSE 4.6 VARIATION

26-30 Norbrik Drive, Bella Vista

The site is subject to a maximum floor space ratio of 1:1 under the LEP. The application has been accompanied by a Clause 4.6 variation to vary the floor space ratio of 1:1 which is addressed in Section 2.6 of this report.

4.2 The Hills Local Environmental Plan 2012

The subject site, Lot 1 in Deposited Plan 1217654, is zoned B7 Business Park under The Hills Local Environmental Plan (LEP) 2012. The previous approved development is permissible under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 by virtue of 'hospitals' being permitted in the B7 Business Park zone.

More recently seniors housing became an additional permitted use under Schedule 1 of Council's LEP to facilitate the development of the retirement precinct comprising independent living units and a residential aged care facility on land at 26, 28 and 30 Norbrik Drive, Bella Vista. This was supported by Council and made by the Minister for Planning coming into effect on 10 February 2017.

The relevant provisions of the current LEP are addressed below:-

Development Standard	LEP Requirement	Proposed Development	Compliance
Building Height	RL 116 m	Building B RL 110.650	Yes
Floor Space Ratio	1:1	Building B 1.08:1	No – see comments below

The relevant provisions of the proposed LEP are addressed below:-

Development Standard	Proposed LEP Requirement	Proposed Development	Compliance
Building Height	RL 116 m	Building B RL 110.650	Yes
Floor Space Ratio	1.2:1	Building B 1.08:1	Yes

4.2.1 Clause 4.6 Exceptions to Development Standards

Under Council's LEP the purpose of Clause 4.6 is:-

- (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.*

In this regard the proposed development seeks consideration of a variation to Council's floor space ratio control.

4.2.1.1 Variation to Floor Space Ratio

The site is subject to a floor space ratio control of 1:1 under Council's LEP. Previously when Council assessed the Master Plan and Stage 1 development application, Council approved a request to apply Clause 4.6 to permit a floor space ratio of 1.05:1. During the assessment process this floor space was reduced from 1.09:1 as a result of amendments to decrease the height of buildings adjacent to the southern boundary of the site. This amendment resulted in a reduction of 2,112m² in floor space.

ATTACHMENT 16 – CLAUSE 4.6 VARIATION

26-30 Norbrik Drive, Bella Vista

Building B proposes two additional levels adding 16 independent living units or 1,992m² additional floor spaces when compared to the existing Master Plan and Stage 1 approval. As a result, the overall FSR for the retirement development will be 1.08:1 representing in a 3% over the current approval. In support of a request to vary the approved floor space ratio control the following is relevant:-

- The proposed Building B will occupy the same footprint and location as the current approval with minimal change to building envelope, façade treatment and no change to its landscape setting or contribution to residents amenity;
- The increase in height of 5.02m will still mean the Building B fits under the LEP height control of RL 116m with no impact on the key view corridors to Bella Vista Farm Park along Norbrik Drive, and Bella Vista Farm Park to and from Pearce's Cemetery;
- Building B is remote from the neighbouring residential properties and the two additional levels will have no impact on the southern boundary overshadowing or overlooking to adjoining neighbours;
- The design of Building B remains to be similar to Building A and commensurate with the character, bulk and scale of buildings in the developing commercial employment setting envisaged for the Circa Precinct;
- There is no impact on overall approved site coverage, landscaped area or deep soil planting and the landscape scheme for the development is unaffected by the proposal;
- The provision of additional independent living units is a positive outcome in terms of meeting demand for housing for seniors and people with a disability; and

In addition the Circa Commercial Planning Proposal increasing the floor space ratio from 1:1 to 1.2:1 has received Gateway approval for public exhibition. For these reasons it is considered that application of the standard FSR of 1:1 is unreasonable and unnecessary and Council is requested to support the variation in this instance.

ATTACHMENT 17 – PERSPECTIVE

