

SYDNEY WEST CENTRAL PLANNING PANEL

Panel Reference	2017SWC060
DA Number	1410/2015/JP/A
LGA	The Hills Shire
Proposed Development	Section 96AA Modification to a Land and Environment Court Approved Residential Flat Building
Street Address	Lot 101 DP 1170464 - Winston Hills Shopping Centre, 180-192 Caroline Chisholm Drive, WINSTON HILLS
Applicant/Owner	Starby Pty Ltd
Date of DA lodgement	2 May 2017
Number of Submissions	Fifteen (15)
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	CIV over \$20 million
List of all relevant s79C(1)(a) matters	- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development - State Environmental Planning Policy (State and Regional Development) 2011 - The Hills Local Environmental Plan 2012 - proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority - Nil - The Hills DCP 2012 Part B Section 6 – Business - The Hills DCP 2012 Part C Section 1 – Parking - The Hills DCP 2012 Part C Section 3 – Landscaping - The Hills DCP 2012 Part B Section 5 – Residential Flat Buildings - 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 - Nil
List all documents submitted with this report for the Panel's consideration	Plans and supporting documentation submitted with the application.
Report prepared by	Co-ordinator Development Assessment Claro Patag
Report date	20 July 2017

Summary of S.79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	N/A
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?	N/A
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	N/A
Conditions Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report	Yes

EXECUTIVE SUMMARY

This is a Section 96AA modification to the Land and Environment Court approved residential flat building which includes changes to the unit mix from 35 x 1 bedroom, 43 x 2 bedroom and 8 x 3 bedroom units to 18 x 1 bedroom, 49 x 2 bedroom and 12 x 3 bedroom units. This produces a reduction in the total number of dwellings from 86 to 79 units. The applicant has indicated that the proposed modification to the approved unit mix is in response to a lack of demand for the approved 1 bedroom apartments.

The proposal does not seek to amend the building envelope and footprint of the approved development. There will be some minor external façade / elevation changes as a result of the revised apartment layouts. Such changes will not cause adverse impacts on the amenity of the streetscape as originally approved.

The proposed modification does not alter the original approval in terms of floor space ratio, building height, off-street parking provision, building setbacks or landscaping provision.

The modification to the approved unit mix is an improvement to the Court approved scheme as it is now compliant with the unit mix controls prescribed in The Hills DCP 2012 Part B Section 5 – Residential Flat Building. The percentage of 1 bedroom units is now reduced from 41% to 23% (which is below the maximum 25%) and the 3 bedroom units has increased from 9% to 15% (which now exceeds the minimum 10% standard).

The application was notified to adjoining and surrounding properties including previous objectors (1,651 in total) and received fifteen (15) submissions during the notification

period. The issues and concerns raised in the submissions are addressed in the body of the report and do not warrant refusal or amendments to the proposal.

Having regard to the relevant provisions of Section 79C and Section 96AA of the Environmental Planning and Assessment Act, 1979, the proposed modification is considered satisfactory and will result in a development that is substantially the same as that previously approved by the Land and Environment Court. The Section 96AA modification application is recommended for approval.

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Starby Pty Ltd	1.	<u>LEP 2012</u> - Permissible with consent.
Zoning:	B2 Local Centre	2.	<u>DCP 2012 Part B Section 6 - Business</u> - Variation to setbacks, number of storeys and car parking have been addressed in the original application. No further variation is proposed.
Area:	4.29 has.	3.	<u>DCP 2012 Part B Section 5 - Residential Flat Buildings</u> - Complies
Existing Development:	Rooftop of Winston Hills Shopping Centre	4.	<u>Section 96AA (EP&A Act)</u> - Complies
		5.	<u>Section 79C (EP&A Act)</u> - Complies
		6.	<u>State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65)</u> - Complies

SUBMISSIONS

REASONS FOR REFERRAL TO SWCPP

1. Exhibition:	N/A	1.	Pursuant to Clause 21(1)(b) of SEPP (State and Regional Development) 2011
2. Notice Adj Owners:	Yes, 21 days.		
3. Number Advised:	1,651		
4. Submissions Received:	15		

HISTORY

29/06/2015	Class 1 application lodged by the applicant in the Land and Environment Court.
28/08/2015	Development Application No. 1410/2015/JP refused by the NSW Joint Regional Planning Panel.
22/09/2015	Section 34 on-site conference held (terminated).
16/05/2016	Class 1 Appeal upheld by the Land and Environment Court by granting consent to DA 1410/2015/JP subject to conditions.
02/05/2017	Subject Section 96AA lodged.
21/05/2017 to 29/05/2017	Section 96AA Modification Application notified to adjoining and surrounding properties including previous objectors.

PROPOSAL

The Section 96AA application is a modification to the Land and Environment Court approved residential flat building which includes changes to the unit mix from 35 x 1 bedroom, 43 x 2 bedroom and 8 x 3 bedroom units to 18 x 1 bedroom, 49 x 2 bedroom and 12 x 3 bedroom units. The proposed changes will result in the reduction of one bedroom apartments within the building, those being replaced with a lesser number of larger two and three bedroom apartments. As a result the overall number of apartments on the site will be reduced from 86 to 79 units. The following apartment layout changes are proposed:

Residential Level 1

- Units 103 & 104 (previously one bedroom units) combined to one 3 bedroom unit;
- Unit 105, 106 & 107 (previously one bedroom units) combined to 2 x2 bedroom units;
- Unit numbers 105 & 106 now deleted;
- Balcony façade has been modified to suit the revised apartment layouts, with now more recessed building façade.

Residential Level 2

- Units 203 & 204 (previously one bedroom units) combined to one 3 bedroom unit, same layout as Level 1;
- Units 205 & 206 (previously one bedroom units) combined to one 3 bedroom unit;
- Unit numbers 204 and 206 now deleted;
- Units 209 & 210 (previously one bedroom units) combined to one 3 bedroom unit;
- Unit number 210 now deleted;
- Balcony façade has been modified to suit the revised apartment layouts, with now more recessed building façade.

Residential Level 3

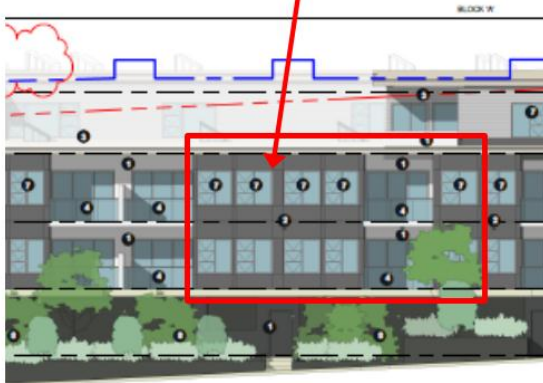
- Units 314, 315 & 316 (previously one bedroom units) now combined to 2 x 2 bedroom units;
- Unit number 314 now deleted;
- Units 320, 321 & 322 (previously one bedroom units) now combined to 2 x 2 bedroom units with studies;
- Unit number 321 now deleted;
- Balcony façade has been modified to suit the revised apartment layouts, with now more recessed building façade.

All other aspects of the approved development are proposed to remain unchanged with the exception of some minor external façade / elevation changes (see diagrams below and Attachment 6) to suit the revised apartment layouts. The other changes to the elevations relate to the deletion of some roof skylights where units have been deleted.

The general site layout of the two buildings is not proposed to be altered and the landscape context will remain identical to the previous design approved by the Court.

The 125 off-street residents' parking spaces located in the new parking level and the 20 residential visitor parking spaces located within Basement Level 2 of the existing shopping centre parking area are proposed to remain as originally approved and conditioned by the Court. The modification proposal does not alter the layout of the residents and visitors parking level.

Facade recessed & balcony extended



DA approved West Elevation A401

Façade extended & balcony removed



S96 changes to West Elevation A401

Background altered



DA approved South Elevation A401



S96 changes to South Elevation A401

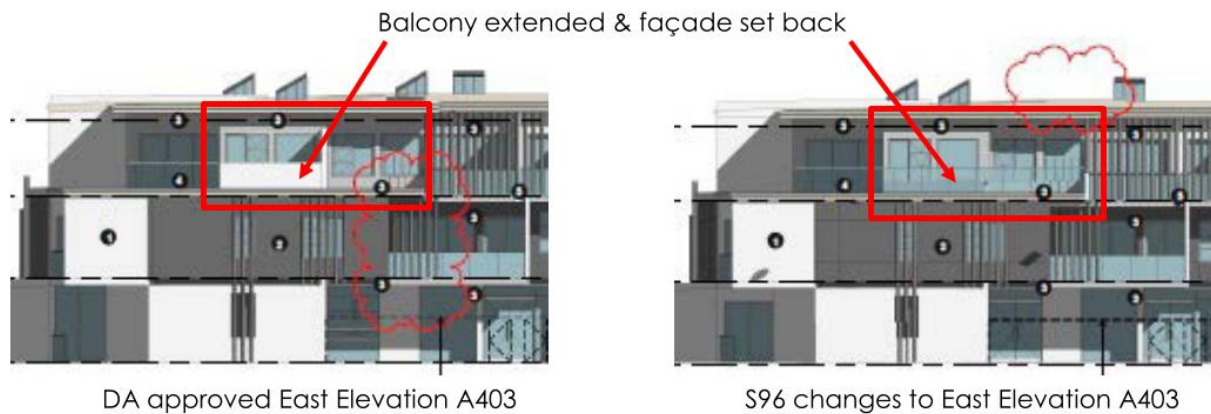
Balcony reduced



DA approved East Elevation A402



S96 changes to East Elevation A402



CONCILIATION CONFERENCE PROCESS

During the notification period more than ten (10) submissions received and under Section 3.5 of The Hills Development Control Plan (DCP) 2012 Part A Introduction, a Conciliation Conference should be held between the applicant and objectors chaired by the Mayor or the Mayor's nominee. This requirement was conveyed to the applicant and they declined to participate in the conference. The applicant has noted that the majority of issues raised in the submissions were similar issues previously heard and considered by the Court during the Class 1 proceedings.

ISSUES FOR CONSIDERATION

1. Section 96AA of the Environmental Planning and Assessment Act, 1979

Section 96AA of the Environmental Planning & Assessment Act 1979 provides the following:

- (1) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:*
 - (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Applicant's Submission:

"It is my opinion that the proposal will result in substantially the same development as that approved by the Court. In this regard it is submitted that:

- 1. The proposal will remain a residential flat building.*
- 2. The proposal does not seek to amend the approved building envelope and does not seek to increase the footprint of the proposal. External changes to the approved built form are considered to be of a very minor nature and will not result in any adverse impacts.*
- 3. The proposal will remain compliant with the requirements of the Council in relation to:*
 - a. Floor Space Ratio - The proposal will not result in a change to the approved floor space ratio (FSR) for the site.*
 - b. Building Height - The proposal will not result in a change to the approved building height.*
 - c. Carparking - The proposal will not result in a reduction in the proposed car parking rates noting that the approved scheme provided for 125 spaces for the originally*

approved 86 units or 1.45 spaces per unit. The revised proposal will continue to provide for 125 spaces for the proposed 79 units or 1.58 spaces per unit.

4. *The proposal will not result in any increased detrimental impacts upon adjoining properties noting that the total number of units interfacing with nearby residential properties will be reduced.*
5. *The proposal will not result in any unreasonable impacts upon the future residents of the development.*

On this basis it is submitted that the proposal will result in substantially the same development as the development for which consent was originally granted."

Comment:

The proposed modification is considered satisfactory in that the development as modified is substantially the same development as originally approved by the Court.

The modification application has been assessed having regard to the relevant matters under Section 79C (1) of the Act. The proposed development satisfies the provisions of The Hills Local Environmental Plan 2012 and The Hills DCP 2012. There have been no changes made to the LEP and DCP that will impact upon the site since the granting of the original consent by the Court.

The proposed modification does not result in a further variation to the DCP standards that have already been considered and approved by the Court.

It is considered that the proposed modification will not result in any detrimental impacts noting that the proposal:

- will not result in any increase in the approved building height/envelope;
- will not provide for an increase in the Floor Space Ratio approved for the site;
- will not provide for any new windows which would overlook adjoining properties;
- will not result in any increased overshadowing;
- will continue to provide car parking compliant with the rates approved by the Court; and
- will provide a better outcome in terms of unit mix as it will now provide for a unit distribution consistent with Council's requirements improving the unit mix approved by the Court. As a result of this modification 22.8% of the units will be 1 bedroom and 15.2% of the units will have 3 bedrooms, which complies with the DCP's 25% max. 1 bedroom and 10% minimum 3 bedroom control. It should be noted that during the Class 1 proceedings it was Council's town planning expert's contention that inclusion of a greater proportion of two and three bedroom dwellings would contribute to the size and form of housing available in the locality. In this regard, the proposed modification is now consistent with Council's DCP requirements on dwelling mix.

Despite the continuous opposition by some residents in response to this application, the proposal is considered to be in the public interest having regard to the aims and objectives of the LEP. It is noted that the number of submissions received this time is significantly much lower in numbers compared with the number of submissions received in the original application.

Having regard to the above, it is considered that the proposal satisfies the relevant provisions of Section 79C (1) and Section 96AA of the Act.

2. Function of Council Conferred on the Regional Panel

Clause 21 of the State Environmental Planning Policy (State and Regional Development) 2011 states the following:

"21 Council consent functions to be exercised by regional panels

- (1) *A regional panel for a part of the State may exercise the following consent authority functions of the council or councils for that part of the State for development to which this Part applies:*
 - (a) *the determination of development applications, and applications for the modification of development consents previously granted by the panel, in accordance with Part 4 of the Act,*
 - (b) *without limiting paragraph (a), the functions of a consent authority under Divisions 2 and 2A of Part 4 of the Act and sections 89A, 93I, 94, 94A, 94B, 94C, 94CA, 94EF, 94F, 95 (2), 96 (2) and 96AA of the Act.*

Clause 21 (2) states that the functions of a council as a consent authority conferred by section 96AA of the Act are not conferred on a regional panel if the original development application was not determined by a regional panel. In this case, the original Development Application was determined by the former Joint Regional Planning Panel (JRPP) on 28 August 2015 before it went on appeal in the Land and Environment Court, and therefore this matter is referred to the regional panel for consideration.

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

The Section 96AA modification application has been assessed having regard to the design quality principles outlined in SEPP 65. The merits of the application in terms of urban design and the relationship to the site constraints are:

3.1 Context & Neighbourhood Character

The proposed amendments to the development will not alter the context of the proposed development or its impact upon the neighbourhood character. The proposed amendments represent a reduction in the number of residential units within the development.

3.2 Built Form & Scale

The proposed amendments to the development will not alter the proposed built form on the site in terms of building envelope, bulk, scale and height, which remain the same as in the approved design. Building alignments, proportions, building types, building separation and articulation have also not changed.

3.3 Density

The density on the site of the proposed amended development has not significantly altered from the approved development. In fact, the total number of proposed residential units has been reduced from 86 to 79.

Based on Council's adopted occupancy rates for residential flat development of 1.3 persons per 1 bedroom unit, 2.1 persons per 2 bedroom unit and 2.7 persons per 3 bedroom unit, the modified scheme's occupancy rate of 158.7 persons is 1.3 persons or 0.8% more than the Court approved scheme's occupancy rate of 157.4 persons. The increase in occupancy rate is considered marginal and is unlikely to impact upon the amenity of surrounding properties and will result in a density appropriate to the site and its context as originally approved by the Court.

3.4 Sustainability

The proposed amendments to the development will not alter the sustainable aspects of the approved development design, with similar units receiving solar access and natural cross ventilation. Passive thermal design aspects of the proposed development have not changed and recycling and waste principles remain the same as the approved development.

3.5 Landscaping

The proposed amendments to the development will not alter the extent, context or quality of proposed landscaping on the site.

3.6 Amenity

The proposed amendments to the development will not alter the internal or external amenity for residents and neighbours. Room sizes have not altered, smaller units have been replaced with fewer larger units, and proposed changes have not impacted upon access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, efficient layout or ease of access.

3.7 Safety

The proposed amendments to the development will not alter safety and security provisions within the development or the public domain, and passive surveillance of public and communal areas has not been affected by the proposed changes.

3.8 Housing Diversity and Social Interaction

The proposed amendments to the development have reduced the number of smaller apartments within the development and replaced these with fewer larger sized 2 and 3 bedroom units. This change has been brought about solely in response to local market demand within the area, which has determined a different optimum mix of apartment sizes.

3.9 Aesthetics

The proposed amendments to the development will not significantly alter the external appearance or aesthetics of the proposed development. Minor changes in façade treatment as shown in the diagrams above to accommodate the unit changes proposed have resulted in more recessed facade areas with a slight increase in balcony expression to those affected areas of the building.

Pursuant to Sections 50(1A) and Section 115(3) Of the Environmental Planning and Assessment Regulation 2000, the Section 96AA modification application is accompanied by a design verification from a qualified designer stating that the works have been designed to achieve compliance with the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

4. Issues Raised in Submissions

The Section 96AA modification application was notified to adjoining and surrounding properties for 21 days and received 15 submissions. The issues raised in the submissions are addressed in the table below.

ISSUE/OBJECTION	COMMENT	OUTCOME
The proposed scheme is not substantially the same development as originally approved and does not satisfy the provisions of Section 96AA.	The proposed development satisfies the provisions of Section 96AA which is addressed in Section 1 above.	Issue addressed.
The application should be lodged and re-assessed as a new Development Application not as a Section 96 modification.	The proposed modification does not require lodgement of a new Development Application as it can be dealt with under the provisions of Section 96AA of the EP&A Act, 1979.	Issue addressed.
The proposed modification is not in the best interest of the	The proposal has been assessed against the Section 79C of the	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
local community who fought long and hard in opposing the original development with the support of both The Hills Shire Council and Parramatta City Council and the Joint Regional Planning Panel.	Act and relevant policies and controls contained in LEP 2012 and DCP 2012 and is considered satisfactory to be an improvement on the Court approved development.	
The proposed amendment is to facilitate the marketing flaws in the original design.	Pursuant to Section 96AA of the Act, an applicant or any other person entitled to act on a consent can make an application to modify a development consent subject to and in accordance with the regulations. Issues relating to marketing of a development are not a matter for consideration in the assessment of this application.	Issue addressed.
Change in unit mix and density will cause a very high level of influx of new residents putting pressure on the demand for more roads and impact on traffic.	It is noted in Section 3 above that the modification will result in a marginal increase in density or occupancy rate by 1.3 persons or 0.8%. It is considered that the modification is unlikely to impact upon the environmental capacity of the existing road network. The amount of off-street parking approved by the Court is not proposed to be altered as a result of this application. It is noted that the proposed change in unit mix when assessed against Council's parking rate will require the same total amount of off-street parking provision, however a much lesser parking rate based on the Roads and Maritime Services (RMS) Medium Density parking standards was accepted and approved by the Court in the Class 1 proceedings. It was considered by Commissioner Brown that the 125 residents parking spaces and 20 visitor spaces proposed by the applicant were consistent with the RMS Medium Density parking rates and the Census data. This application does not seek to modify the amount of parking provision approved and conditioned by the Court.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
Insufficient parking as a result of the increase in occupancy rates and as a result overflow parking would be taken up by the shopping centre and adjacent streets.	As stated above the proposed modification does not alter the total parking provision approved and conditioned by the Court based on the RMS parking rates.	Issue addressed.
Concerns regarding measurement of building height.	The proposal does not alter the approved building height.	Issue addressed.
Concerns regarding location of singular entry driveway to the car park.	The proposal does not alter the location of approved entry driveway access to the car park.	Issue addressed.
This development caters for foreign investors and will not help in reducing the housing shortage.	This is not a matter for consideration in the assessment of this application under Section 79C of the Act.	Issue addressed.
Number of bedrooms will increase which means bigger families and more cars.	As stated above, the parking provision approved by the Court is not proposed to be altered. Parking assessment of the new unit mix will be consistent with the assessment presented to the Court based on the RMS parking rates.	Issue addressed.
Vandalism and drug problems will increase as a result of more teenage children within the complex.	Condition 12 of the existing consent will remain as imposed by the Court in relation to safety, security and vandalism (See Attachment 7 – Development Consent).	Issue addressed.
Will affect the prices of houses in nearby streets.	This is not matter for consideration under Section 79C of the Act. No evidence is provided to substantiate this claim.	Issue addressed.
Having reduced number of units means less income for Council on rates collection.	This is not matter for consideration under Section 79C of the Act.	Issue addressed.
Will set as a precedent for more unit blocks in the area.	The development is permissible with consent in B2 Local Centre zone. It is noted that the subject site does not adjoin sites capable of being developed into similar multi-unit development.	Issue addressed.
The applicant must take this back through the Court to argue their case.	Section 96AA of the Act provides an applicant the ability to modify a development consent granted by the Court and pursuant to Section 21(1)(b) of the State Environmental Planning Policy (State and Regional Development) 2011, the regional	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	panel is the consent authority in this matter.	

SUBDIVISION ENGINEERING COMMENTS

No objection is raised to the proposed modification. The engineering conditions imposed by the Court are not affected by the proposed modification.

WASTE MANAGEMENT COMMENTS

No objection is raised to the proposed modification. The waste management conditions imposed by the Court are not affected by the proposed modification.

LAND INFORMATION MANAGEMENT COMMENTS

No objection is raised to the proposed modification subject to Condition No. 6 of the existing consent being amended to reflect the revised unit numbering.

CONCLUSION

The Section 96AA application has been assessed against the provisions of Sections 79C and 96AA of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development, The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered satisfactory.

The submissions received have been addressed in the report and do not warrant further amendment or refusal of the application.

The proposal is considered to be substantially the same as that previously approved by the Land and Environment Court. The Section 96AA modification is supported and recommended for approval.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

The social and environmental impacts have been identified and addressed in the report. The proposal satisfies the objectives of the LEP and DCP. It is considered satisfactory with regard to The Hills Future Community Strategic Plan.

RECOMMENDATION

The Section 96AA Modification Application be approved subject to the following conditions.

A). Condition No. 1 to be **deleted** and **replaced** as follows:

"1. Development in Accordance with Submitted Plans

The development being carried out in accordance with the approved plans and details, stamped and returned with Development Consent No. 1410/2015/JP except where amended by other conditions of consent, and as amended by the following plans submitted with Development Application No. 1410/2015/JP/A:

REFERENCED PLANS AND DOCUMENTS

Drawing Number	Description	Revision	Date
A202	Residential Level 1 Podium Floor Plan & Site Plan	DA-12	03/04/2017

A203	Residential Level 2 Floor Plan	DA-11	20/04/2017
A204	Residential Level 3 Floor Plan	DA-11	20/04/2017
A401	Elevations Sheet 1	DA-13	18/04/2017
A402	Elevations Sheet 2	DA-11	18/04/2017
A403	Elevations Sheet 3	DA-07	18/04/2017
A301	Site Section A-A & B-B	DA-08	19/04/2017
-	Unit Numbering – Units 101-128	-	-
-	Unit Numbering – Units 201-228	-	-
-	Unit Numbering – Units 301-323	-	-

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."

B). Condition No. 6 to be **deleted** and **replaced** as follows:

"6. 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 is:
192 Caroline Chisholm Drive Winston Hills

Approved Unit Numbers:

Level 1 Units 101-128
Level 2 Units 201-228
Level 3 Units 301-323

Unit numbers must follow sequentially and should be as provided by Land Information Section of Council. These unit numbers, as approved and issued, are to be displayed clearly on all unit door entrances.

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

C). Condition No. 25 to be **deleted** and **replaced** as follows:

"25. Section 94 Contribution

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

Payments comprise of the following:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	No. of 1 bedroom units: 18	No. of 2 bedroom units: 49	No. of 3 bedroom units: 12	Total S94
Community Facilities - Capital	\$ 111.83	\$ 154.79	\$ 232.20	\$ 2,012.94	\$ 7,584.92	\$ 2,786.36	\$ 12,384.22
Community Facilities - Land	\$ 6.36	\$ 8.80	\$ 13.20	\$ 114.48	\$ 431.20	\$ 158.40	\$ 704.08
Open Space - Capital	\$ 122.53	\$ 169.56	\$ 254.35	\$ 2,205.51	\$ 8,308.68	\$ 3,052.17	\$ 13,566.36
Open Space - Land	\$ 1,422.82	\$ 1,970.06	\$ 2,955.10	\$ 25,610.76	\$ 96,532.94	\$ 35,461.20	\$ 157,604.90
Roads & Traffic - Capital	\$ 45.73	\$ 63.35	\$ 94.97	\$ 823.13	\$ 3,103.93	\$ 1,139.62	\$ 5,066.68
Total	\$ 1,709.27	\$ 2,366.56	\$ 3,549.81	\$ 30,766.82	\$ 115,961.67	\$ 42,597.74	\$ 189,326.24

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

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

This condition has been imposed in accordance with Contributions Plan No 7.

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

D). Condition No. 48 to be **deleted** and **replaced** as follows:

"48. Compliance with BASIX Certificate

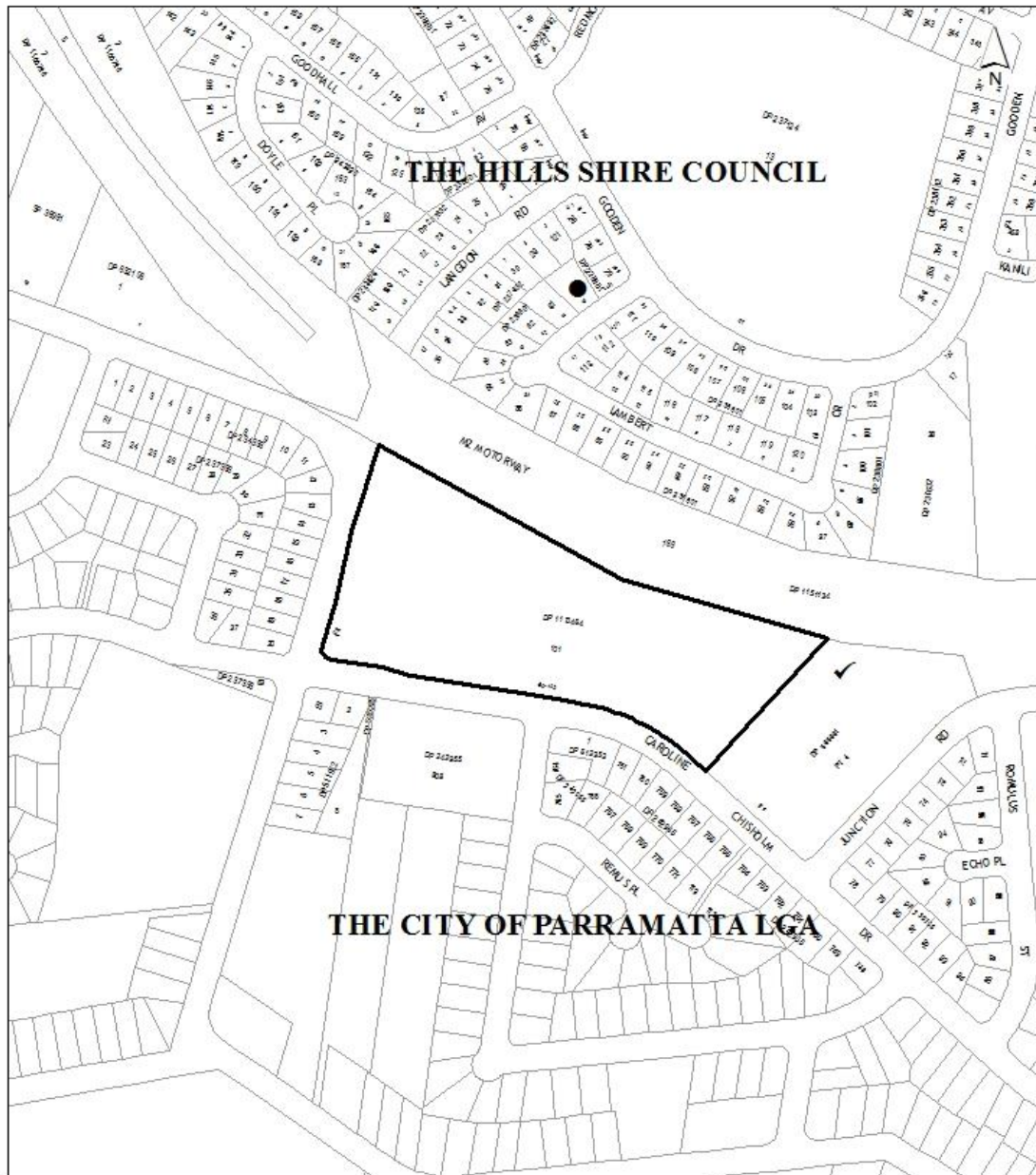
Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate Number 596826M-06 dated 3 May 2017 be complied with. Any subsequent version of this BASIX Certificate will supersede all previous 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."

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Site Plan / Podium Floor Plan
5. Approved and Proposed Floor Plans
6. Approved and Proposed Elevations
7. Land & Environment Court Order and Conditions

ATTACHMENT 1 – LOCALITY PLAN



☐ SUBJECT SITE

✓ PROPERTIES NOTIFIED

NOTE: 1651 OBJECTORS NOTIFIED
FROM ORIGINAL APPLICATION

● SUBMISSIONS RECEIVED

NOTE: TOTAL OF 15 SUBMISSIONS
RECEIVED - 14 FROM WITHIN
THE CITY OF PARRAMATTA LGA

THE HILLS
Sydney's Garden Shire

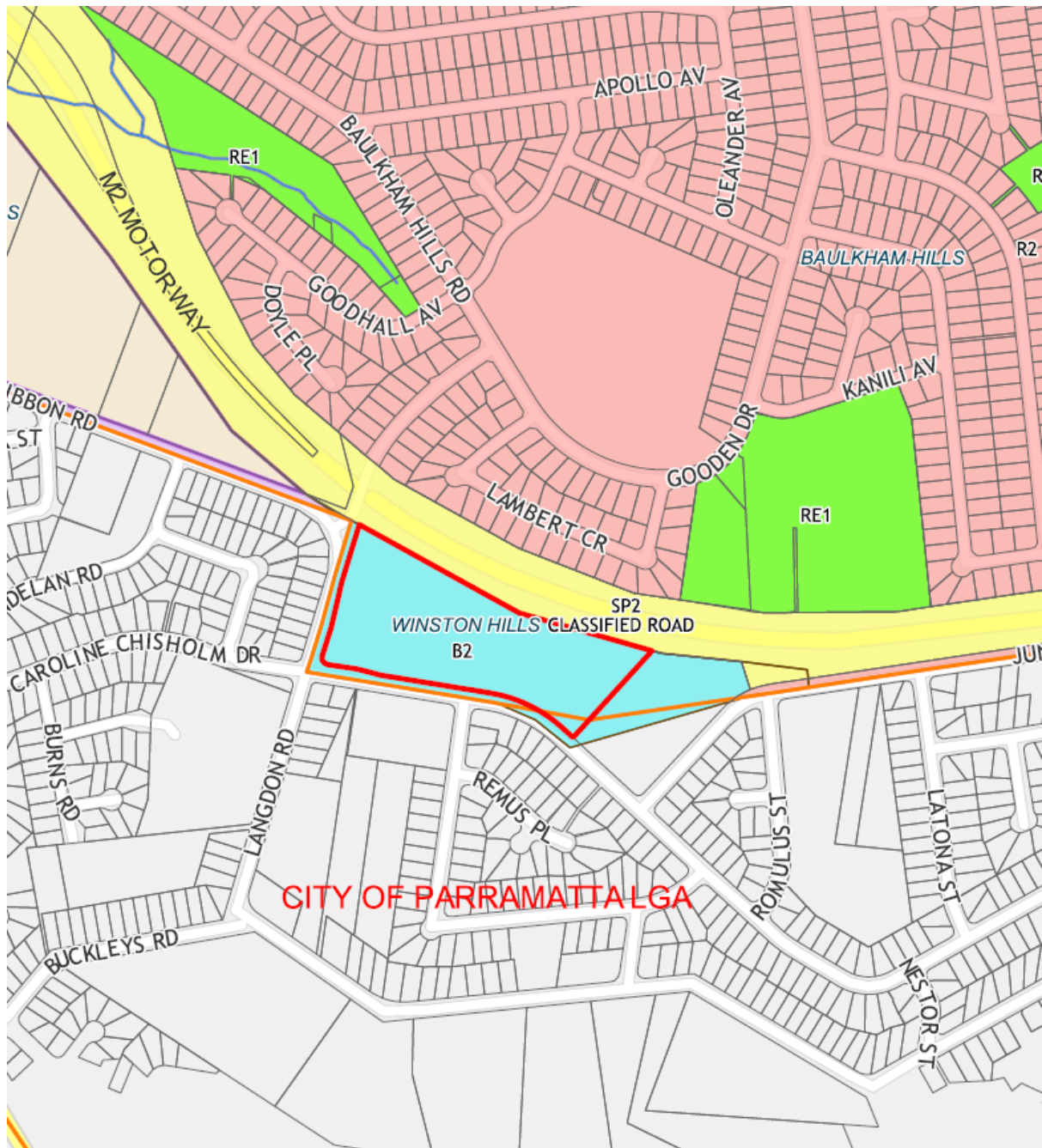
THE HILLS SHIRE COUNCIL

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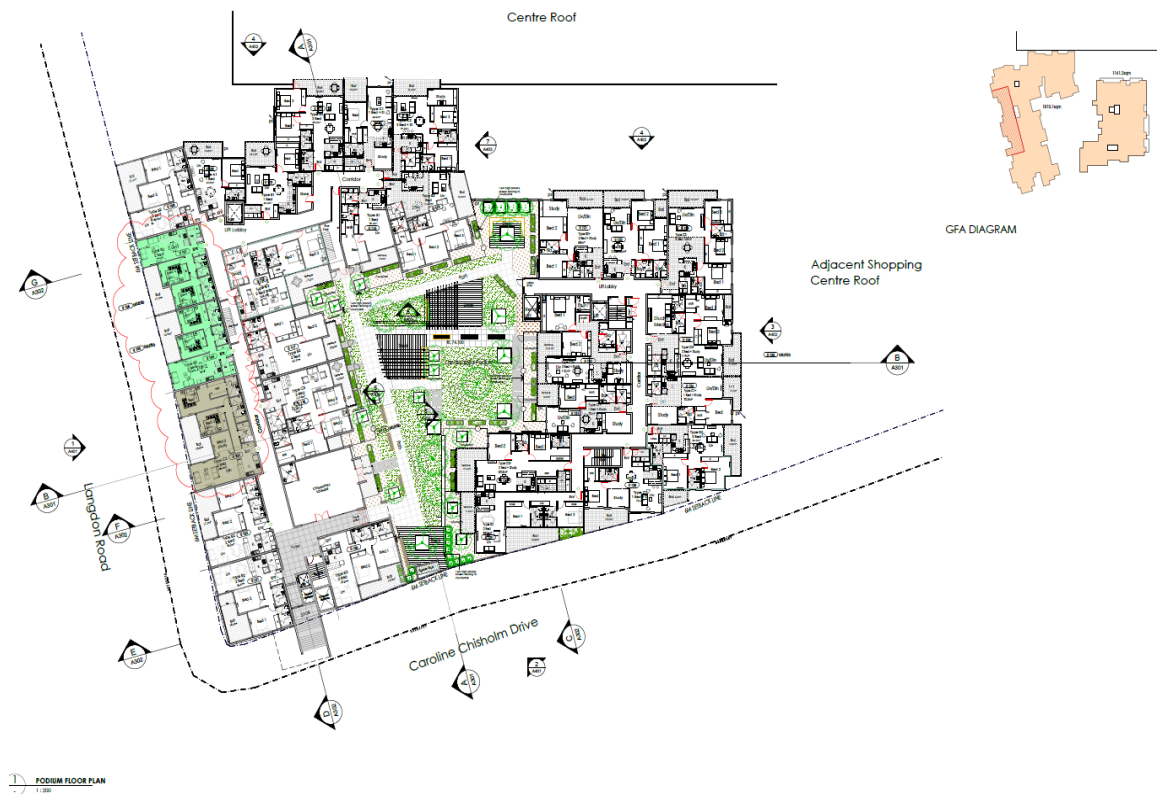
ATTACHMENT 2 – AERIAL PHOTOGRAPH



ATTACHMENT 3 – ZONING MAP



ATTACHMENT 4 – SITE PLAN/PODIUM FLOOR PLAN



ATTACHMENT 5 – APPROVED AND PROPOSED FLOOR PLANS - 3 PAGES

1 OF 3 PAGES
Centre Roof



APPROVED PODIUM/LEVEL 1 FLOOR PLAN



PROPOSED PODIUM/LEVEL 1 FLOOR PLAN



APPROVED LEVEL 2 FLOOR PLAN



PROPOSED LEVEL 2 FLOOR PLAN



APPROVED LEVEL 3 FLOOR PLAN

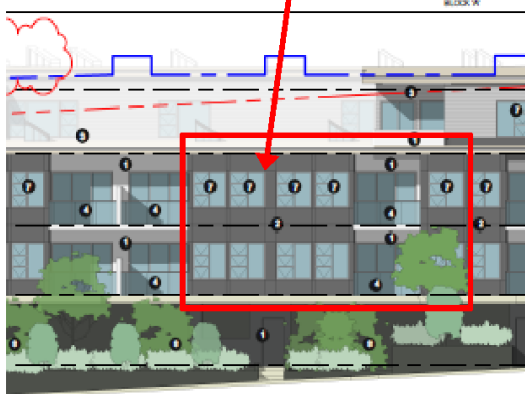


PROPOSED LEVEL 3 FLOOR PLAN

ATTACHMENT 6 – APPROVED AND PROPOSED ELEVATIONS (2 PAGES)

1 OF 2 PAGES

Facade recessed & balcony extended



Façade extended & balcony removed



Background altered

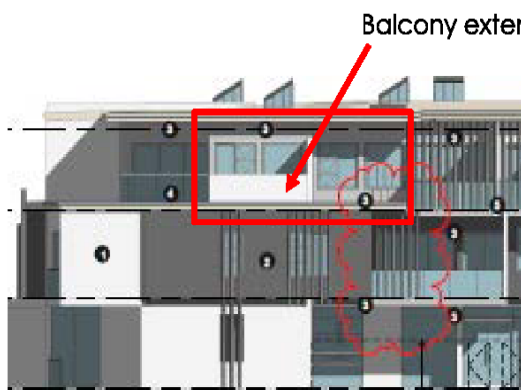




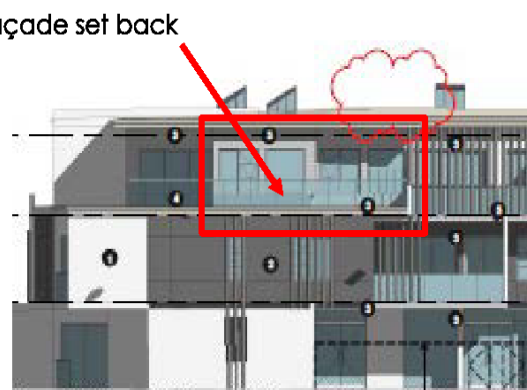
DA approved East Elevation A402



S96 changes to East Elevation A402



DA approved East Elevation A403



S96 changes to East Elevation A403

ATTACHMENT 7 - LAND & ENVIRONMENT COURT ORDER AND CONDITIONS

Form 43 (version 1)
UCPR 36.11

ORDER

COURT DETAILS

Court	LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES
Division	Class 1
Registry	Level 4, 225 Macquarie Street, Sydney
Case number	10565 of 2015

TITLE OF PROCEEDINGS

Applicant	Starby Pty Ltd
Respondents	The Hills Shire Council

DATE OF ORDER

Date made or given	16 May 2016
Date entered	

TERMS OF ORDER

The orders of the Court are:

1. The appeal is upheld.
2. DA 1410/2015/JP for the erection of a residential flat building at the Winston Hills Shopping Mall 180-192 Caroline Chisholm Drive Winston Hills is approved subject to the conditions in Annexure A.
3. The exhibits are returned with the exception of exhibits 1, A, B, and E.

SEAL AND SIGNATURE

Court seal
Signature
Capacity
Date

FINAL CONSENT CONDITIONS
DA 1410/2015/JP
(LAND & ENVIRONMENT COURT PROCEEDINGS NO. 10565 OF 2015)

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

Drawing Number	Description	Revision	Date
A201	Residential Car Park Level Retail Service Level Floor Plans & Site Plan	DA-09	03/12/2015
A202	Residential Level 1 Podium Floor Plan & Site Plan	DA-10	02/03/2016
A203	Residential Level 2 Floor Plan	DA-09	02/03/2016
A204	Residential Level 3 Floor Plan	DA-09	02/03/2016
A205	Residential Roof Plan	DA-08	02/03/2016
A301	Site Section A-A & B-B	DA-07	02/03/2016
A302	Boundary Sections	DA-05	29/02/2016
A303	Residential Apartments typical Sections	DA-02	24/02/2016
A304	Roof Skylight Details	DA-02	25/02/2016
A305	Existing Roof level Planter Sections	DA01	18/02/2016
A401	Elevations Sheet 1	DA-12	02/03/2016
A402	Elevations Sheet 2	DA-10	02/03/2016
A403	Elevations Sheet 3	DA-06	02/03/2016
14535-LDA01	Landscape Plan Ground Floor	P4	15/02/2016
14535-LDA02	Landscape Plan Level One	P4	15/02/2016
14535-LDA03	Landscape Details	P2	05/05/2015
A260	B2 Car Parking Plan	DA-03	27/04/2016
A261	Retail Service Level Plan	DA02	18/02/2016
41134 – 42912DP	Indicative Plan of Stratum Subdivision prepared by LTS	9 sheets of 9	19/02/2016

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.

3A. Operational management

The operational management of the residential component and the retail/commercial component of the development shall be implemented prior to the issue of any Final or Interim Occupation Certificate for the residential component of the development. This will include the registration of all required easements, stratum subdivisions, restrictions as to user or other similar requirements to ensure the management responsibilities and operational requirements of the resulting development are clearly understood and advised to future purchasers.

3AA Amended Landscape Plan

The approved Landscape plan is to be amended prior to the issue of a Construction Certificate to accommodate a private open space terrace to the west of unit U129 as shown on architectural plan A202 Revision DA10.

4. External Finishes

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

5. Provision of Parking Spaces (CH)

The development is required to be provided with 125 off-street car parking spaces in the new parking level, all dedicated to residents. Cages are not to be constructed around any of these spaces. A total of 20 residential visitor car parking spaces for residential visitors are to be provided within basement level B2 of the existing shopping centre parking area. These residential visitor spaces shall be available for off street parking at all times and are to be sign posted and line marked as residential visitor car parking spaces.

6. 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 is: - Units 101-325/192 Caroline Chisholm Drive, Winston Hills.

Approved location of 1 bank of letterboxes is as per Sheet A201 DA-09 within the main pedestrian entry from Caroline Chisholm Drive.

A unit numbering plan is to be submitted to Council for approval prior to issue of a Construction Certificate. The unit numbers are to be displayed clearly on all door entrances and on signage at the entry to the complex.

It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and speed.

7. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic Pty Ltd, referenced as Winston Hills Shopping Centre, dated 25/09/2014 and submitted as part of the Development Application are to be updated and submitted to Council and must make reference to the amended architectural drawings as per the table in Condition 1 and implemented as part of this approval. In particular:

- 6.1.1 Recommended Glazing – Appendix B
- 6.1.2 External Doors
- 6.1.3 Roof/Ceiling Construction – Figure 3
- 6.1.4 External Walls – Table 9 and Table 10
- 6.2 Mechanical Ventilation requirements

8. Management of Construction and/ or Demolition Waste

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site

onto neighbouring public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. The separation and recycling of the following waste materials is required: metals, timber, masonry products and clean waste plasterboard. This can be achieved by source separation onsite, that is, a bin for metal waste, a bin for timber, a bin for bricks and so on. Alternatively, mixed waste may be stored in one or more bins and sent to a waste contractor or transfer/ sorting station that will sort the waste on their premises for recycling. Receipts of all waste/ recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

9. Commencement of Domestic Waste Service

The property owner or agent acting for the owner must ensure to arrange the commencement of a domestic waste service with Council. The service is to be arranged no earlier than two days prior to occupancy and no later than two days after occupancy of the development. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

10. Construction of Garbage Rooms

All work involving construction of the garbage rooms must comply with the requirements of Council's 'Bin Storage Facility Design Specifications'. Minimum storage facility is required for 10 x 1100L or 16 x 660L bulk garbage bins and 16 x 660L bulk recycling bins. The measurements of the abovementioned bins are as follows:

660L: 850mm (d) 1370mm (w) 1250mm (h)

1100L: 1245mm (d) 1370mm (w) 1470mm (h)

The collection point (existing loading dock) must have provision to store all bins as per above on collection day.

11. Supply of Bin Tug and or Towing Device

Prior to the issue of an Occupation Certificate, a mechanical bin tug and or towing device suitable for both 660L and 1100L bins must be purchased to be permanently kept and used at the development. The selected equipment must be able to tow full bins over all ramps and slopes between waste storage and collection points. The equipment should be selected in consultation with a reputable bin moving supplier.

12. Compliance with the Requirements of the NSW Police

Compliance with the following requirements of the NSW Police – Local Area Command:-

Surveillance

- Car parking area be painted white to help reflect light.
- CCTV 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.
- Security access to be utilised at the entrance of the car parking area. This is highly recommended by use of fob, remote or code access. This is also recommended to the existing car parking area.
- 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.

1. 3-5 metres 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 should meet minimum Australian Standards.
- Special attention should 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.

CCTV

Suggest the use of a CCTV system to monitor the common open spaces throughout the development, especially if no access control to the area is provided.

- Suggest the implementation of height indicator stickers on the entrance/exit doors. These used in conjunction with CCTV can give police an indication of an offender's height as they enter or exit and in turn may assist in the identification of possible offenders.

Territorial Reinforcement

- Territorial reinforcement can be achieved through design that encourages people to gather in public space and to feel some responsibility for its use and condition and with clear transitions and boundaries between public and private space.

Environmental Maintenance

- Avoid porous building surfaces when selecting materials for construction to minimise maintenance cost relating to graffiti vandalism.

Access Control

- Warning signs should 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.
- Avoid creating outer ledges capable of supporting hands/feet and that balustrades should not provide anchor points for ropes. Also, for any fencing proposed for the development, it is recommended that palings are 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

- Ground level units need to 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 to monitor the site while construction is in progress.

- High quality letterboxes that meet the Australian standards - ISO9001:2008. The letterboxes should still be under CCTV surveillance to help deter letterbox mail theft.
- Recommends placing signs 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 can help educate people to not leave valuable items in their cars and to ensure they secure their vehicles. Police recommend installing these signs around the car park.

13. Road Opening Permit

Should the development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a Construction Certificate issued by Council under this consent then a separate road opening permit must be applied for and the works inspected by Council's Maintenance Services team.

The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction Engineer if it is unclear whether a separate road opening permit is required.

14. Subdivision of the development (Stratum and Strata)

a) Stratum Subdivision:

The development site Lot 101 DP 1170464 must be subdivided to create two stratum titles to separate the commercial and residential facilities. Any stratum subdivision is to be generally in accordance with the Draft Stratum Plans prepared by Damian Joseph Maguire dated 19/02/2016.

Stratum Subdivision Certificate application must lodged with Council. The stratum subdivision certificate must be consistent with the approved development plans and approved operation management agreement.

b) Strata Subdivision:

The strata title subdivision of the residential development in proposed stratum lot 2 is not included under this approval. A separate development application or complying development certificate application is required.

c) Subdivision Certificate Pre-Lodgement Meeting/ Check

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

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

15. Protection of Public Infrastructure

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

16. 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:

- a) AS/ NZS 2890.1
- b) AS/ NZS 2890.6
- c) AS 2890.2
- d) Council's DCP Part C Section 1 – Parking
- e) Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- i. 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.
- ii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- iii. 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.
- iv. All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.
- v. The driveway entrance to the new car parking level is to be fitted with a roller shutter with an opening speed of no slower than 11 seconds over a minimum height of 2.2m.

17. 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.

18. Minor Engineering Works

The design and construction of the engineering works listed below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Any variance from these documents requires separate approval from Council.

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.

i. Driveway Requirements

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

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

On high level sites a grated drain must be provided on the driveway at the property boundary.

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

ii. 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.

iii. Service Conduits

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

19. Planting Requirements

Plant species

Native plants are recommended. 75% of the planting is to be Australian native species.

Pot sizes

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.

Soil depth

Allow adequate soil planting depth for all planters on slab. Minimum soil depths required are 1.2m for large trees, 800 for small trees, 600mm for shrubs, 450-300mm for groundcovers, 200mm for turf. Note: this is the soil depth alone and *not* the overall depth of the planter.

Planter bed size

The minimum planter bed width for in ground planting areas and raised planter beds is to be 800mm. Planters and landscape areas containing trees should be at least 2 metres in width and length.

19A. Tree Removal

Approval is granted for the removal of one (1) Eucalyptus spp. tree as indicated in the Arboricultural Impact Assessment Report prepared by Earthscape Horticultural Services, dated 11th of February 2016, and the updated Landscape Plan Ground Floor prepared by NBRSPartners, dated 15/02/16.

All other trees are to remain and are to be protected during all works.

20. Retention of Trees

All trees not specifically identified on the plans for removal are to be retained with remedial work to be carried out in accordance with Council's **Protection of Existing Trees** condition.

21. Landscaping and Communal Open Space

Communal Open Space

The communal open space area is to include landscape planters with a minimum area of 90m² and minimum depths as outlined in condition **19. Planting Requirements** to support trees and shrubs to provide shading and privacy in the communal open space area.

Entry to communal open space from the Caroline Chisholm Drive stair access is to be clear and legible with the design of the communal lounge to be amended to allow the ability for the space to open directly onto the communal open space area. Synthetic grass mound, planter boxes and decorative pebble surface are to be located further away from this entry.

Details are to be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate.

22. Deleted

23. Street Trees

Street trees must be provided along Langdon Road and Caroline Chisholm Drive. These trees are to be spaced between 7 and 10m apart. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees is to be in accordance with *The Hills Development Control Plan 2012- Part C Section 3*. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

Where existing street trees are being retained driveways are to be located a minimum of 3m from the trees.

24. Artificial turf mounds

Artificial turf is to be kept back for a radius of 1m from the trunk of the tree within the communal open space area (refer Drawing No. 14535-LDA02-P4). This area is to be mulched. A barrier between the tree and the compacted artificial turf mound is to be constructed to reduce compaction around the base of the tree.

24A. No Right Turn Signage and Median Strip

Appropriate signage indicating prohibition of right turn movement of vehicles into & out of Caroline Chisholm Drive and Langdon Road shall be installed at the exit from the residential car park level accessing onto Caroline Chisholm Drive and the entry into the car park from Langdon Road. Median strips are to be constructed in Caroline Chisholm Drive and Langdon Road to prevent right hand turn movements into and out of the residential car park. These works are to be carried out by the developer at no expense to Council. The developer should make applications to the Local Traffic Committees of The Hills Shire Council and Parramatta City Council, where relevant, for approval of the median strips prior to their construction.

The median strip is not required to be constructed in the event that the Local Traffic Committees do not grant approval for their installation.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

25. Section 94 Contribution

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

Payments comprise of the following:-

	<i>Purpose: 1 bedroom unit</i>	<i>Purpose: 2 bedroom unit</i>	<i>Purpose: 3 bedroom unit</i>	<i>No. of 1 bedroom units: 35</i>	<i>No. of 2 bedroom units: 43</i>	<i>No. of 3 bedroom units: 8</i>	<i>Total S94</i>
Community Facilities - Capital	\$ 84.64	\$ 117.12	\$ 175.73	\$ 2,962.40	\$ 5,036.16	\$ 1,405.84	\$ 9,404.40
Community Facilities - Land	\$ 6.36	\$ 8.80	\$ 13.20	\$ 222.60	\$ 378.40	\$ 105.60	\$ 706.60
Open Space - Capital	\$ 120.29	\$ 166.48	\$ 249.73	\$ 4,210.15	\$ 7,158.64	\$ 1,997.84	\$ 13,366.63
Open Space - Land	\$ 1,422.82	\$ 1,970.06	\$ 2,955.10	\$ 49,798.70	\$ 84,712.58	\$ 23,640.80	\$ 158,152.08
Roads & Traffic - Capital	\$ 44.89	\$ 62.18	\$ 93.22	\$ 1,571.15	\$ 2,673.74	\$ 745.76	\$ 4,990.65
Total	\$ 1,679.00	\$ 2,324.64	\$ 3,486.98	\$ 58,765.00	\$ 99,959.52	\$ 27,895.84	\$ 186,620.36

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

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

This condition has been imposed in accordance with Contributions Plan No 7.

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

26. Onsite Stormwater Detention – Upper Parramatta River Catchment Area

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Upper Parramatta River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook.

Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer and submitted with:

- A completed OSD Drainage Design Summary Sheet;
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes;
- A completed OSD Detailed Design Checklist;
- A maintenance schedule.

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

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

- i. A completed application form;
- ii. Four copies of the design plans and specifications;
- iii. Payment of the applicable application and inspection fees.

27. Stormwater Pump/ Basement Car Park Requirements

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

28. Security Bond Requirements

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

- a) Be in favour of The Hills Shire Council;
- b) 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);
- c) Have no expiry date;
- d) Reference the development application, condition and matter to which it relates;
- e) Be equal to the amount required to be paid in accordance with the relevant condition;
- f) 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.

29. 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 \$250,000 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 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.

30. Structural Capacity

A certificate of structural adequacy is to be submitted to the Principal Certifying Authority (PCA), certifying the structural strength and load bearing capacity of the existing premises will be appropriate for the new building work proposed.

31. Design Verification

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

32. Notice of Requirements

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

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

33. 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).

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

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

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

In particular the acoustic statement shall detail that all recommendations contained within the Winston Hills Shopping Centre Acoustic Report prepared by Acoustic Logic Pty Ltd, with reference number 20141048.1 and dated 25/09/2014, have been included in

the construction plans of the development. This acoustic report is required to be updated and submitted to Council for review and to make reference to the amended plans referenced in Condition 1.

PRIOR TO ANY WORK COMMENCING ON SITE

35. Principal Certifying Authority

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

36. Approved Temporary Closet

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

37. 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.

38. 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.

39. Consultation with Service Authorities

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

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

The building plans must be submitted to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the building plans will be stamped indicating that no further requirements are necessary.

40. Stabilised Access Point

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

41. Traffic Control Plan

A Traffic Control Plan is required to be prepared and submitted to Council for approval. The person preparing the plan must have the relevant accreditation to do so. Where amendments to the plan are required post approval, they must be submitted to Council for further approval prior to being implemented.

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

42. Public Infrastructure Inventory Report

OA 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:

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

43. 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.

44. 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.

45. 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 made available to Council officers on request.

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.

DURING CONSTRUCTION

47. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

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

48. 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 Number 596826M-03 dated 2 March 2016 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.

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

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

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

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

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

50. 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.

51. Standard of Works

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

52. 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)*.

53. 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.

PRIOR TO THE ISSUE OF OCCUPATION OR SUBDIVISION CERTIFICATE

53A. Stratum Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

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

54. Section 73 Certificate

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

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

55. 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.

56. Works as Executed Plans

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

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

57. OSD System Certification

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

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

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

58. Pump System Certification

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

59. 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.

59A. Building Services

A letter from a registered surveyor must be submitted certifying that all facilities servicing the buildings are located wholly within their respective stratum lots or are otherwise contained within suitable easements.

59B. Confirmation of Pipe Locations

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

60. Final Plan and Section 88B Instrument

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

i. Easement – Private Stormwater Drainage

Inter-allotment drainage easements must be created to ensure each and every lot is provided with a legal point of discharge. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

ii. Easement – Right of Access/ Easement for Services

A right of access/ easement for services must be created over the access handle of proposed stratum lots 1 and 2.

iii. Positive Covenant – Maintenance/ Repair of Shared Driveway

A positive covenant must be placed on the title of proposed stratum lots 1 and 2 to ensure the maintenance/ repair of the shared driveway using the "maintenance/ repair of shared access" terms included in the standard recitals.

iv. Restriction – Bedroom Numbers

All lots that contain a new dwelling home/ attached dwelling must be burdened with a restriction using the "bedroom numbers" terms included in the standard recitals.

v. Restriction/ Positive Covenant – Onsite Stormwater Detention

Stratum lots 1 and 2 must be burdened with a restriction and a positive covenant using the "onsite stormwater detention systems" terms included in the standard recitals.

vi. Positive Covenant – Stormwater Pump

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

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. Provision of Electricity Services

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

63. 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.

64. Final Inspection of Waste Storage Areas

Prior to an Occupation Certificate being issued, a final inspection of the waste storage areas and management facilities must be arranged by the Principal Certifying Authority and must be undertaken by Council. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for waste collection by Council. The time for the inspection must be arranged with Council at least 48 hours prior to the Principal Certifying Authority's suggested appointment time.

65. Agreement for Onsite Waste Collection

Prior to an Occupation Certificate being issued, an Indemnity Agreement is to be obtained from Council, completed, signed and two original copies sent to Council for approval. This is to enable Council and its contractor to enter onto private property with its collection vehicles to enable it to collect waste and recyclables.

66. Clause 94 Considerations

Under clause 94 of the Environmental Planning & Assessment Regulation, the following fire safety/Building Code of Australia (BCA) works are to be undertaken with the construction certificate works and are to be completed prior to the issue of the occupation certificate:

i). As the proposed retail lift shaft is proposed to connect/pass through the existing shopping centre and proposed residential buildings, a review of provisions for smoke hazard management is to be undertaken to ensure conditions in the building remain tenable during evacuation and the spread of fire in the building is avoided, appropriate to EP2.2 and CP2 of the BCA.

67. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in the Acoustic Report titled Winston Hills Shopping Centre prepared by Acoustic Logic Pty Ltd dated 25/09/2014 which is required to be updated and submitted to Council to make reference to the amended architectural drawings referenced in Condition 1. Certification is to be provided.

68 Landscaping Prior to Issue of Occupation Certificate

Landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) in accordance with the approved plan prepared by NBRSP+Partners comprising three sheets LDA01 – P4, LDA02 – P4 and LDA03 – P2. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

USE OF THE SITE

69. Waste and Recycling Management

A caretaker must be engaged to move all bins to and from the waste storage and collection points on the allocated days of collection as determined by Council. Bins must be returned to their storage point onsite as soon as possible the same day as collection. Other responsibilities of the caretaker must be regularly washing bins and the garbage rooms and arranging for the prompt removal of dumped rubbish. The Operational Waste Recycling management for the development must be carried consistently with the terms of the management plan prepared by Glendinning Minto and Associates P/L 18 February 2016.

70. Lighting

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