

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SWC088
DA Number	DA 46/2018/JP
LGA	The Hills Shire Council
Proposed Development	A 9-13 Storey Residential Flat Building Development comprising 330 Units with Basement Parking for 539 Vehicles and Associated Community Title Subdivision
Street Address	Lot 101 DP 1176747 and Lot 1 DP 1233538, RMB 47 Spurway Drive, Baulkham Hills and 104 Fairway Drive, Norwest
Applicant/Owner	Sekisui House Australia Pty Ltd / SH Orchards Pty Ltd
Date of DA lodgement	11 July 2017
Number of Submissions	Ten with one submission including a petition with 28 signatures
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV exceeding \$30 million (\$114,463,017)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy Infrastructure 2008 • State Environmental Planning Policy No 55 — Remediation of Land • The Hills Local Environmental Plan 2012 • The Hills Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	Submissions
Report prepared by	Robert Buckham Development Assessment Co-ordinator
Report date	19 July 2017

Summary of s4.15 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?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **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)?

Yes

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

EXECUTIVE SUMMARY

The Development Application is to construct a 9-13 Storey Residential Flat Building Development comprising three hundred and thirty units (330) with basement parking for 539 vehicles and associated Community Title Subdivision. The subject building is Stage 2 within a development site that includes 5 stages.

This application is accompanied by a request to vary development standards pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). The proposal seeks to vary Clause 4.3 Building Height, Clause 4.4 Floor Space Ratio and Clause 7.11 which specifies a mix of apartment typologies and parking requirements for the subject development site should it be developed to its maximum yield of 1300 dwellings. These matters have been reviewed holistically for the entire development site under the masterplan approved by the Panel on 11 April 2018. Clause 4.6 variations were prepared for each matter and the Panel found that that the variations could be supported as:

- The Applicant's request is well founded;
- The proposed variations result in a development that is consistent with the objectives of Clause 4.3 Height of Building, Clause 4.4 FSR and 7.11 and the R4 High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- The proposal results in a better planning outcome through provision of additional and improved open space, greater retention of significant trees and a better building relationship to adjoining properties.

The current proposal is consistent with those variations considered as part of the masterplan and remains satisfactory. Each variation is addressed in detail in this report.

A variation is proposed to the front setback control within the DCP. The DCP requires a primary front setback for residential flat buildings of 10 metres. The subject development is set back 6 metres to the building and a minor protrusion of cantilevered balcony on levels 2 to 9 levels set back 5.3 metres. A 6 metre setback is not uncommon to the locality with two approved flat buildings, one completed and one under construction at No. 38 and 40 Solent Circuit on the southern side of Spurway Drive both having setbacks to 6 metres.

The application was advertised and notified for a period of 31 days. Ten submissions including a petition with 28 signatures were received. The issues raised include overshadowing, construction management, parking, traffic and compliance with planning controls. These matters are addressed in this report and it is considered that they do not warrant refusal of the application or amendments to the application. It is noted that the application is consistent with the outcomes approved under the masterplan application relating to the entire development site.

The application is recommended for approval subject to conditions.

DETAILS AND SUBMISSIONS

Zoning:	R4 High Density Residential
Area:	8,442m ²
Existing Development:	Nil (Stage 1 approved development under construction)
Section 7.11 Contribution	\$8,614,654.35
Exhibition:	31 days
Notice Adj Owners:	Yes
Number Advised:	623
Submissions Received:	10 including a petition with 28 signatures

BACKGROUND

The site was subject to a Planning Proposal to amend the Hills Local Environmental Plan 2012 (10/2013/PLP). Amendment No. 32 for the site was notified on the NSW legislation website (Notification No. 210) on 29 April 2016.

The Hills Local Environmental Plan 2012 was amended as follows:

- Increased the maximum building height from 16 metres to heights ranging between 18 metres and 36 metres;
- Applied a maximum floor space ratio ranging from 1.5:1 to 3.2:1;
- Identified the site as “Area B” within the Key Sites Map; and
- Included a new local provision which ensures that future development on the site does not exceed a yield of 1,300 dwellings and that, in order to achieve this yield, development must comply with Council’s standards for apartment mix, apartment size and car parking.

Associated amendments to The Hills Development Control Plan 2012 (Part D Section 7 – Balmoral Road Release Area) also came into force on 29 April 2016. The amendments will facilitate the upgrade and inclusion of the existing portion of Spurway Drive (currently private) as a public road to connect to the existing planned local road network within the Balmoral Road Release Area (from Windsor Road to Fairway Drive).

A number of Development Applications have been approved on the site they include:

- Development Application 736/2017/JP was approved by the Panel on 11 April 2018 for concept masterplan for the entire development site (refer Attachment 6). The masterplan provided indicative details of each of the future buildings. The masterplan also dealt with impact and off-setting of vegetation across the site. The masterplan identified the staging of the development site including the provision of the eastern and western portions of the Spurway Drive extension.

The application approved in concept the redistribution of building height and floor space across the site compared to that identified within the LEP amendment. The masterplan provided indicative details of each of the buildings which will be further detailed within future Development Applications. The purpose of this application was to demonstrate how the site will be developed in its entirety and to provide an assessment framework for future detailed development applications for individual buildings.

The application was accompanied by a request to vary development standards pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). The proposal varied

Clause 4.3 Building Height, Clause 4.4 Floor Space Ratio and Clause 7.11 which specifies a mix of apartment typologies and parking requirements for the subject site should it be developed to its maximum yield of 1300 dwellings.

In summary the variation to height was attributed to three reasons. These included the redistribution of built form on the central northern part of the site, height attributed to an alternate built form provided on the western part of the site to improve the amenity of adjoining land, and design matters in terms of the numbers of storeys identified within the planning proposal, increased floor to ceiling heights, site topography and lift overruns.

The floor space ratio on the site did not exceed the provisions of the LEP when the site is considered in totality. The variation to FSR was attributed to a redistribution of built form on the central northern part of the site. The additional built form is provided in an area nominated as 1.5:1 FSR. The proposal provides an FSR of 1.58:1. The built form in this area occupies less footprint than what could be provided within a compliant scheme, allowing for the retention of more landscaping including Cumberland Plain Woodland vegetation.

The masterplan also sought a variation to the mix of apartment typologies and car parking. The variations have been assessed and it is considered the proposal provides appropriate amenity for future residents and sufficient parking given the site's proximity to the future Norwest station. The parking provision exceeds the Road and Maritime Service rates for sites within 800m of a railway station. The site is located approximately 650m walking distance from the future Norwest Station.

In relation to the Clause 4.6 Variations, The Panel determined:

The Panel has considered the applicant's request to vary the development standards contained in The Hills Local Environment Plan 2012 Clause 4.3 relating to height of buildings, Clause 4.4 Floor Space Ratio and Clause 7.11 Residential Development Yield on Certain Land. The Panel considers compliance with the standards would be unreasonable and unnecessary in the circumstances of this case as the variations provide a better design outcome through provision of additional and improved open space, greater retention of significant trees and provides better building relationships to adjoining properties, and will not result in development inconsistent with this locality. The development as designed remains consistent with the underlying intent of the standard and the objectives of the zone.

The Panel is therefore satisfied that the Applicant's clause 4.6 variation requests have adequately addressed the matters required to be demonstrated in clause 4.6 of the The Hills LEP 2012 and that the proposed development will be in the public interest because it is consistent with the objectives of the relevant controls and the objectives for development within the R4 zone in which the development is proposed to be carried out.

For the above reasons, the Panel is satisfied that the variations from the LEP development standards are in the public interest.

- Development Application 779/2017/JP was approved by the Panel on 20 July 2017 to construct two seven-storey residential flat buildings comprising a total of 121 apartments (30 x 1 bedroom, 79 x 2 bedroom, 10 x 3 bedroom and 2 x 4 bedroom), landscaping, car parking for 199 vehicles over three levels of basement car park, and subdivision. The building is currently under construction.

- Subdivision and early works Development Application (DA 634/2017/ZB) was approved by Council's Development Assessment Unit on 29 August 2017, which sought to expedite the delivery of utility servicing and local road construction including Spurway Drive, Lucinda Avenue and Horatio Avenue as identified within the Development Control Plan. The application also assessed the deletion of Rosetta Crescent. Spurway Drive is currently under construction.
- Temporary display suite for the marketing and sales has been constructed fronting Fairway Drive (DA 60/2017/HA). The display suite will be demolished prior to the construction of the final stage of development.
- Consents for the demolition of all structures across the site have been approved across four separate DAs (610/2015/LA, 611/2015/LA, 612/2015/LA and 58/2017/HA).

Another Development Application relating to the site has also been lodged and is under assessment. Development Application 417/2018/HC is for Drainage and Vegetation Restoration Works in the Strangers Creek Corridor. This application is likely to be amended to only include a pedestrian bridge or be withdrawn given Sydney Water's is now acquiring SP2 land in the locality and undertaking creek embellishment works on the site.

PROPOSAL

The subject site is identified as Stage 2 of the masterplan application (736/2017/JP) on proposed Lot 4 under DA 779/2017/JP. The site is irregular in shape and will have vehicular access from the extension to Spurway Drive and Lucinda Avenue proposed under the subdivision and early works DA (634/2017/ZB). The site has a total area of 8,422m².

Summary

This Development Application seeks approval for the following development:

- Subdivision of the Community Title lot proposed under DA 779/2017/JP to create four lots (refer Attachment 11).
- Residential development consisting of 9 to 13 storey buildings "B1a" (200 Apartments) and "B1b" (130 Apartments) to be constructed in stages.
- Four levels of basement car parking for 539 vehicles (470 for residents and 66 for visitors).
- Provision of 6,880m² of communal open space including roof top space.

Built Form

The buildings will contain a total of 330 residential apartments comprising 83 x 1 bedroom, 214 x 2 bedroom, 29 x 3 bedroom and 4 x 4 bedroom units.

Vehicle access will be provided to a basement by a driveway from Spurway Drive. The four basement levels provide 539 car parking spaces incorporating 470 resident spaces and 66 visitor spaces, including 17 accessible spaces.

An on-site loading area is proposed within Level 2 with access directly to the Lucinda Avenue extension. The area has been designed to allow access by all vehicles up to 8.8m medium rigid vehicles, including Council's garbage truck, and enter and level the site in a forward direction by means of a turntable.

Communal open space will be provided primarily on the podium level with 1,232m² on the rooftop.

Subdivision

The proposal includes the subdivision of proposed Lot 4, a residue Lot created for Stages 2-5 as part of a separate application (779/2017/JP). The application proposes to create the following Lots identified at Attachment 11:

- Lot 5 – Stage 2 Lot (6,633 m² for Strata Subdivision)
- Lot 6 – Linear Park Lot (1,808 m² for transfer to Community Assoc.)
- Lot 7 – Residue Lot for Stages 2a and 5 (1.442 ha for future Community subdivision)
- Lot 8 – Residue Lot for Stages 3 and 4 (2.154 ha for future Community subdivision)
- Lucinda Road extension for dedication.

ISSUES FOR CONSIDERATION

1. Compliance with The Hills Local Environmental Plan 2012

a. Permissibility

The land is zoned R4 High Density Residential under Local Environmental Plan 2012. The proposal is a residential flat building which is permissible in the zone.

b. Zone Objectives

The site is zoned R4 High Density Residential under The Hills LEP 2012. The objectives of the zone are:

R4 High Density Residential Objectives

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage high density residential development in locations that are close to population centres and public transport routes.*

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal will provide for a land use to meet the needs of the surrounding residents and is also considered to provide an alternative housing option for future residents.

As such the proposal is considered satisfactory in respect to the LEP 2012 objectives.

c. Development Standards

The following addresses the principal development standards of the LEP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height	18 and 36 metres	43.2 metres	No
4.4 Floor Space Ratio	1.5:1 and 3.2:1 (32,536m ²)	32,869m ²	No
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	Variations proposed to the LEP are addressed below.	Yes

7.11 Residential development yield on certain land	Where development exceeds 600 dwellings certain the development must provide a specific mix, unit sizes and parking.	A total of 451 dwellings approved and proposed however Clause addressed given the development site will exceed 600 dwellings under future applications	NA, however addressed below.
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d. Variation to Height

LEP 2012 limits the height of the development site to 18 and 36 metres. The proposal has a maximum height of 43.2 metres which is located within the 18 metre height part of the site therefore a variation of 27.2 metres or 140% is sought:

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 16.

Clause 4.6 Exceptions to Development Standards states:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

(5) In deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4,*
- (ca) clause 6.1 or 6.2,*
- (cb) clause 7.12.*

In determining the appropriateness of the variation request a number of factors identified by the Applicant have been taken into consideration to determine whether the variation is supportable in this instance. They include:

- The development is consistent with the objectives of the development standard as provided in Clause 4.3(1) of THLEP 2012.
- The proposal is consistent with the approved Masterplan.
- The proposed development seeks to vary the maximum building height controls for the site on the premise that the development is consistent with the number of storeys as intended.
- The scale and mass of the buildings is compatible with the established built form within the immediate context of the site.
- The proposed built form responds to the topographical constraints of the site.
- The proposal has been designed to comply with the floor to ceiling height requirements specified in the Apartment Design Guide.
- The massing of the building, particularly upper storeys minimise overshadowing impacts on neighbouring buildings to the south.

Comment: The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints. The development facilitates higher densities close to the Norwest station and centre.

The site was identified with the planning proposal to cater for 6-12 storeys and the proposal is generally consistent with these outcomes. The variations to height are generally in response to providing alternate planning outcomes that lessen impacts on adjoining properties. In both instances greater separation and open space is provided adjacent to the boundary in excess of that required under the DCP with compliant schemes.

In summary, the applicant has undertaken a solar analysis to quantify the impact of the developments adjacent to the development site. This development does impact solar access to a number of developments existing and under construction, however it is considered that impacts relating to solar access are reasonable and do not warrant any further amendments to the south-west and south of the site. Attachments 12 and 13 of this report detail extracts of the analysis the applicant has undertaken. It is noted that the applicant has provided an indicative LEP height envelope shadow, a shadow envelope based on an interpolated height based on the number of storeys envisaged under the planning proposal to ADG floor to ceiling heights, and the actual shadows including built form for adjacent stages under the approved masterplan. The shadowing does include minor differences between each of the scenarios however the impact is consistent throughout the day. It can also be seen that specific modulation of the proposed building, such as the reduction to 9 storeys in the south west corner of the development assist in reducing impacts on the properties to the south to achieve the required criteria.

The impact of the development on the townhouses to the south west of the development site was considered as part of the masterplan application and has been further modelled as part of this application. Council's DCP Part B Section 5 Residential Flat Building requires that buildings must be designed to ensure that adjoining residential buildings and the major part of their landscaped area receive at least four hours of sunlight between 9am and 3pm on 21 June. The Applicant has demonstrated in the solar analysis all 14 units continue to receive 4 hours direct sunlight between 9am and 3pm on 21 June.

The impact on the solar access of the existing residential flat building development at No. 38 Solent Circuit has been addressed by the Applicant. There are four apartments on the four lower levels that currently enjoy unimpeded solar access throughout the day. The subject proposal will impact these apartments in mid-winter and they will not receive 2 hours solar access due to the shadow impacts from this development, and likely impacts from the future stage 3 development. These apartments will still receive over 1 hour of solar access between approximately 10.45am and midday (mid-winter). The applicant also notes that these units are also dual aspect, with the primary orientation of these units being west.

Although it is acknowledged in both instances that these dwellings currently enjoy uninterrupted solar access throughout the day it would be unreasonable to expect that any development on the subject development site would not to some degree impact upon existing solar access conditions. The impacts relating to solar access are reasonable and do not warrant any further amendments.

In addition to the matters above it is noted that building height and number of storey identified in the Planning Proposal was based on a floor to floor height of 3 metres. The masterplan proposal exceedance is also attributed to site topography, lift over runs and minimum floor to ceiling heights in the ADG of 3.1 metres.

Specifically, in relation to recent judgments of the Land and Environment Court, for the reasons identified in this report and the Applicant's Clause 4.6 Variation Request, it is considered that the variation can be supported as:

- The Applicant's request is well founded;

- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R4 High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- The proposal results in a better planning outcome as it provides for additional and improved open space, greater retention of significant trees and a better building relationship to adjoining properties. The increased height also facilitates increased floor to ceiling heights to increase the amenity of future residents.

It is also noted that in accordance with the Departments Circular PS 18-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

e. Variation to Floor Space Ratio

As outlined within the masterplan application, the LEP 2012 limits the FSR of the development site to three ratios being 1.5:1, 2.6:1 and 3.2:1. The subject application has two floor space ratios mapped for this part of the site, being 1.5:1 and 3.2:1. This would equate to an allowable floor space of 32,536m². A floor space of 32,869m² is proposed.

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 16. Clause 4.6 Exceptions to Development Standards is quoted in t this report.

Across the site floor space ratio is not exceeded however the masterplan approved variations to FSR which are attributed to a redistribution built form on the site.

In determining the appropriateness of the variation request a number of factors identified by the Applicant have been taken into consideration to determine whether the variation is supportable in this instance. They include:

- The development is consistent with the objectives of the development standard as provided in Clause 4.4(1) of THLEP 2012 as discussed above.
- The scale and mass of the buildings is compatible with the established built form within the immediate context of the site.
- Floor space ratio across the site is not exceeded.
- The redistribution of FSR has allowed tree and vegetation retention to be maximised.

Comment: The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints. The development facilitates higher densities close to the Norwest station and centre. The floor space ratio variation on this part of the site does not result in any further detrimental impacts on adjoining developments. Significantly it is not proposed to exceed the total number of dwelling permitted across the whole site.

The alternate built form across the site complies with the total floor space permitted on the site and has allowed as part of the masterplan application vegetation including Cumberland Plain Woodland on the site being retained.

Specifically in relation to recent judgments of the Land and Environment Court, for the reasons identified in this report and the Applicant's Clause 4.6, it is considered that the variation can be supported as:

- The Applicant's request is well founded;

- The proposed variation results in a development that is consistent with the objectives of Clause 4.4 Floor Space Ratio and the R4 High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- The proposal results in a better planning outcome as the redistribution of FSR has allowed tree and vegetation retention to be maximised.

It is also noted that in accordance with the Departments Circular PS 18-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

f. Variation to Clause 7.11 - Residential development yield on certain land

Clause 7.11 of the THLEP 2012 includes requirements specific to the subject site. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings. The clause requires that where more than 600 dwellings are proposed, the development must provide a specific mix, unit sizes and parking. The proposal is the second stage of development on the site. In addition to the approved stage 1 development (121 units) and this development (330 units), development on the site has not yet exceed 600 dwellings (451 units); however it formed part of a master planned outcome considered under the masterplan application (736/2017/JP) that will comprise 1,300 dwellings once fully developed. The clause in its entirety states:

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

- (a) to ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets,*
- (b) to ensure that development for residential flat buildings does not place an unreasonable burden on the provision of services, facilities and infrastructure in the area to which this clause applies,*
- (c) to provide opportunities for suitable housing density that is compatible with existing development and the future character of the surrounding area,*
- (d) to promote development that accommodates the needs of larger households, being a likely future residential use.*

(2) This clause applies to land identified as “Area B” on the Key Sites Map.

(3) The consent authority may consent to the erection of residential flat buildings on the land containing a maximum of 1,300 dwellings.

(4) If development under this clause will result in no more than 600 dwellings in residential flat buildings, development consent may be granted for the development only if the height of each residential flat building does not exceed 16 metres.

(5) If development under this clause will result in more than 600 dwellings in residential flat buildings, development consent may be granted for the development only if:

- (a) no more than 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are studio or 1 bedroom dwellings, or both, and*
- (b) at least 10% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are 3 or more bedroom dwellings, and*
- (c) the development comprises the following:*

- (i) Type 1 apartments—up to 30% of the total number of dwellings (to the nearest whole number of dwellings), and
- (ii) Type 2 apartments—up to 30% of the total number of dwellings (to the nearest whole number of dwellings), and
- (iii) Type 3 apartments, and
- (d) the following minimum number of car parking spaces are provided in the development:
 - (i) for each 1 bedroom dwelling—1 car parking space, and
 - (ii) for each 2 or more bedroom dwelling—2 car parking spaces, and
 - (iii) for every 5 dwellings—2 car parking spaces, in addition to the car parking spaces required for the individual dwelling.

(6) In this clause:

Type 1 apartment means:

- (a) a studio or 1 bedroom apartment with an internal floor area of at least 50m² but less than 65m², or
- (b) a 2 bedroom apartment with an internal floor area of at least 70m² but less than 90m², or
- (c) a 3 or more bedroom apartment with an internal floor area of at least 95m² but less than 120m².

Type 2 apartment means:

- (a) a studio or 1 bedroom apartment with an internal floor area of at least 65m² but less than 75m², or
- (b) a 2 bedroom apartment with an internal floor area of at least 90m² but less than 110m², or
- (c) a 3 or more bedroom apartment with an internal floor area of at least 120m² but less than 135m².

Type 3 apartment means:

- (a) a studio or 1 bedroom apartment with a minimum internal floor area of 75m², or
- (b) a 2 bedroom apartment with a minimum internal floor area of 110m², or
- (c) a 3 or more bedroom apartment with a minimum internal floor area of 135m².

internal floor area does not include the floor area of any balcony.”

The applicant proposes to vary the unit sizes and parking requirements of the Clause by way of a Clause 4.6 Variation. This is addressed below.

As identified above, Clause 7.11 of the THLEP 2012 includes requirements specific to the subject site. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings across the site, however if development will result in more than 600 dwellings, the development must provide a specific mix, unit sizes and parking. As identified above this clause is not yet activated; however the Applicant addressed this matter as part of the approved masterplan. This application remains consistent with the variation approved under the masterplan however has been addressed in detail as part of this application.

In summary the following tables detail the applicable planning controls:

Apartment Mix	LEP Development Standard	Proposal	Compliance
One Bedroom	25% (Maximum)	25%	Yes
Three/Four Bedroom	10% (Minimum)	10%	Yes

Apartment Typology	LEP Development Standard	Proposal	Compliance
Type 1 Apartments	<30%	57%	No
Type 2 Apartments	<30%	21%	Yes
Type 3 Apartments	N/A	22%	N/A

Parking Type	LEP Development Standard	Proposed Rate	RMS Requirements
1 Bedroom	1 car space	1 car space	0.6
2 Bedroom	2 car spaces	1.5 car spaces	0.9
3 & 4 Bedroom	2 car space	2 car spaces	1.40
Visitor	2 spaces per 5 units	1 space per 5 units	1 space per 5 units

Clause 4.6 Exceptions to Development Standards is quoted in this report.

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 16.

Apartment Size

The proposed development will result in greater than 30% of apartments being classified as Type 1 under the sizes specified in Clause 7.11(5). While the proposed varies from the required typology mix by 27%, the apartment sizes for Type 2 and 3 apartments are less than the requirements by between 2m² to 8m² (2-7%).

The applicant considers that the proposed apartment sizes, which are generally much larger than ADG requirements are appropriate and outline that residents will also have access to a range of high quality facilities which will be delivered in future stages of the masterplan, including a fitness centre, outdoor swimming pool, indoor cinema, multi-purpose room and extensive open space areas. They feel the extent of facilities provided will set a new standard for the amenity of developments in the surrounding area and will promote social interactions and lifestyle choices for future residents.

The objectives of the Clause to provide a mix of dwelling types, providing housing choice for different demographics, living needs and household budgets, as well as to promote development that accommodates the needs of larger households, are maintained. The extent of variation to the apartment sizes (between 2 - 8m²) is minimal and considered reasonable given the facilities and open space which will be provided.

Car Parking

The development provides a total of 539 car parking spaces within the basement carpark. Based on strict compliance with the car parking rates specified under Clause 7.11, the proposal would require 709 spaces.

While the development will provide 170 fewer basement spaces, the car parking provided is well in excess of the 356 spaces specified by the RMS' *Guide to Traffic Generating Development* for developments within 800 metres of a railway station. The subject site is within 650m walking distance to Norwest Station.

The proposal specifically identifies a reduction in parking for 2 bedroom apartments to a rate of 1 to 1.5 spaces. The Applicant has identified that under this strategy, smaller 2 bedroom units would receive 1 parking space while larger units would receive 2 spaces.

To support the reduction in parking for 2 bedroom apartments the applicant has proposed the use of car share vehicles from the outset of the development. Four vehicles will be provided.

The application also includes the reduction in visitor parking to 1 per 5 apartments resulting in 66 visitor spaces being proposed. It is noted that the above 2 bedroom rate (1.5 spaces per 2 bedroom unit) approved for the Norwest Town Centre Residential Precinct – East immediately to the south of the site.

The variation to the car parking development standard is consistent with the masterplan approval and the earlier built form approval for the Stage 1 application 779/2017/JP. The variation is considered reasonable given the proposed provision is far in excess of the RMS requirements and given the car-share scheme proposed.

Specifically in relation to recent judgments of the Land and Environment Court, for the reasons identified in this report it is considered that the variation can be supported as:

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 7.11 and the R4 High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- The proposal results in a better planning outcome as it will provide for dwellings that are well serviced and meet the demographics of the Shire and encourage alternative transport use including the use of the north-west metro whilst still meeting the needs of residents and visitors.

It is also noted that in accordance with the Departments Circular PS 18-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

g. 7.7 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 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 are included at Attachment 15. The comments made to the application included:

1. *The panel raised concerns about the development overshadowing itself.*
2. *The break- down of built form massing through architectural articulation was commended.*
3. *The panel queried a number of ADG compliance issues however the applicant was of the view they all required controls have been addressed.*

Some concerns were:

- *Equity of access to the communal open space on the rooftop.*
- *Some corridors in south eastern portion of development are excessive in length and do not meet the design guidelines 4F in the ADG.*
- *Visual privacy between apartments within the development at internal courtyard corners*
- *Overshadowing of the ground level communal open space and facilities by the north east development block.*
- *Solar access compliance was not clearly demonstrated for this development.*

4. *The development has increased the setback to the north and decreased the street frontage setback to the street. This inevitably increases overshadowing of Spurway Drive and the residential flat development to the immediate south of the proposal.*

In relation to comments above the following comments are provided in response to the matters raised above by the panel;

The applicant has undertaken a detailed solar analysis. The ADG requires that Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2

hours direct sunlight between 9 am and 3 pm at mid-winter and a maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.

The proposed development will achieve a minimum of two hours solar access for 57.9% (191 of 330) of apartments between 9am and 3.00pm. There are 25% (84 of 330) of apartments that will not receive any solar access between 9.00am and 3.00pm.

The applicant has sought to demonstrate that appropriate solar access is provided to an appropriate number of units if the time period between 3.00pm and 4.00pm is included in the calculations. The solar access calculations for the 9.00 am to 4.00 pm time period on the winter solstice indicated that a further 40 apartments will receive solar access to living areas on June 21 and an additional 30 apartments will receive some solar access on June 21. Based on the additional hour, the proposed development will achieve two hours solar access for 70% (231 of 330) of apartments between 9.00 am and 4.00 pm on the winter solstice. There are 16% (54 of 330) of apartments that will not receive any solar access between 9.00 am and 4.00 pm.

In relation to overshadowing, the solar access to north facing units of an approved development on the adjacent site will be reduced as a result of non-compliant street setback, these comments related to the development known as 'Watermark' at No. 38 Solent Circuit. The Applicant has undertaken a solar analysis which identified that 70% of the units on the northern facade of this building will continue to achieve at least 2 hours of solar access to living spaces and private open space areas.

It is considered that the level of compliance achieved is reasonable given the planned intended outcome for the site and that the site is located to the north of the existing development on the adjacent sites. Given the built form proposed and approved, the locality will experience impacts on solar access. The applicant has modelled the impacts on adjoining developments and modulated the built form of the proposal to provide appropriate solar access for adjoining developments.

The other matters raised by the panel have been addressed in this report however it is considered that the proposal exhibits design excellence and satisfies Clause 7.11 of the LEP.

h. Other Provisions

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

- 5.9 Preservation of trees or vegetation;
- 5.10 Heritage Conservation
- 6.2 Public utility infrastructure; and
- 7.2 Earthworks

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

2. State Environmental Planning Policy No. 55 Remediation of Land

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

Clause 7 of the SEPP states:-

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

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

Comment:

A Stage 1 Preliminary Site Investigation been undertaken by SLR Consulting Australia Pty Ltd. The investigation found that the potential for low-level and isolated contamination to be present on the site, as a result of past and present land use activities, is considered to be low to moderate.

However, given the extent of the excavations and the nature of landscaping works anticipated with the proposed development, any contamination that may be present on site is likely to be removed offsite or covered by the landscaped material.

The investigation also found that potential asbestos impacted soil (if any) is likely to be excavated as part of the basement excavation, cleared as part of the site clearance work or covered with landscaping material as part of the proposed development. As such, asbestos contamination, if present, is unlikely to pose an unacceptable risk to future site users. A condition is recommended that requires all asbestos material to be removed from the site.

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

The required Design Verification Statement was prepared by Cecilia Huang registration number 8576 of Turner Architects.

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

Principle 1: Context and neighbourhood character

The proposal is compatible with the existing and desired context and neighbourhood character of the precinct. The proposal seeks to respond to and contribute to the context of Norwest both in its present state as well as the desired future character.

The locality is comprised of a mixture of existing residential buildings, low to medium and high density, multi-residential and single dwellings, with the future vision of the area zoned to encourage an increased scale of high density residential development adjacent to the site.

Principle 2: Built form and scale

The proposal is consistent with the requirements of the Hills Council LEP, and is appropriately articulated to minimise the perceived scale. Generous rear setback, separation and variety along the elevations and layering of façade elements, assist in creating expressive street frontages and enhancing the developments relationship with the public domain.

Principle 3: Density

The subject proposal provides for 330 dwellings which will form part of 1300 dwellings across the development site. The density complies and is appropriate for the site and precinct.

Principle 4: Sustainability

The design achieves natural ventilation and solar access as required by the Apartment Design Guidelines. 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.

Principle 5: Landscape

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

Principle 6: 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 7: Safety

The development has been designed with safety and security concerns in mind. The common open spaces are within direct view of occupants to allow passive surveillance. Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened.

The NSW Police have reviewed the Development Application and outlined a number of CPTED recommendations. Compliance with NSW Police recommendations will be recommended as a condition of consent.

Principle 8: Housing diversity and social interaction

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development complies with the mix requirements of the LEP. The application includes 83 x 1 bedroom, 214 x 2 bedroom, 29 x 3 bedroom and 4 x 4 bedroom units.

Principle 9: Aesthetics

The proposal integrates a number of recesses and projections into the facades of the structure to articulate the overall mass and form into smaller segments. The bulk of the overall building works and height is reduced by the articulation of the facades, creating smaller segments in order to minimise the overall bulk and scale of the development. The design is modern in style and appropriate for the area.

Apartment Design Guidelines

In accordance with Clause 30(2) of SEPP 65, a consent authority in determining a Development Application for a residential flat building is to take into consideration the

Apartment Design Guidelines. The following table is an assessment of the proposal against the Design Criteria provided in the Apartment Design Guidelines.

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.	Yes, 69% of the development site area (5,336m ²). The communal open space area will receive at least 83% direct sunlight for 2 hours at during midwinter.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes, 30% of the development site area is true deep soil zones as defined within the ADG.
Separation	For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys.	Yes
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Yes Greater than 18 metres provided between buildings and greater than 9 metres to adjoining allotments. The visual privacy of the development has been duly considered with the placement of windows and balconies. Separation distances between habitable / non habitable spaces are considered to be adequate. Screening devices set at oblique angles have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future

		residents and adjoining properties.
Carparking	<p>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</p>	<p>Yes</p> <p>The site is located within 800m of the future Norwest Station. 356 Spaces would be required utilising the RMS rate, 539 spaces are provided</p>
Designing the Building		
Solar and daylight access	<p>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.</p>	<p>No. The proposed development will achieve two hours solar access for 57.9% (191 of 330) of apartments between 9am and 3.00pm. There are 25% (84 of 330) of apartments that will not receive any solar access between 9.00am and 3.00pm.</p> <p>The solar access calculations for the 9.00 am to 4.00 pm time period on the winter solstice indicated that a further 40 apartments will receive solar access to living areas on June 21 and an additional 30 apartments will receive some solar access on June 21. Based on the additional hour, the proposed development will achieve two hours solar access for 70% (231 of 330) of apartments between</p>

	<p>2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>9.00 am and 4.00 pm on the winter solstice.</p> <p>There are 16% (54 of 330) of apartments that will not receive any solar access between 9.00 am and 4.00 pm.</p>
Natural ventilation	<p>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.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Yes. A total of 60.9% of units will meet the cross ventilation requirements or can be naturally ventilated.</p> <p>Yes The maximum overall depth is 18 metres for a cross through apartment.</p>
Ceiling heights	<p>For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30⁰ minimum ceiling slope.</p> <p>If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p>	<p>Yes Floor to ceiling height approx. 2.7 metres for all apartments.</p> <p>NA</p>
Apartment size	<p>1. Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	<p>Yes</p> <p>1 bedroom – 59-77m² 2 bedroom – 79.5-101m² 3 bedroom – 118-128m²</p> <p>Where additional bathrooms are proposed, an additional 5m² has been provided.</p> <p>Yes – 184m²</p>

	<p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p>All habitable rooms have windows greater than 10% of the floor area of the dwelling.</p>
Apartment layout	<p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts</p>	<p>Yes</p> <p>All rooms comply.</p>
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>Yes</p> <p>All balcony sizes and depths comply.</p>
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Yes</p> <p>NA</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>Yes</p> <p>Each unit contains the minimum storage area.</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>Yes</p> <p>The apartment mix is satisfactory.</p>

4. Compliance with The Hills Development Control Plan 2012

The proposal has been against the relevant provisions of The Hills Development Control Plan 2012 noting that some standards such as density, number of storeys, unit typology and parking are superseded by the site specific provisions in the LEP.

The proposed development achieves compliance with the relevant requirements of the development controls with the exception of the following:

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 5 Residential Flat Buildings - Clause 3.3(2)(a)	Front Setback 10m	Setback to Spurway Drive 6m to facade (5.3 metres to balcony levels 1 to 9)	No

a) Front Setback

The DCP requires a front setback for residential flat buildings of 10 metres. The subject development is set back 6 metres to the building façade and a cantilevered balcony set back 5.3 metres.

The relevant objectives of this clause of the DCP are:

- (i) *To provide setbacks that complement the setting and contributes to the streetscape and character of the street while allowing flexibility in siting of buildings;*
- (ii) *To ensure that the space in front of the building is sufficient to permit landscaping that will complement the building form and enhance the landscape character of the street.*
- (iii) *Side and rear setbacks are to be proportioned to the slope of the site having regard to the height and relationship of the buildings on adjoining properties.*
- (iv) *The setbacks of proposed buildings are to minimise any adverse impacts such as overshadowing and privacy on adjacent and adjoining properties.*
- (v) *To ensure placement of buildings takes into account the retention and protection of existing trees.*

The applicant has provided the following justification for the variation.

"In line with the DCP objectives, the proposed setbacks have been developed to:

- *Complement the setting and contribute to the streetscape and character of the street by providing for greater separation of the proposed building envelopes adjacent to existing low rise development to the north and south;*
- *Allow flexibility in siting of buildings;*
- *Preserve the existing natural features of the site.*

The proposed variation to setbacks have been carefully considered.

- *The 20m setback to the north boundary allows for retention of an additional 93 existing trees.*
- *The wider road dedication (from 15.5m to 16.5m) provided for Spurway Drive remains consistent with Council's strategy*
- *The reduced street setback to Spurway Drive will still provide building separation distances in excess of the required minimum from the boundaries.*
- *The proposed setback of 6m to the Spurway Drive extension allows landscaping that will complement the building form and enhance the character of the street through*

the provision of a landscaped bio-retention zone that runs the length of the proposed road extension.

The increased setback to the north (6m to 20m) will provide a new publicly accessible linear park with a range of spaces to promote active and passive uses. It will also provide greater separation from existing low rise residential to the north and retain existing significant trees.

The reduced setback to Spurway Drive (from 10m to 6m) is reflective of a more urban context within the close catchment of the new rail station and higher density area, and is appropriate for the function of the street.

The adopted setback will have minimal impact to the solar access of adjacent existing dwellings and higher density residential apartments, and retain a significant streetscape character with suitable landscaping as proposed. It should also be noted that the effect of the adopted setback is mitigated by the widening of the street as originally prescribed in the DCP from 15.5m to 16.5m.

Under the adopted setbacks, building separation between the proposed Stage 2 development and the adjacent residential development to the north and south will meet or exceed the minimum requirements of the DCP and ADG as the case may be.”

Comment:

The masterplan consent associated with this development application sought to establish a 6m setback along Spurway Drive. This was not supported under the masterplan at that time. The panel determined that all future built form applications east of Stranger’s Creek shall address the Development Control Plan and justify any setback encroachments. The development site is located on the future Spurway Drive extension. The locality will comprise a number of residential flat buildings on both the northern and southern sides of Spurway Drive.

There is a recently completed development that fronts Solent Circuit (No. 38 Solent Circuit), and will adjoin the future Spurway Drive at the rear of this building. This building has a northern setback of 6 metres to the podium which is up to 3 metres above natural ground level and 8.5 metres to the building. Also under construction at No 40 Solent Circuit is a 12 storey residential flat building which has a 6 metre setback to the future Spurway Drive. It is considered that sufficient space remains for adequate landscaping and the reduced setback will not lead to any detrimental overshadowing or privacy impacts.

The matters relating to overshadowing have been addressed in this report. In relation to overshadowing, the solar access to north facing units of an approved development on the adjacent site will be reduced. The Applicant has undertaken a solar analysis which identified that 70% of the units on the northern facade of this building will continue to achieve at least 2 hours of solar access.

In this regard, it is considered that the site is appropriate in this instance and the variation to the front setback control is supported.

5. Issues Raised in Submissions

The application was advertised and notified and submissions from 10 properties were received. A petition was attached to one of the submissions. A summary of the submissions is detailed below:

ISSUE/OBJECTION	COMMENT	OUTCOME
The extension of Spurway Drive needs to be undertaken	Although the construction of Spurway Drive has commenced,	Issue addressed. Refer Condition No. 46.

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>first to allow all trucks and trades person's vehicles to deliver their goods and park on site and not spill over into the residential streets of Lucinda and Horatio Avenue.</p>	<p>there is no requirement for these works to be completed prior to the construction of this development commencing. A condition was imposed on the preceding stage 1 application 779/2017/JP (currently under construction) that;</p> <p>"No Occupation Certificate can be issued until Spurway Drive extending from Fairway Drive to the eastern boundary of proposed development on lot two has been dedicated as public road. Under no circumstances will residential access be permitted from eastern end of Spurway Drive."</p> <p>The subject proposal is located between the approved development and the western connection point of Spurway Drive being Fairway Drive which will ensure that Spurway Drive connected to the development will be completed prior to the building being occupied.</p> <p>Given the size of this proposal a condition is recommended that a detailed Construction Management Plan is to be submitted to and approved by Council's Manager Development Assessment prior to the issue of a Construction Certificate. The plan is to detail that during all stages of construction, on-site parking is to be provided for workers.</p>	
<p>Sekisui House needs to notify surrounding residents and provide evidence of the approved route taken by trucks (utilising Spurway Drive) and of the allocated onsite parking for trades persons plus an escalation process if these practices are not complied with to ensure that all trucks and trades persons vehicles are not</p>	<p>It is recommended that conditions be imposed requiring a Construction Management Plan and Traffic Management Plan be prepared and submitted to and approved by Council's Manager Development Assessment prior to the issue of a Construction Certificate. As indicated above there is no requirement that Spurway drive be completed and used for construction access for</p>	<p>Issue addressed. Refer Condition Nos. 46 and 53</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>deviating from the approved plan.</p>	<p>this development. Appropriate access paths will be considered prior to construction commencing.</p>	
<p>The solar studies undertaken and provided in respect of the shortest winter day, 21 June, show that no sunlight will be accessible by my property until 11.00 am. This outcome is totally unacceptable to me, especially when I am not being told how the remainder of the development to the west of this Development Application (heading towards Fairway Drive) will impact my solar access. Light is extremely important to me and the main reason I purchased the house was due to the wonderful light the house gets all year round. This winter I only had to turn my heating on three times as the house is warmed during the day and retains the heat extremely well into the evening. This change will have a huge impact on my son and I and the absolute enjoyment we get from the house.</p>	<p>The impact of the development on the townhouses to the south west of the development site was considered as part of the masterplan application and has been further modelled as part of this application. Council's DCP Part B Section 5 Residential Flat Building requires that buildings must be designed to ensure that adjoining residential buildings and the major part of their landscaped area receive at least four hours of sunlight between 9am and 3pm on 21 June. The Applicant has demonstrated in the solar analysis all 14 units receive 4 hours direct sunlight between 9am and 3pm on 21 June.</p> <p>The impact on the solar access of the existing residential flat building development at No. 38 Solent Circuit has been addressed by the Applicant. There are four apartments on the four lower levels that currently enjoy unimpeded solar access throughout the day. The subject proposal will impacts these apartments in mid-winter and they will not receive 2 hours solar access due to the shadow impacts from this development, and likely impacts from the future stage 3 development. These apartments will still receive approximately 1 hour of solar access between 10.45am and 11.45am (mid-winter). The applicant also notes that these units are also dual aspect, with the primary orientation of these units being west.</p> <p>Although it is acknowledged in both instances that these dwellings currently enjoy</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
	<p>uninterrupted solar access throughout the day it would be unreasonable to expect that any development on the subject development site would not diminish existing solar access conditions. The impacts relating to solar access are reasonable and do not warrant any further amendments.</p>	
<p>The Council lifted the allowable height from 16 metres (around 5 storeys) to 36 metres. This is a huge lift in allowable height with significant benefit to the Applicant. I noticed that they are actually seeking approval for 43.2 metres, which is an additional 7.2 metres. This is huge on top of the already huge uplift given. I would like to understand the impact on my solar access if the height is restricted to the 36 metres (in conjunction with the impact on solar access for what is being proposed to the west of the site towards Fairway Drive).</p>	<p>The variation to height particularly in relation to overshadowing is addressed in Section 1 of this report. It is acknowledged that the variation has a greater impact on solar access however the impacts in associated with the built form foreshadowed under the masterplan result in an acceptable outcome. This includes 4 hours direct sunlight between 9am and 3pm on 21 June to the townhouses to the south west of this development, and 2 hours solar access to 70% of units to the apartment development directly to the south of this proposal.</p>	<p>Issue addressed.</p>
<p>Since I have lived in my house I have noticed extremely strong winds that come down from the direction of Hillsong Church and from the direction of the Watermark and Haven apartments / development. I am unsure what assessments have been made in respect of impact on wind and strength of wind but I would like to understand this to ensure this has also been taken into account.</p>	<p>Although not required, the applicant undertook a wind assessment as part of the masterplan application. The assessment concluded that the environmental wind conditions at ground level around the proposed development are expected to meet the relevant pedestrian standing, walking comfort and distress criteria. The irregular distribution pattern of the buildings as well as the landscaping will assist in reducing the impact of strong winds on pedestrians at ground level.</p>	<p>Issue addressed.</p>
<p>The Applicant notes that the objectives of the height of buildings development</p>	<p>The variation to height is addressed in Section 1 of this report. The planning proposal for</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>standard are:</p> <ul style="list-style-type: none"> • To ensure that the height of buildings is compatible with that of adjoining developments and the overall streetscape; and • To minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas. <p>If this was to be applied in respect of the Applicant's Development Application, the proposed height would be no more than eight stories, which is in line with the Watermark apartments. As you move east along the site towards Windsor Road, the height would increase and as you move west towards Fairway Drive the height would reduce to four stories.</p> <p>The Applicant goes on in its report to ask for flexibility, without considering the amenity of its neighbours. The height requested by the Applicant in its Development Application is totally out of line with the adjoining buildings, which is totally unnecessary given the size of the site as it continues east towards Windsor Road. This results in a huge impact on overshadowing, visual impact and loss of privacy. Given this, the Development Application as submitted does not meet the objectives of the standard.</p> <p>The Applicant goes on to consider if the variations requested are well founded (refer section 4.6.7 of their report). In their response to this, they have only considered their own</p>	<p>the site foreshadowed a building 12 storeys in height and the applicant has provided an assessment based on a 12 storey development based floor to ceiling heights prescribed by the Apartment Design Guide. The overshadowing impacts are generally consistent (refer Attachment 12). To assist in meeting the relevant overshadowing criteria, the applicant has reduced the south western corner of the development to nine storeys.</p>	

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>situation, at no time have they considered the impact that these variations will have on my ability to enjoy what I love most about my home, my access to light. The statements are gratuitous in nature and have been provided in isolation of any community engagement. They state the <i>“proposed variations do not add significantly to the overall impact to adjoining land, uses, activities.”</i> Nowhere in their report could I find a report that shows solar access impact that is in line with the allowable height versus impact on height requested, so I am not sure how this statement could actually be made.</p>		
<p>Concern is raised that this application does not adequately address the growing traffic concerns on Solent Circuit. Currently, Solent Circuit is one lane in each direction. It is a very busy road with vehicles often speeding; it has insufficient lighting and no crossings to allow pedestrians to cross from one side to the other. The owners corporation feels that by approving such a large development, in addition to the ones already approved for Fairway Drive, Spurway Drive and Solent Circuit, the current inadequacies with Solent Circuit will only increase, amounting to increased vehicular access, causing increased safety concerns and difficulties for owners to both enter and exit Solent Circuit at any given point.</p>	<p>It is considered that the Spurway Drive connection to Fairway Drive associated with this development will alleviate some of the traffic concerns on Solent Circuit. The Spurway Drive extension is a pre-planned component of the overall Balmoral Road Release Area street network that was introduced into the DCP as a direct consequence of the planning proposal relating to this site.</p> <p>The upgrading and eventual dedication of Spurway Drive is a critical piece of road infrastructure that is essential to the precinct as a result of its linking of Fairway Drive to Windsor Road.</p> <p>The underlying planning proposal was forwarded to the Roads and Maritime Services and Transport for NSW for comment. Both agencies deemed that future development on the site is unlikely to have any unacceptable traffic implications</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
	in terms of road network capacity.	
<p>The developer has submitted a request for a 6 metre setback, when the DCP calls for 10 metres. Even if the building at zoned height of 35 metres, this is a sudden wall of windows and built environment. This needs to be set back to allow for maximum softening through landscaping and linear. As a minimum, it should be the 10 metres as per Council DCP.</p>	<p>The variation to the front setback is addressed in detail in Section 4 of this report. It is considered that sufficient space remains for adequate landscaping and the reduced setback will not lead to any detrimental overshadowing or privacy impacts. The matters relating to overshadowing have been addressed in this report.</p>	<p>Issue addressed.</p>
<p>We believe the car parking as proposed allows for an excessive number of carparks, and is totally inconsistent with the Transport Orientated Development (TOD). To allow this many car parks is unconscionable in this age of encouraging Public Transport. It will only increase and exacerbate the many traffic issues into the future.</p>	<p>The matters relating to parking have been addressed in Section 1 of this report. Given the proximity to the future Norwest station it is considered that the parking provided is appropriate.</p>	<p>Issue addressed.</p>
<p>Ratepayers in this area are particularly concerned about the traffic impact of this and the many other developments proposed in this area. We recently asked for a traffic plan for the area at your Council Office desk, only to be told that there isn't one. The obvious impact of increased traffic from this Spurway Drive development, the adjacent proposed development (282/2018/JP on Fairway Drive) and others we understand are proposed will add considerable traffic to already congested Fairway Drive, Solent Circuit, Northwest Boulevard and the peak hour near gridlocked Windsor Road.</p>	<p>The traffic impacts for the locality do not directly relate to this application. They are a matter for Council and the Roads and Maritime Service.</p>	<p>Issue addressed.</p>
<p>As Council is aware,</p>	<p>As indicated above, the traffic</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>occupancy rates of the Norwest Business Park having <65% unutilised office space. Apparently traffic congestion is the main reason for new tenants not wanting to take up lease opportunities. Congestion leading onto Old Windsor Road could be alleviated by using the T-Way at peak periods if bus demand reduces. This may reduce the pressure caused by the output from Lexington Drive in particular at peak time.</p>	<p>impacts for the locality do not directly relate to this application. They are a matter for Council and the Roads and Maritime Service.</p>	
<p>We are concerned for children using the local park (corner of Laura Street and Fairway Drive). There is no provision for parking and we know some traffic regularly exceeds speed limits along this stretch of Fairway. Furthermore, we understand the new school is planned to have around 1,000 students when completed. This will add considerably more traffic. At peak traffic, has consideration been given to emergency services' needs? Can the roads cope with ambulance, fire or police emergencies in these conditions? Have these been considered in any deliberations you make regarding the significant population increase in our area?</p>	<p>As indicated above, the traffic impacts for the locality do not directly relate to this application. They are a matter for Council and the Roads and Maritime Service.</p>	<p>Issue addressed.</p>
<p>We are concerned and bemused that the applicant undertook a community consultation with us yet have not listened to a single thing we have said as none of our feedback and suggestions have been included in any of the DA's submitted to Council. We as a community fully participated in a</p>	<p>Any consultation between the applicant and residents before lodgement of the application is not relevant to the assessment process. This application has been formally notified by Council and the submissions received have been considered in this report.</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>consultation process, not to oppose the development but to seek better outcomes for existing residents.</p>		
<p>We are further concerned that this is another DA for 330 homes and still the masterplan lodged on 9 November 2016 has not been approved. The outcome of this masterplan is a significant issue for us given the bulk, scale, height and setback of the proposed residential flat buildings directly behind our homes.</p>	<p>It is acknowledged that the subject application was submitted prior to the masterplan application being lodged. The masterplan Development Application 736/2017/JP has since been approved by the Sydney Central Planning Panel on 11 April 2018.</p>	<p>Issue addressed.</p>
<p>Given the recent concerns expressed by politicians at local, state and federal level regarding the extreme level of development in the Norwest, Bella Vista and Kellyville area directly related to the Norwest Metro, and given the fact that the masterplan for the development in question has not been determined, we request a full review of the development strategy for this precinct including the road alignment of Spurway Drive.</p>	<p>As indicated above, the masterplan Development Application 736/2017/JP has since been approved by the Panel on 11 April 2018. The subject proposal is consistent with the approved masterplan.</p>	<p>Issue addressed.</p>
<p>We are sick of hearing from the applicant, their planner, their architect, their consultants, Council and the JRPP that the decisions made “provide a better outcome”. We are sure they provide a better outcome for the applicant but they certainly do not provide a better outcome for the community. We would be happy to hear from any local community members who believe that this ongoing development will provide a better outcome for the community or in fact who support the proposal at all.</p>	<p>The variations to the LEP are required to demonstrate a better planning outcome. It is considered that the variations proposed within this application also provide a better planning outcome as detailed within this report.</p>	<p>Issue addressed.</p>

6. A Metropolis of Three Cities – the Greater Sydney Region Plan

The Central City District Plan contains 'Directions for Liveability' which include:

- Housing the City – Planning Priority C5 - Providing housing supply, choice and affordability with access to jobs, services and public transport; and
- A City of Great Places – Planning Priority C6 – Creating and renewing great places and local centres, and respecting the District's heritage.

The plan seeks to provide housing supply which is diverse and affordable and which meets the needs of residents and which bring people together. The plan seeks to provide housing in locations which are easily accessible by public transport to reduce commuting time. Housing should be located in places which are liveable, walkable and cycle friendly. Housing should also respond to the changing needs of residents and consider single person and aging households. Great places are defined as areas which have a unique combination of local people, built form and natural features which reflect shared community values and which attract residents, workers and visitors. Local centres act as a focal point for neighbourhoods and provide essential access to day to day goods and services.

Implementation and monitoring of the Plan and the potential indicators are as follows:

Direction 4: Housing the City: Providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population. Housing affordability is also a challenge that can affect job and lifestyle choices.

Direction 5: A City of Great Places: The creation and renewal of great places for people, together with better local accessibility through walking and cycling, will achieve local liveability that attracts and retains residents and workers. Great places exhibit design excellence and start with a focus on open spaces and a people-friendly realm.

The proposed development meets the intent of the Plan as follows:

- The proposal will provide a range of units types which will assist in meeting housing demands;
- The site is located in an area serviced by existing and future public transport and is in close proximity to the Norwest station; and
- The proposed will result in an appropriate built form outcome which responds to the desired future modern character of the area;

The proposal is considered satisfactory in regard to the Central City District Plan.

DEPARTMENT OF PRIMARY INDUSTRIES - WATER

The proposal was lodged as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the Department of Primary Industries - Water under the provisions of the Water Management Act, 2000. The Department of Primary Industries - Water have provided their General Terms of Approval (refer Attachment 17).

ROADS & MARITIME SERVICE COMMENTS

The State Environmental Planning Policy – Infrastructure 2009 requires development to be referred to the NSW Roads and Maritime Service where the development results in 200 or more vehicles with access to any road.

The NSW Roads and Maritime Service identified that Council should undertake an assessment on the traffic impacts on the locality given the creation of the link between Windsor Road and Fairway Drive. It is noted that this link is a pre-planned link contained within the Balmoral Road DCP. Although the densities have increased above what was initially planned concerns were not raised by the RMS during the planning proposal stage.

It is considered that this link will provide permeability through to Norwest Business Park and the higher density residential areas on the edge of the business park. Additionally, Council's Principal Traffic & Transport Coordinator has reviewed the proposal and raised no objection with respect to traffic generation.

NSW POLICE COMMENTS

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected (See Condition No. 3).

SUBDIVISION ENGINEERING COMMENTS

No objections are raised to the proposal subject to conditions.

TREE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection is raised to the proposal subject to conditions.

WASTE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

RESOURCE RECOVERY COMMENTS

No objection is raised to the proposal subject to conditions.

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, SEPP 65, SEPP 55, LEP 2012 and The Hills Development Control Plan and is considered satisfactory.

The variations to the LEP Height control, FSR and unit size and parking are addressed in the report and are considered satisfactory.

In relation to the Clause 4.6 Variation requests, it is considered that the Applicant's request is well founded, and the proposed variation results in a development that is consistent with the relevant objectives, and compliance with the standard are unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report.

The issues raised in the submissions have been addressed in the report. Further amendment or refusal of the application is not warranted.

Accordingly approval subject to conditions is recommended.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA-100-002	SITE PLAN	A	26/06/2017
DA-110-006	BASEMENT 04 PLAN	C	30/05/2018
DA-110-007	BASEMENT 03 PLAN	C	30/05/2018
DA-110-008	BASEMENT 02 PLAN	C	30/05/2018
DA-110-009	BASEMENT 01 PLAN	C	30/05/2018
DA-110-010	LEVEL 01 GROUND FLOOR PLAN	E	25/06/2018
DA-110-020	LEVEL 02 PLAN	E	25/06/2018
DA-110-030	LEVELS 03-09 PLAN	E	25/06/2018
DA-110-100	LEVEL 10 PLAN	D	30/05/2018
DA-110-110	LEVEL 11 PLAN	D	30/05/2018
DA-110-120	LEVEL 12 PLAN	D	30/05/2018
DA-110-130	LEVEL 13 PLAN	D	30/05/2018
DA-110-140	PLANT LEVEL PLAN	C	30/05/2018
DA-110-150	ROOF LEVEL PLAN	B	30/05/2018
DA-250-001	NORTH ELEVATION	B	01/02/2018
DA-250-101	EAST ELEVATION	B	01/02/2018
DA-250-201	SOUTH ELEVATION	B	01/02/2018
DA-250-301	WEST ELEVATION	B	01/02/2018
DA-250-401	COURTYARD EAST	B	20/10/2017
DA-250-501	COURTYARD WEST	B	20/10/2017
DA-350-001	SECTION AA	B	01/02/2018
DA-350-100	RAMP 1	A	26/07/2017
DA-350-101	RAMP 2	A	26/07/2017
DA-350-102	RAMP 3	A	26/07/2017

DA-830-001	MATERIALS AND EXTERNAL FINISHES	C	01/02/2018
DA-830-002	DETAIL VIEW A MATERIALS AND FINISHES	C	01/02/2018
DA-830-003	DETAIL VIEW B MATERIALS AND FINISHES	C	01/02/2018
DA-830-004	DETAIL VIEW C MATERIALS AND FINISHES	C	01/02/2018
DA-830-005	DETAIL VIEW D MATERIALS AND FINISHES	C	01/02/2018
DA-830-006	DETAIL VIEW E MATERIALS AND FINISHES	C	01/02/2018
DA-840-001	ADAPTABLE AND LIVEABLE UNITS	C	01/02/2018
DA-840-002	LIVEABLE APARTMENTS	C	01/02/2018

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. Compliance with Department Primary Industries - Water Requirements

Compliance with the requirements of the Department of Primary Industries - Water attached as Appendix (A) to this consent and dated 16 January 2018.

3. Compliance with NSW Police Force Requirements

Compliance with the requirements of NSW Police – Local Area Command as outlined in their letter dated 9 August 2017:

Surveillance:

- CCTV coverage is required to be installed to monitor all common areas and entry/exits points. Use of height indicator stickers on entrance/exit doors is required on entry/exit doors.
- Paint the lift shaft points and perimeter walls in the basement white to reflect light.
- Vegetation to be kept trimmed at all times.
- Installation of a security intercom system is required to access the residential parts of the basement car park and main lobbies. Each unit is to contain an intercom system to enable access for visitors to the basement car park and lobby. Security access is to be utilised at the entrance of the basement.
- Lighting:
- Lighting is to meet minimum Australian Standards. Special attention is to be made to lighting at entry/exit points from the building, the car park and driveways.
- Environmental Maintenance:
- Use of anti-graffiti building materials.
- High fencing during construction is to be used.
- Use of security sensor lights and a security company to monitor the site during construction phase are required.
- Access Control:
- Ground level units are required to have upgraded security measures in place such as doors/ windows being alarmed, thickened glass and sensor lights.
- High quality letter boxes that meet AS ISO9001:2008 are required.
- Lift from car park into the residential part of the building to be used with a fob or pin code is required.
- Entry into car park to be secured by a fob, remote/code access and camera are required.
- Ensure improved strength to security roller shutters/garage doors is used.
- Caged storage units are to be built up to the ceiling with a door with better quality locking mechanism are to be used.

- Fire doors are to be alarmed and a magnetic strip is required so that the door will shut closed.
- External doors that can be used to enter the car park or into the complex are required to have a plate installed to the door.
- Devices are to be fitted to enable windows to be locked at 12.5cm when the devices are engaged

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. Tree Removal

Approval is granted for the removal of trees numbered 164-168, 185-195, 205-211, 213-218, and 225 as detailed in the Arboricultural Impact Assessment prepared by Tree Wise Man dated September 2016 and additional trees detailed within Tree Risk Assessment prepared by McArdle Arboricultural Consultancy dated 12 June 2018.

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

6. 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.

7. Property Numbering

The responsibility for property numbering is vested solely in Council.

Approved street numbering for this development is:-

3 Lucinda Avenue, 21, 23 & 25 Spurway Drive, Kellyville

Approved Unit Numbering is as per plans submitted - Drawings DA-110-010, 020, 030, 100, 110, 120, 130 – Rev A with the exception unit numbers 107 and 108 which are to be swapped):

3 Lucinda Ave	21 Spurway Dr	23 Spurway Dr	25 Spurway Dr
Units 101-105	Units 106-110	Units 111-115	Units 116-120
Units 201-206	Units 207-214	Units 215-219	Units 220-226
Units 301-307	Units 308-318	Units 319-323	Units 324-330
Units 401-407	Units 408-418	Units 419-423	Units 424-430
Units 501-507	Units 508-518	Units 519-523	Units 524-530
Units 601-607	Units 608-618	Units 619-623	Units 624-630
Units 701-707	Units 708-718	Units 719-723	Units 724-730
Units 801-807	Units 808-818	Units 819-823	Units 824-830
Units 901-907	Units 908-918	Units 919-923	Units 924-930
Units 1001-1007	Units 1008-1014		Units 1015-1021
Units 1101-1107	Units 1108-1116		Units 1117-1124

Units 1201–1205	Units 1206–1212		Units 1213–1220
Units 1301-1305	Units 1306-1309		

Unit numbering cannot be repeated throughout the development.

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

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

8. Approved Subdivision Plan

The subdivision component of the development must be carried out in accordance with the approved plan of subdivision prepared by LTS Lockley Drawing 41917–44554DP Revision B dated 23/06/2017 except where amended by other conditions of consent.

9. Separate Application for Strata Subdivision

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

10. 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.

11. 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.

12. 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. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.
- Provision of give way signage and lines to ensure that there is clear priority on the ingress or egress at all ramps and tight corners/ locations.

13. Vehicular Crossing Request

Each driveway requires the lodgement of a separate vehicular crossing request accompanied by the applicable fee as per Council's Schedule of Fees and Charges.

14. Excavation/ Anchoring Near Boundaries

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

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

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

15. Finished Floor Level – Flooding

The finished floor level of all habitable levels must reflect the approved plans and are to be no lower than RL 69.91m AHD.

16. Approved Street Naming

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

17. Street Trees

Street trees must be provided for the section within or fronting the development site spaced between 7m 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 must comply with the requirements of Council. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

Alternatively, street trees can be planted by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

18. Recycled Water

The subject site must be connected to Sydney Water's Rouse Hill Recycled Water Scheme, unless written evidence from Sydney Water is submitted advising that this service is not available.

19. Road Opening Permit

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

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

20. 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.

21. 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.

22. Contamination Requirements

During demolition / excavation / construction the recommendations of the *Detailed Site Investigation* for 47 Spurway Drive, Baulkham Hills prepared by EI Australia, referenced as E23307 AA_Rev0, dated 6 April 2017 and submitted as part of the Development Application are to be complied with as part of this approval. Including but not limited to:

1. A hazardous materials survey is to be completed prior to the demolition of any existing structures; and
2. Waste classification of fill / soil is to be performed prior to any fill / soil removal on site in accordance with the EPA 2014 Waste Classification Guidelines, including offsite disposal to appropriately licenced waste management facilities.

23. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with protection measure and remedial work to be carried out in accordance with the Arboricultural Impact Assessment prepared by Tree Wise Men dated September 2016.

24. Adherence to Operational Waste Management Plan

All requirements of the Operational Waste Management Plan submitted as part of the Development Application must be implemented, except if contrary to other conditions of consent or otherwise directed by Council.

25. Communal Composting Areas

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

26. Management of Construction Waste

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

neighbouring public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place.

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

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

27. Management of Construction and/or Demolition Waste

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

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

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

28. Disposal of Surplus Excavated Material

The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without the previous written approval of Council prior to works commencing on site. Any unauthorized disposal of waste, which includes excavated material, is a breach of the Protection of the Environment Operations Act 1997 and subject to substantial penalties. Receipts of all waste/ recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

29. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council. The service must be arranged no earlier than one week prior to occupancy and no later than two days post occupancy. All requirements of Council's domestic waste collection service must be complied with at all

times. Contact Council's Resource Recovery Team to commence the applicable domestic waste service for the site.

30. Construction of Garbage Chute Rooms

All work involving construction of the four garbage chute rooms must comply with the requirements below. Minimum combined storage facility must be provided for 60 x 660 litre garbage bins and 60 x 660 litre recycling bins. Additionally, each room must contain a two-bin linear conveyor for garbage bins and recycling bins. The two-bin linear conveyor for garbage bins must also contain a compactor.

1. The layout of the garbage chute rooms must ensure that each bin is easily accessible and manoeuvrable in and out of the garbage chute rooms with minimal or no manual handling of other bins.
2. The walls of the garbage chute rooms must be constructed of brickwork or concrete blockwork.
3. The floor of the garbage chute rooms must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
4. The garbage chute rooms must have a waste servicing door, with a minimum clear floor width of 1.5m. Acceptable waste servicing doors are single or double swinging doors and roller doors.
5. All doors of the garbage chute rooms, when fully opened, must be flush with the outside wall and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
6. The garbage chute rooms must be adequately ventilated (mechanically).
7. The garbage chute rooms must be provided with a hose tap (hot and cold mixer), connected to a water supply, to facilitate bin washing. If the tap is located inside the garbage chute rooms, it must not conflict with the space designated for the placement of bins.
8. The garbage chute rooms must be provided with an internal light (artificial) such as an automatic sensor light.
9. The garbage chute rooms must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be permanently maintained by the Owners Corporation.
10. Finishes and colours of the garbage chute rooms are to complement the design of the development.

Bin Measurements (mm)

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

31. Construction of Garbage Holding Area

The garbage holding room must accommodate a minimum of 104 x 660 litre bulk bins, a turntable suitable for an 8.8m long MRV (AS2890.2-2002) with a 15 tonne gross vehicle mass, a garbage hoist suitable for 660 litre bulk bins, and a caged area for the interim storage and management of unwanted bulky goods. No walkway ramps are to exceed a gradient of 1:20.

32. Dual Waste Chute System

A dual chute for domestic garbage and recycling must be provided with openings on all residential levels of each core. The chutes must discharge into 660 litre bins placed on linear tracks within the garbage chute rooms. Garbage must be compacted at a ratio of 1.5:1 or 2:1. No compaction is permitted for recycling.

33. Access and Loading for Waste Collection

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

1. All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
2. The turntable must permanently maintained and in operation. The turntable must have capacity for an 8.8m long MRV (AS2890.2-2002) with a 15 tonne gross vehicle mass.
3. The loading area must allow additional space for access and loading and have appropriate signage such as no parking at any time.
4. The loading area must have a sufficient level of lighting, and allow additional space for access and loading (e.g. wheeling a bulk bin to the back of the collection vehicle for rear load collection).
5. Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of medium and heavy vehicles, remote access or other measure to ensure there is no requirement for collection contractors to exit the cab. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

34. 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.

35. Section 7.11 Contribution – Balmoral Road Release Area

The following monetary contributions must be paid to Council in accordance with Section 7.11 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>Purpose: 4 bedroom unit</i>	<i>Purpose: Credit</i>	<i>No. of 1 Bedroom units: 83</i>	<i>No. of 2 Bedroom units: 214</i>	<i>No. of 3 Bedroom units: 29</i>	<i>No. of 4 Bedroom units: 4</i>	<i>No. of Credits: 1</i>	<i>Total \$7.11</i>
Open Space - Land	\$ 10,171.16	\$ 17,803.72	\$ 25,661.88	\$ 25,661.88	\$ 25,661.88	\$ 844,206.28	\$ 3,809,996.08	\$ 744,194.52	\$ 102,647.52	\$ 25,661.88	\$ 5,475,382.52
Open Space - Capital	\$ 2,847.08	\$ 4,983.56	\$ 7,183.19	\$ 7,183.19	\$ 7,183.19	\$ 236,307.64	\$ 1,066,481.84	\$ 208,312.51	\$ 28,732.76	\$ 7,183.19	\$ 1,532,651.56
Transport Facilities - Capital	\$ 2,397.28	\$ 4,196.22	\$ 6,048.34	\$ 6,048.34	\$ 6,048.34	\$ 198,974.24	\$ 897,991.08	\$ 175,401.86	\$ 24,193.36	\$ 6,048.34	\$ 1,290,512.20
Community Facilities - Land	\$ 180.53	\$ 316.00	\$ 455.48	\$ 455.48	\$ 455.48	\$ 14,983.99	\$ 67,624.00	\$ 13,208.92	\$ 1,821.92	\$ 455.48	\$ 97,183.35
Drainage Facilities - Capital	\$ 258.06	\$ 451.73	\$ 651.11	\$ 651.11	\$ 651.11	\$ 21,418.98	\$ 96,670.22	\$ 18,882.19	\$ 2,604.44	\$ 651.11	\$ 138,924.72
Total	\$ 15,854.11	\$ 27,751.23	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	\$ 1,315,891.13	\$ 5,938,763.22	\$ 1,160,000.00	\$ 160,000.00	\$ 40,000.00	\$ 8,534,654.35

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. 12.

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.

36. Special Infrastructure Contribution – Growth Centres

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

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

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

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

37. Stormwater Pump/ Basement Car Park Requirements

Should the detailed building design not prevent stormwater entering the basement car park, a stormwater pump-out system will be required. 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 internal water sensitive urban design 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.

38. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$225,675.00 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 (295m) multiplied by the average width of the road (9m).

The bond must be lodged with Council before a Construction Certificate is issued for the building works.

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.

39. Engineering Works and Design

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

Engineering works can be classified as either "subdivision works" or "building works". Works within an existing or proposed public road, or works within an existing or proposed public reserve can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively.

The following engineering works are required:

a) Driveway Requirements

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

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

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

A separate vehicular crossing request fee is payable as per Council's Schedule of Fees and Charges.

b) Service Conduits

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

c) 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.

Retaining walls are limited to those locations and heights shown on the concept engineering plans prepared by Northrop Sydney (Revision B).

d) Stormwater Drainage – Creek Outlets

Piped stormwater outlets/ connections to a natural watercourse must comply with the requirements of Council, the Department of Primary Industries – Water (even where the receiving waterbody is not a natural watercourse) as well as Sydney Water, in the case of stormwater management land.

e) Inter-allotment Stormwater Drainage

Piped inter-allotment stormwater drainage catering for the entire area of each lot must be provided. Each lot must be uniformly graded to its lowest point where a grated surface inlet pit must be provided. All collected stormwater is to be piped to an approved constructed public drainage system.

Where OSD is required, a minimum level difference of 800mm measured between the surface level and the invert of the outlet pipe must be provided.

f) Water Sensitive Urban Design Elements

Water sensitive urban design elements, consisting of bioretention basins, are to be located generally in accordance with the plans and information submitted with the application.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

- 90% reduction in the annual average load of gross pollutants
- 85% reduction in the annual average load of total suspended solids
- 65% reduction in the annual average load of total phosphorous
- 45% reduction in the annual average load of total nitrogen

All model parameters and data outputs are to be provided.

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

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

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

40. 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.

41. Resubmit Landscape Plan

Amended Landscape Plans (to scale) for the landscaping of the site is to be prepared by a suitably qualified landscape architect or horticulturalist and submitted to the satisfaction of Council's Manager - Environment and Health.

The plans must address the following landscaping detail in addition to the previous supplied landscape plans prepared by Mcregor Coxall Pty Ltd

- a) provide detailed Planting Plans, including total quantities of plants and location of individual species. CPW revegetation and WSUD areas can remain as mass planting areas (with plants per metre square) with the addition of the percentage mix of each species plus totals.
Planting to street frontages and communal open space are to be detailed in a planting plan indicating what species is planted where and total numbers. Shrub and groundcover species to be reviewed to provide more variety and species suitable to microclimates
The planting to the bio retention swales is to enhance the streetscape and provide trees where possible.

42. Acoustic - Protection of Internal Noise Levels

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

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

In particular the acoustic statement shall detail that all recommendations contained within the *47 Spurway Drive, Baulkham Hills Stage 2 (Phase 2 and 3) DA Acoustic Assessment* prepared by Acoustic Logic, project number 20160992.6 and dated 29 June 2017 has been reviewed by Environmental Health, have been included in the construction plans of the development.

43. 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).

44. Internal Pavement Structural Design Certification

Prior to a Construction Certificate being issued, a Certified Practising Engineer (CPEng) must submit a letter to Council confirming the structural adequacy of the internal pavement design. The pavement design must be adequate to withstand the loads imposed by a loaded medium rigid waste collection vehicle (i.e. 15 tonne gross vehicle mass) from the boundary to the waste collection point including any manoeuvring areas.

45. 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.

46. Construction Management Plan (Staged Applications)

A construction management plan must be submitted demonstrating how the potential for conflict between resident and construction traffic is to be minimised and managed throughout all stages of the development. The construction management plan must be submitted before a Construction Certificate is issued and complied with for the duration of works.

47. Acoustic – Construction Noise Management Plan

Prior to the issue of any Construction Certificate for stage 2, phase 2 & 3 a Construction Noise Management Plan (CNMP) is to be prepared by a suitably qualified acoustic consultant and submitted to Council's Manager – Environment and Health for review, and if satisfactory, written approval. The CNMP is to demonstrate how compliance with the *Interim Construction Noise Guideline* published by the Department of Environment and Climate Change, 2009 can be achieved.

48. Acoustic – Mechanical Ventilation

Prior to any Construction Certificate being issued an additional noise assessment is to be undertaken for all mechanical plant proposed in stage 2, phase 2 & 3 including, but not limited to basement ventilation / extraction, garbage exhaust fans and apartment condenser units. The noise assessment is to provide recommendations for any noise attenuation measures and is to clearly demonstrate that the project specific criteria can be achieved.

The final noise assessment is to be submitted to Council's Manager – Environment and Health for review and if satisfactory written acceptance will be provided in support of a Construction Certificate being issued.

PRIOR TO WORK COMMENCING ON THE SITE

49. Protection of Existing Trees

The trees that are to be retained are to be protected during all works strictly in accordance with the Arboricultural Impact Assessment prepared by Tree Wise Men (dated September 2016) and 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.

50. Sydney Water Building Plan Approval

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

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

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

51. 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.

52. 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.

53. Traffic Control Plan

A Traffic Control Plan is required to be prepared and approved. The person preparing and approving the plan must have the relevant accreditation to do so. A copy of the approved plan must be submitted to Council before being implemented. Where amendments to the plan are made, they must be submitted to Council before being implemented.

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

54. Erection of Signage – Supervision of Work

In accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

- The name, address and telephone number of the Principal Certifying Authority;
- The name and telephone number (including after hours) of the person responsible for carrying out the works;
- That unauthorised entry to the work site is prohibited.

This signage must be maintained while the subdivision work is being carried out and must be removed upon completion.

55. Contractors Details

The contractor carrying out the subdivision works must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. The policy must indemnify Council from all claims arising from the execution of the works. A copy of this insurance must be submitted to Council prior to works commencing.

56. Service Authority Consultation – Subdivision Works

Before subdivision works commence documentary evidence must be submitted confirming that satisfactory arrangements have been made for:

- The provision of electrical services for the non-residue lots created by the subdivision. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.
- The provision of water and sewerage facilities.
- The provision of telecommunication services for the non-residue lots created by the subdivision, typically requiring the installation of pits and pipes complying with the standard specifications of NBN Co current at the time of installation. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. The Telecommunications Act 1978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

57. 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.

58. 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.

59. Principal Certifying Authority

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

60. 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.

61. 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. The controls shall be in accordance 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).

62. 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).

63. 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.

64. Notification of Asbestos Removal

Prior to commencement of any demolition works involving asbestos containing materials, all adjoining neighbours and Council must be given a minimum five days written notification of the works.

65. Engagement of a Project Arborist

Prior to works commencing, a Project Arborist (minimum AQF Level 5) is to be appointed and the following details provided to The Hills Shire Council's Manager – Environment & Health:

- a) Name:
- b) Qualification/s:
- c) Telephone number/s:
- d) Email:

If the Project Arborist is replaced, Council is to be notified in writing of the reason for the change and the details of the new Project Arborist provided within 7 days.

66. 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.

67. 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.

68. 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.

69. Construction Waste Management Plan Required

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

DURING CONSTRUCTION

70. 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.

71. 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.

72. Roof Water Drainage

Gutter and downpipes to be provided and connected to an approved drainage system upon installation of the roof covering.

73. 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 footings and/or formwork stage. The certificate shall indicate the location of the building/structure in relation to all boundaries, and shall confirm the floor/coping level prior to any work proceeding on the building/structure.

74. 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. 832731M is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate. A Section 4.55 Application may be required should the subsequent version of this BASIX Certificate necessitate design changes to the development. However, a Section 4.55 Application will be required for a BASIX Certificate with a new number.

75. Compliance with Critical Stage Inspections and Inspections Nominated by the

PCA

Section 6.5 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Clause 162A of the

Environmental Planning and Assessment Regulation 2000. Prior to allowing building works to commence the PCA must give notice of these inspections pursuant to Clause 103A of the Environmental Planning and Assessment Regulation 2000.

An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspection or other inspection required by the PCA is not carried out. Inspections can only be carried out by the PCA unless agreed to by the PCA beforehand and subject to that person being an accredited certifier.

76. Landscaping Works

Landscaping works, associated plantings and the construction of any retaining walls are to be undertaken generally in accordance with the approved plans.

77. 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.

78. 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.

79. Project Arborist

The Project Arborist must be on site to supervise any works in the vicinity of or within the Tree Protection Zone (TPZ) of any trees required to be retained on the site or any adjacent sites.

Supervision of the works shall be certified by the Project Arborist and a copy of such certification shall be submitted to the Private Certifying Authority within 14 days of completion of the works.

80. 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.

81. 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)*.

82. Removal of Septic Tank and Effluent Disposal Area

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

Any redundant septic tank, collection well or aerated wastewater treatment system is to be removed or reused in accordance with NSW Health "Advisory Note 3- Revised January 2017 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater

Treatment Systems (AWTS) and other Sewage Management Facilities (SMF)” available from the NSW Health website (<http://www.health.nsw.gov.au/>).

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

83. 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.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

84. Compliance with Department Primary Industries - Water Requirements

The submission of documentary evidence from the Department of Primary Industries - Water that all requirements have been satisfied, prior to the issue of the Occupation Certificate or Subdivision Certificate.

85. 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.

86. 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.

87. 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.

88. Public Infrastructure Inventory Report - Post Construction

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

89. 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.

90. Water Sensitive Urban Design Certification

An Occupation Certificate must not be issued prior to the completion of the WSUD elements conditioned earlier in this consent. The following documentation must be submitted in order to obtain an Occupation Certificate:

- WAE drawings and any required engineering certifications;
- Records of inspections;
- An approved operations and maintenance plan; and

- A certificate of structural adequacy from a suitably qualified structural engineer verifying that any structural element of the WSUD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

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

91. Registration of Subdivision

The registration of the preceding subdivision Development Consent DA 634/2017/ZB by the applicant must occur, prior to an Occupation Certificate being issued.

92. Completion of Subdivision Works/ Satisfactory Final Inspection

A Subdivision Certificate cannot be issued prior to the completion of all subdivision works covered by this consent. A satisfactory final inspection by Council's Construction Engineer is required.

93. Confirmation of Pipe Locations

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

94. Section 73 Compliance Certificate

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

95. Provision of Electrical Services

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

96. Provision of Telecommunication Services

Prior to the issue of a Subdivision Certificate the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

The installation of fibre-ready facilities to all individual lots and/ or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and

The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/ or premises in a real estate development project demonstrated through an agreement with a carrier.

Real estate development project has the meanings given in Section 372Q of the Telecommunications Act 1978 (Cth).

For small developments, NBN Co will issue a Provisioning of Telecommunications Services – Confirmation of Final Payment. For medium and large developments, NBN Co will issue a Certificate of Practical Completion of Developers Activities.

For non-fibre ready facilities, either an agreement advice or network infrastructure letter must be issued by Telstra confirming satisfactory arrangements have been made for the provision of telecommunication services. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.

A copy of the works as executed (WAE) plans for the telecommunications infrastructure must also be submitted.

97. 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.

a) Dedication – New Road

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

b) Easement – Public Stormwater Drainage

Drainage easements must be created over all stormwater drainage pipelines and structures which convey public stormwater runoff, in accordance with the requirements of Council. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

c) Easement – Overhanging/ Encroaching Structure

Where an encroaching or overhanging structure has been approved across a proposed boundary, an easement must be created over the affected part of the burdened lot.

d) Restriction – Residue Lots

Lots 7 and 8 must be burdened with a restriction using the "residue lots" terms included in the standard recitals.

e) Covenant – Onsite Waste Collection

Lot 5 must be burdened with a positive covenant relating to onsite waste collection using the "onsite waste collection" terms included in the standard recitals.

f) Restriction/ Covenant – Water Sensitive Urban Design

Lots 5 and 6 must be burdened with a restriction and a positive covenant that refers to the WSUD elements referred to earlier in this consent using the "water sensitive urban design elements" terms included in the standard recitals.

g) Positive Covenant – Stormwater Pump

Should a basement stormwater pump be required, Lot 5 must be burdened with a restriction and a positive using the "basement stormwater pump system" terms included in the standard recitals.

98. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

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

99. Site/ Lot Classification Report

A site/ lot classification report prepared by a suitably qualified geotechnical engineer must be prepared and submitted following the completion of all subdivision works confirming that all residential lots are compliant with AS 2870 and are suitable for development. The report must be accompanied by a table which summarises the classification of all lots created as part of the subdivision.

100. Stormwater CCTV Recording

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

101. Public Asset Creation Summary

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

102. Internal Pavement Construction

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

103. Final Inspection of Garbage Areas

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

104. Acoustic – Compliance Report

The acoustic consultant shall ensure that the correct installation of all noise suppressant components recommended in the following report and any acoustic report approved by Council's Manager – Environment and Health:

- *47 Spurway Drive, Baulkham Hills Stage 2 (Phase 2 and 3) DA Acoustic Assessment* prepared by Acoustic Logic, project number 20160992.6 and dated 29 June 2017 has been reviewed by Environmental Health.

Prior to any Occupation Certificate being issued certification from a qualified acoustic consultant is to be provided to Council's Manager – Environment and Health.

105. Procurement of Mechanical Bin Mover

Prior to an Occupation Certificate being issued, a mechanical bin mover, suitable for 660 litre bins must be purchased and delivered to the site. The equipment procured must have capacity to move full bins over all ramps and slopes between the garbage chute rooms and the garbage holding area via the garbage hoist. All waste moving equipment must be lawfully handed into the ownership of the Owners Corporation.

106. Section 7.11 Contribution – Balmoral Road Release Area

The following monetary contributions must be paid to Council in accordance with Section 7.11 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: Subdivision</i>	<i>Purpose: Credit</i>	<i>No. of Lots : 3</i>	<i>No. of Credits: 1</i>	<i>Total S7.11</i>
Open Space - Land	\$ 25,661.88	\$ 25,661.88	\$ 76,985.64	\$ 25,661.88	\$ 51,323.76
Open Space - Capital	\$ 7,183.19	\$ 7,183.19	\$ 21,549.57	\$ 7,183.19	\$ 14,366.38
Transport Facilities - Capital	\$ 6,048.34	\$ 6,048.34	\$ 18,145.02	\$ 6,048.34	\$ 12,096.68
Community Facilities - Land	\$ 455.48	\$ 455.48	\$ 1,366.44	\$ 455.48	\$ 910.96
Drainage Facilities - Capital	\$ 651.11	\$ 651.11	\$ 1,953.33	\$ 651.11	\$ 1,302.22
Total	\$ 40,000.00	\$ 40,000.00	\$ 120,000.00	\$ 40,000.00	\$ 80,000.00

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. 12.

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.

THE USE OF THE SITE

107. Maintenance of Landscaping Works

The landscaping works, associated plantings and construction of retaining walls are to be effectively maintained at all times and throughout the life of the development.

108. 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*.

109. Offensive Noise - Acoustic Report

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

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

110. Acoustic – Project Specific

The recommendations of the *Masterplan DA Acoustic Assessment* for 47 Spurway Drive, Baulkham Hills, prepared by Acoustic Logic, project number 20160992.1, dated 22/02/2017 and submitted as part of the concept masterplan are to be complied with. The following overall project specific criterion is to be achieved at every stage of the development to prevent background creep.

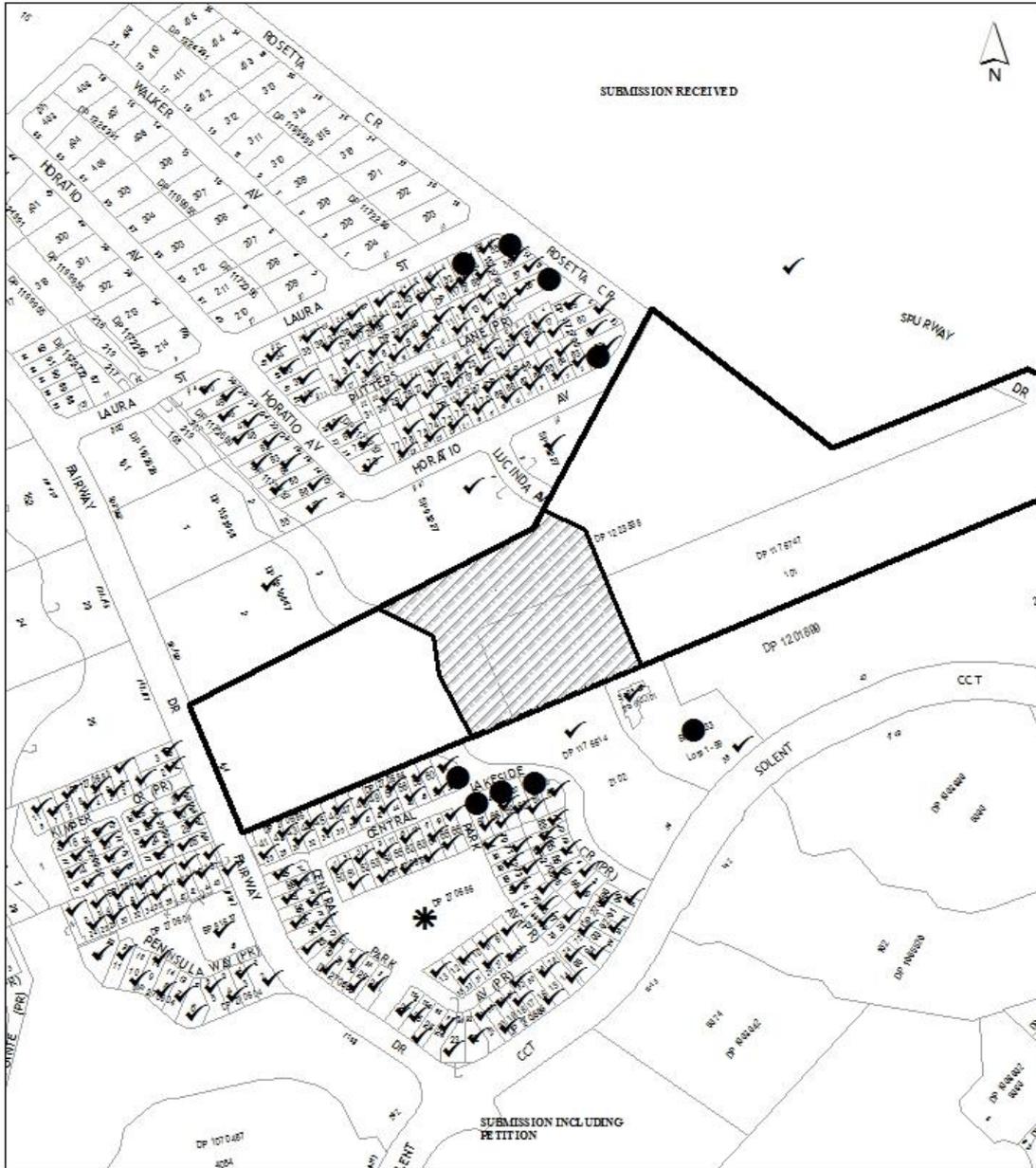
- Day 0700-1800: 50dB(A)_{leq15min}
- Evening 1800-2200: 45dB(A)_{leq15min}
- Night 2200-0700: 40dB(A)_{leq15min}

111. Waste and Recycling Management

A caretaker must be appointed by the Owners Corporation to undertake all instructions issued by Council to enable domestic waste collection. Requirements are outlined in the Operational Waste Management Plan submitted as part of the Development Application. Additionally, responsibilities for cleaning garbage rooms and bins on a regular basis must be established.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map and DCP Road Layout
4. LEP Floor Space Ratio Map
5. LEP Height Map
6. Approved Masterplan
7. Site Plan
8. Floor Plans
9. Elevations and Sections
10. Landscape Plans
11. Plan of Proposed Subdivision
12. Overshadowing Diagrams
13. Extract of Solar Access Report
14. Photomontages
15. Design Excellence Panel Minutes
16. Applicant's Clause 4.6 Variation Request
17. Department of Primary Industries – Water – General Terms of Approval



- SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

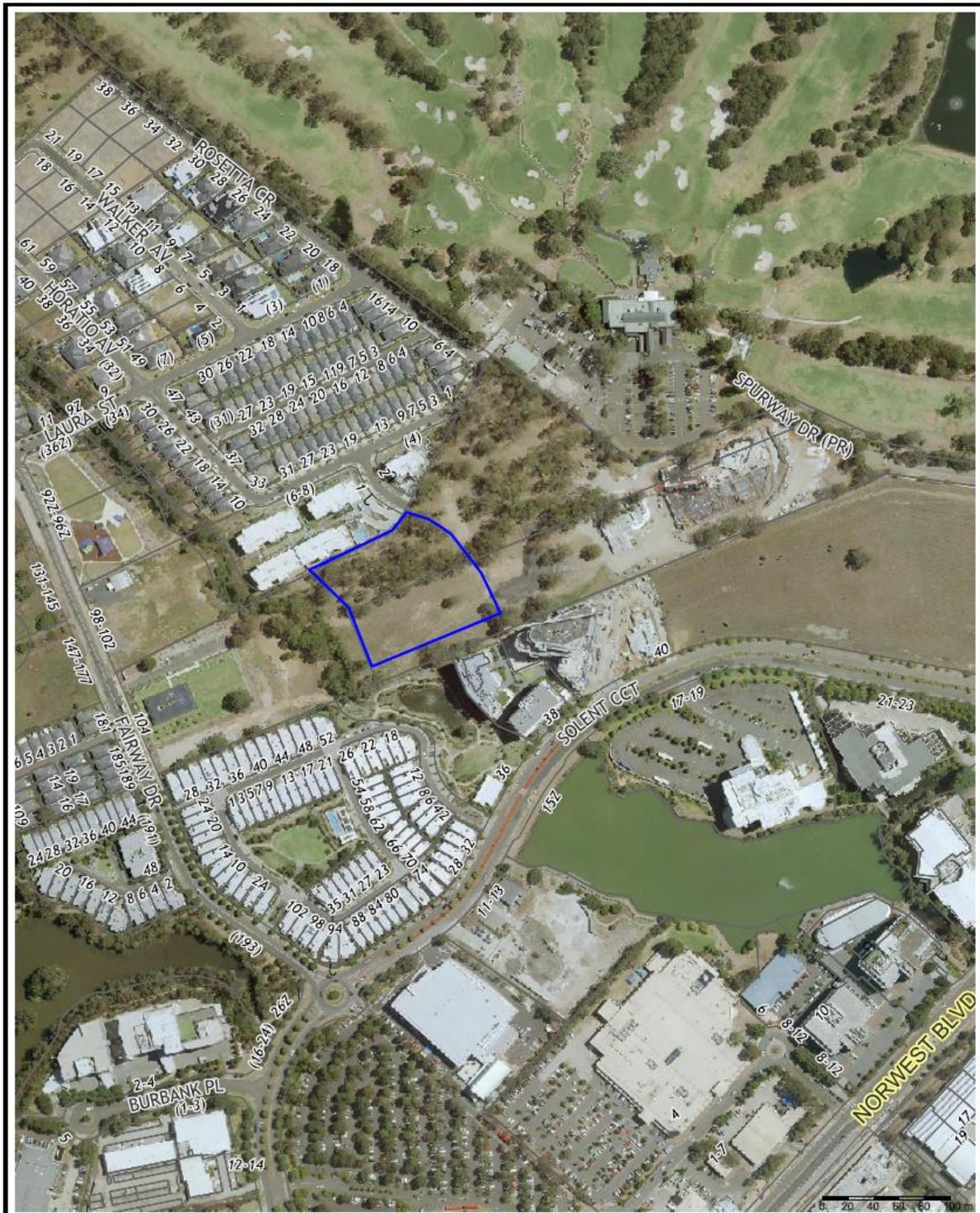
NOTE: HILLS DISTRICT HISTORICAL SOCIETY ALSO NOTIFIED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE
 BASE CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LP1). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

ATTACHMENT 2 – AERIAL PHOTOGRAPH



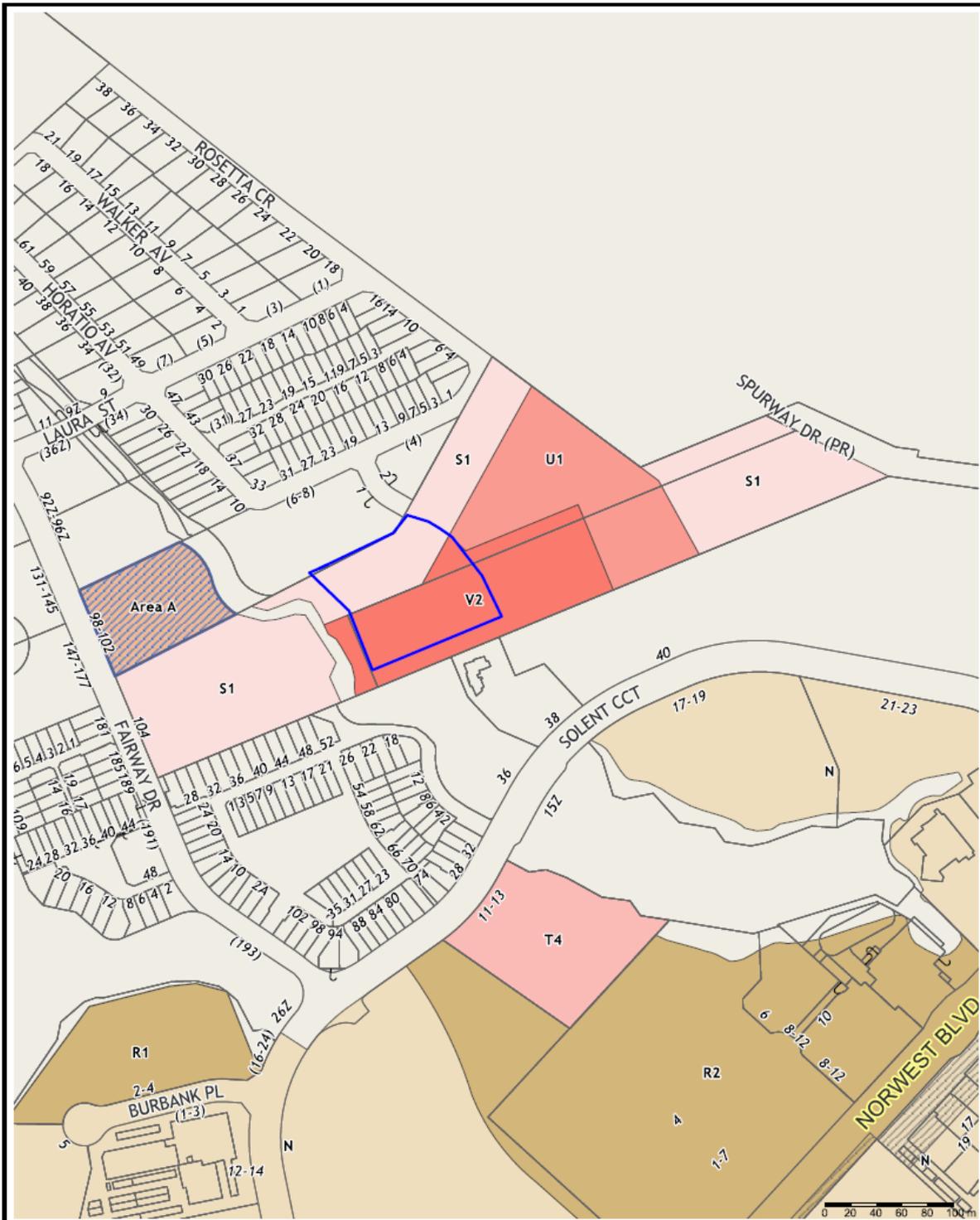
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Scale (A4): 1:4000

ATTACHMENT 4 – FLOOR SPACE RATIO MAP



 The Hills
Sydney's Garden Shire

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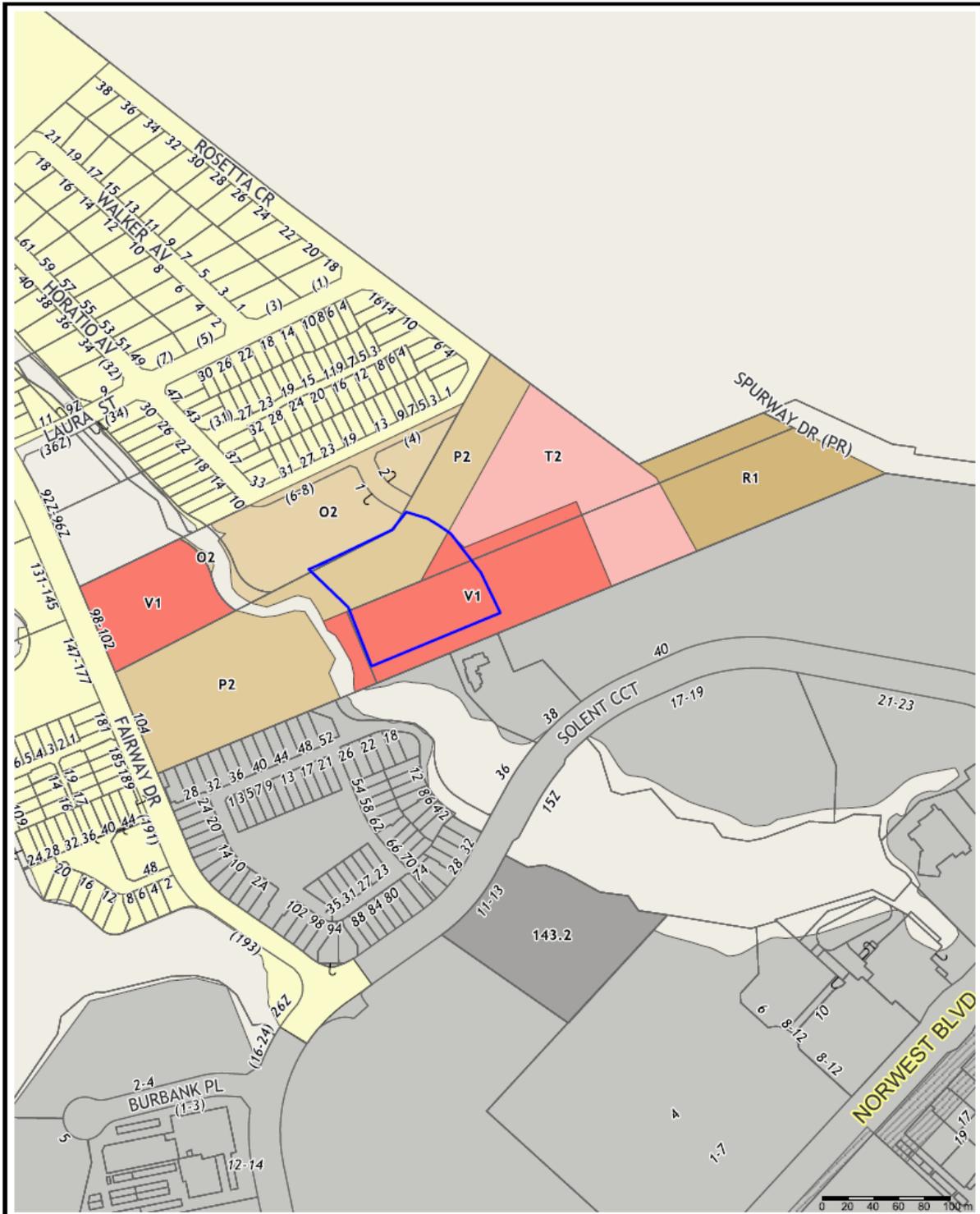
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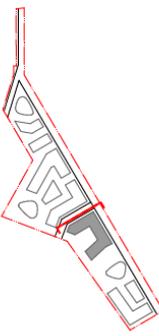
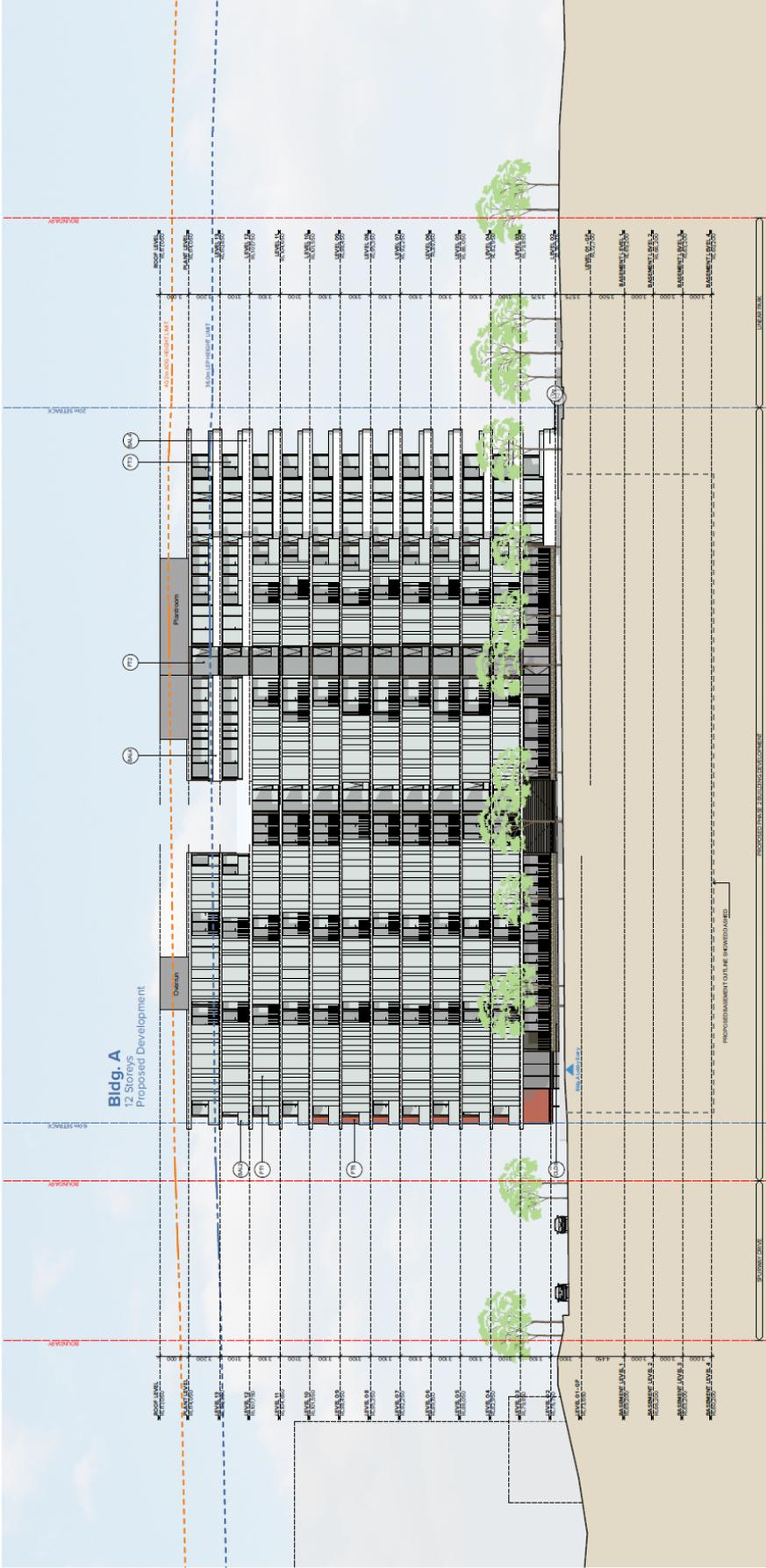
Floor Space Ratio Map
S1-1.5:1, U1-2.6:1, V2-3.2:1,

Scale (A4): 1:4000

ATTACHMENT 5 – HEIGHT OF BUILDINGS MAP



 <p>THE HILLS Sydney's Garden Shire</p>	<p>The Hills Shire Council (THSC) does not give any guarantees concerning the accuracy, completeness or currency of its spatial and textual information held in or generated from its database. THSC therefore takes no responsibility for errors, omissions or inaccuracies on information found or provided.</p> <p>Base cadastre copyright remains the property of Land and Property Management Authority NSW (LPMA). Year 2008 contour copyright remains the property of Department of Environment and Climate Change (DECC). 2011 Aerial Photography and Cadastre modifications including Council generated data is subject to THSC copyright.</p> <p>Copyright of 2012 Aerial Imagery is with Vekta Pty Ltd (Vekta). Sinclair Knight Merz supplier of 2014 Aerial and Near Infrared Imagery.</p> <p>Copyright of 2016 & 2018 Aerial Imagery is with Jacobs Group (Australia).</p>		<p>HEIGHT OF BUILDINGS MAP P2-18M, R1-21M, T2-27M, V1-36M</p> <p>Scale (A4): 1:4000</p>
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CLIENT: **Weston Assets Pty Ltd**
 Ground Floor & Western Road Maggaree
 Post NSW 2113

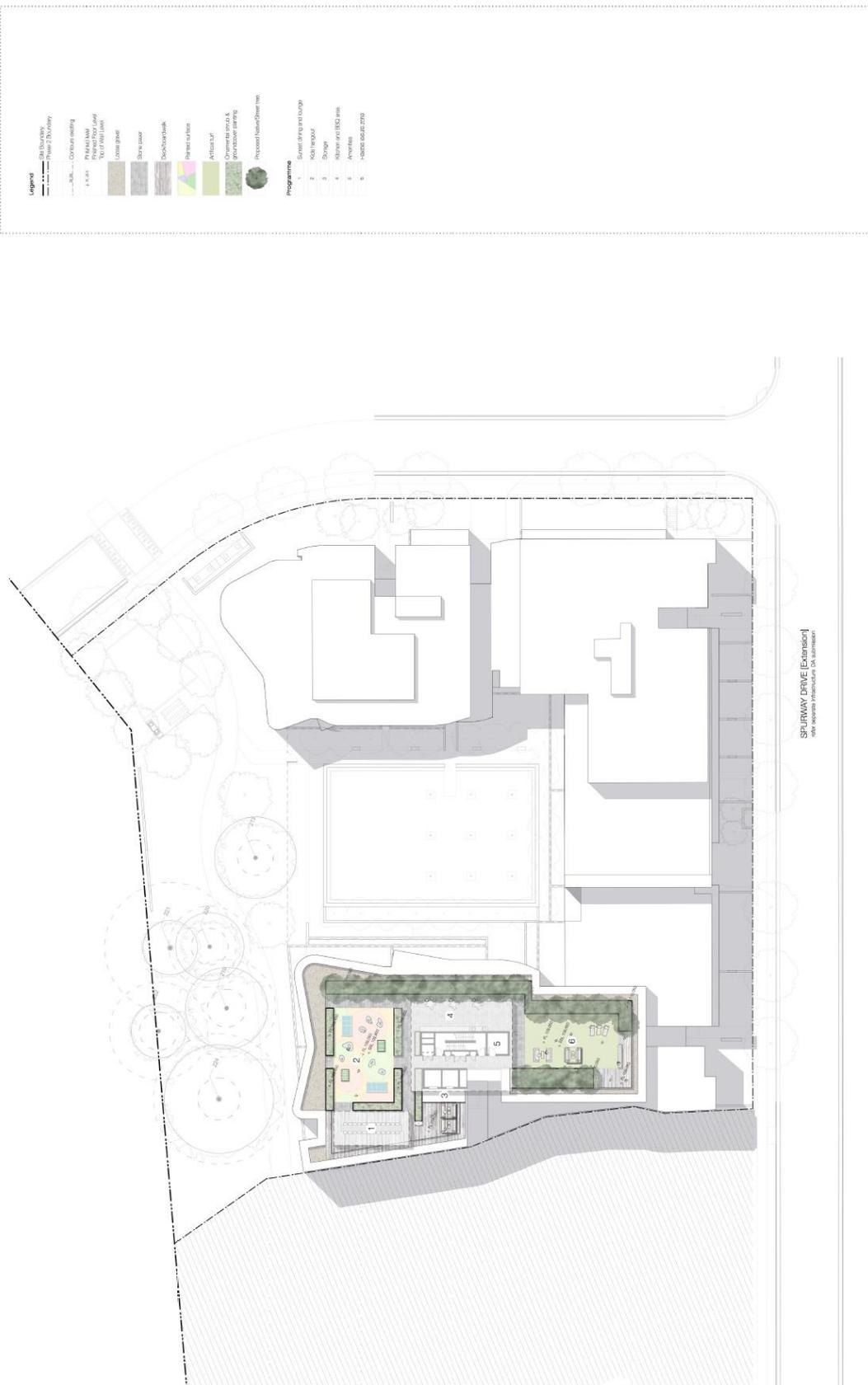
PROJECT: **WANNY PRIME - PHASE 2 ADD 3**
 47 Wannay Drive & 57 Wannay Drive Southtown Hills
 NSW 2158

ARCHITECT: **TURNER**
 East Devonport Lushub Avenue
 TAS 7316

DATE: 19/07/2024
 DRAWING NO: DA-251-01
 SHEET NO: A

PROJECT NO: 19007
 DRAWING NO: DA-251-01
 SHEET NO: A

PROJECT NO: 19007
 DRAWING NO: DA-251-01
 SHEET NO: A



Legend

- Site Boundary
- Phase 2 Boundary
- Existing Concrete paving
- Proposed Concrete paving
- Proposed Paved Footpath
- Proposed Paved Cycleway
- Proposed Paved Green
- Proposed Paved
- Proposed Grass
- Proposed Lawn
- Proposed Softscape
- Proposed Hardscape
- Proposed Surface
- Proposed Artistic
- Proposed Ornamental plants & structures
- Proposed trees
- Proposed trees

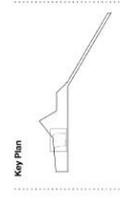
Programme

1. Site preparation & landscaping
2. New building
3. Storage
4. Removal of existing items
5. Pavement
6. Fencing & signage

MCGREGOR COXALL
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 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

Client Skeljal House Australia Pty Ltd
Project Team Murray Green Arrow SDB Structures

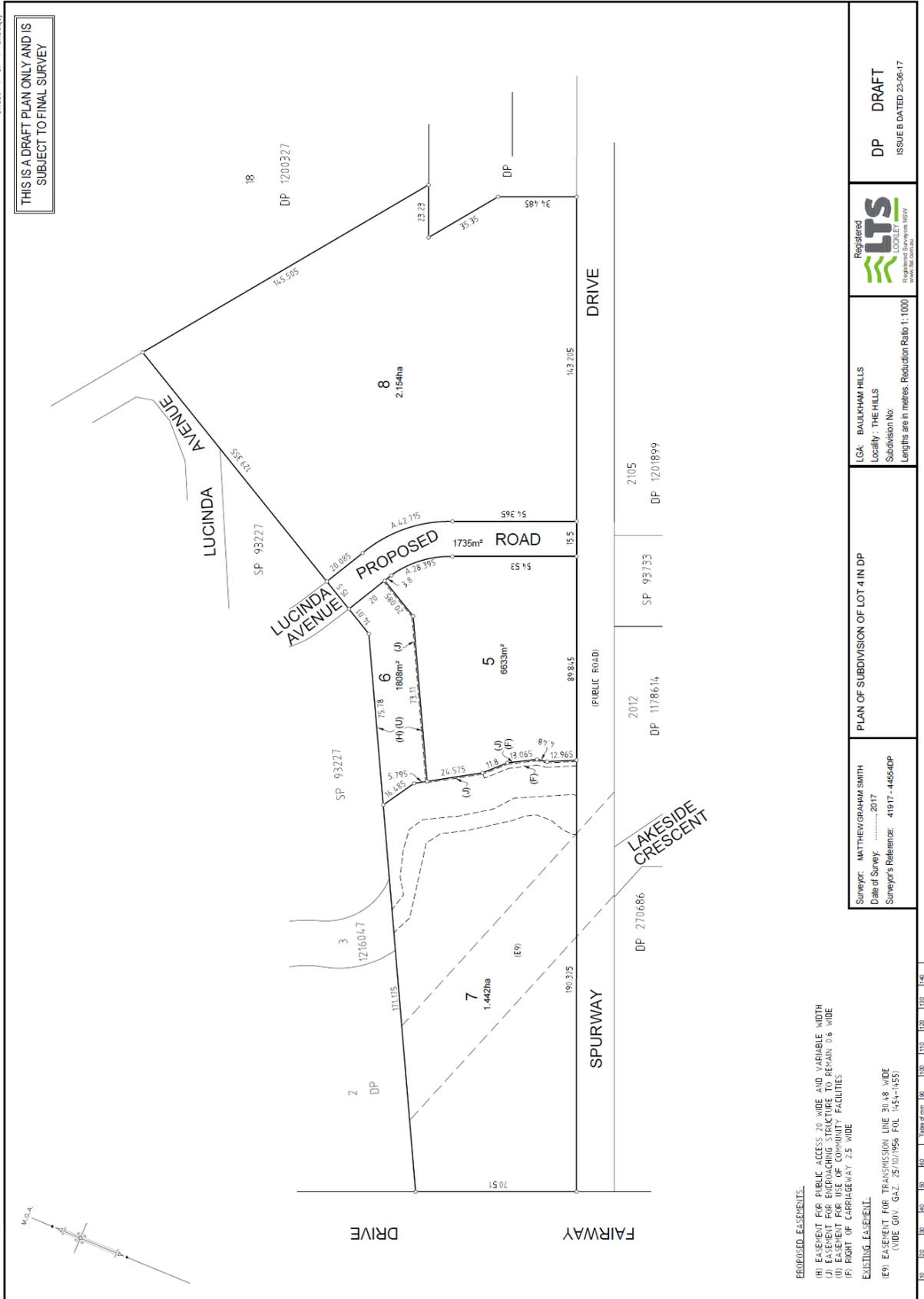
Project Name The Orchards Phase 2
Project No. 000510
Address 47 Spurway Drive, Baulkham Hills, NSW 2153



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Scale 1:250 @ A1
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Date 7/7/17
 All dimensions are in millimetres unless otherwise noted. Do not scale from this drawing.

Phase Phase 2 Development Application
Sheet Title Rooftop Landscape Plan
Sheet No. LD-SK-04
Rev C

ATTACHMENT 11 – PLAN OF PROPOSED SUBDIVISION



ERODED EASEMENTS:
 (H) EASEMENT FOR PUBLIC ACCESS 2.0 METER WIDE AND VARIABLE WIDTH
 (J) EASEMENT FOR ENDOCHANGING STRUCTURE TO REMAIN 0.6 METER WIDE
 (U) EASEMENT FOR USE OF COMMUNITY FACILITIES
 (F) RIGHT OF CARRIAGEWAY 2.5 METER WIDE

EXISTING EASEMENT:
 (E*) EASEMENT FOR TRANSMISSION LINE 30.48 METER WIDE
 (V) EASEMENT FOR TRANSMISSION LINE 30.48 METER WIDE
 (W) EASEMENT FOR TRANSMISSION LINE 30.48 METER WIDE

Surveyor: MATTHEW GRAHAM SMITH
 Date of Survey: 2017
 Surveyor's Reference: 41817-44554DP

PLAN OF SUBDIVISION OF LOT 4 IN DP

LGA: BAULKHAM HILLS
 Locality: THE HILLS
 Subdivision No:
 Lengths are in metres. Reduction Ratio 1:1000



DP DRAFT
 ISSUE B DATED 23-06-17



ATTACHEMENT 12 – OVERSHADOWING DIAGRAMS



21 JUNE - 12:00 PM



21 JUNE - 11:00 AM



21 JUNE - 10:00 AM



21 JUNE - 9:00 AM



21 JUNE - 3:00 PM

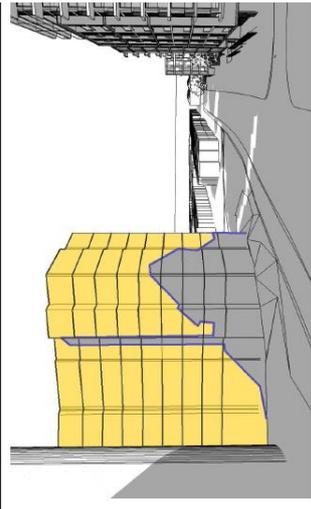


21 JUNE - 2:00 PM

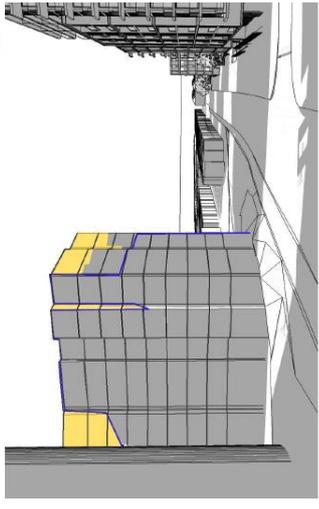


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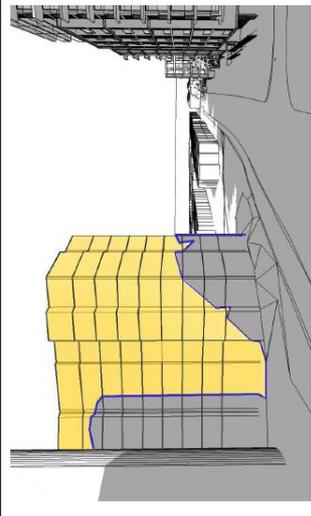
- Legend**
- Shadow Envelope
 - ADG Envelope (10m setback)
 - ADG Envelope Shadow
 - LEP Envelope Shadow
 - Proposed Masterplan Shadow (front setback)



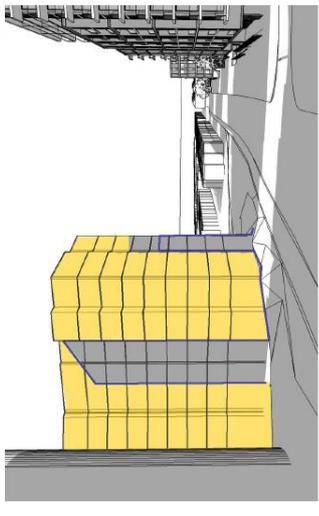
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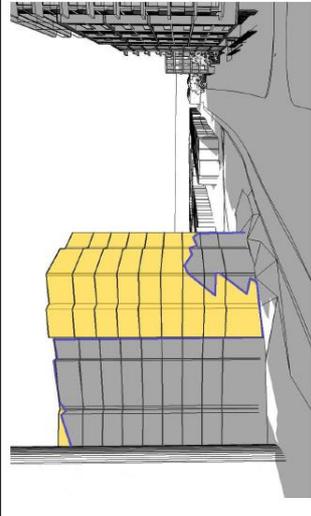
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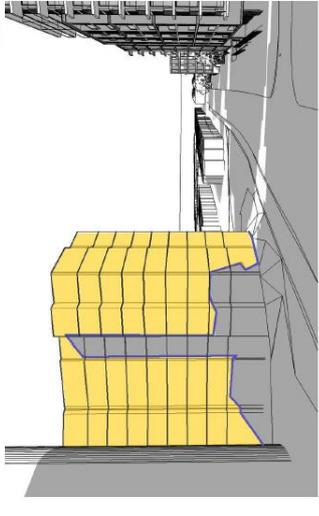
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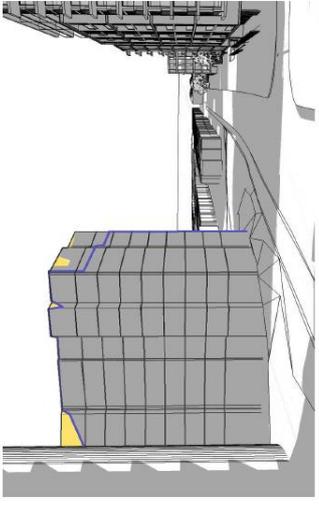
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9.00 AM



12.00 PM



3.00 PM

Hour by hour analysis of solar access for adjacent Mulpha development ED2

70% of the Mulpha development ED2 achieve solar access for at least 2 hrs between 9am and 3pm on the 21st of June.
(35 apts / 49 apts = 70%)*

*Compliance with ADG requirements for solar access

Shadow cast by LEP massing envelope

<p>47 SPRING DRIVE - PHASE 2 AND 3 47 Spring Drive & 30 Fenny Drive Burham Hills Site No: 15007 Scale: 1:100 Date: 01/06/2023 Project: DA-21-101</p>	<p>Approved: [Signature] Date: 15/06/23</p>	<p>TURNER Architects Level 10, 100 Market Street Sydney NSW 2000 Phone: (02) 9230 9000 Email: info@turnerarchitects.com.au</p>
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ATTACHMENT 13 - EXTRACT SOLAR ACCESS TO NEIGHBOURING DWELLINGS

3 SOLAR ACCESS TO NEIGHBOURING BUILDINGS

3.1 Daylighting Considerations

The State Environmental Planning Policy (SEPP) 65 supported by the Apartment Design Guide - Part 04 is relevant to the assessment of the daylight access into residential component of the proposed development in question. The above regulation states that:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.
- In all other areas, living rooms and private open spaces of at least 70% of the apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.

SLR has been instructed to assess against the ADG requirement requirements. Specific interest therefore lies in the solar access through the living areas windows and balconies of residential apartments during the winter solstice, June 21 between the hours of 9.00 am and 3.00 pm.

These same considerations will be accounted for in the assessment of the neighbouring constructions and planned works, impacted by the proposed development.

3.2 Overshading from Proposed Development - 9.00 am – 3.00 pm on the Winter Solstice 21st June

SLR imported the SketchUp 3D model into ECOTECT and prepared a detailed 3D model for solar access assessment including site topography and immediate surrounding buildings (Refer **Figure 5**).

Shadow diagrams were generated for each 30 minute interval between 9.00 am and 3.00 pm on the Winter Solstice (21st June). These can be seen in **Appendix A**.

Initial assessment of the model yielded the following comments based off outlined buildings in **Figure 5** below:

- Solar access of neighbouring townhouses, both existing and proposed, will experience insignificant impact from the proposed development.
- Solar access of buildings PD2 and ED2 may be impacted adversely with respect to regulations due to their proximity to the proposed development.

Figure 5 Annotated Site and Surrounds



3.3 Proposed Assessment

Assessment of the outlined buildings was carried out through the methods below:

- Buildings PD1 was assessed by calculating the unshaded area of the façades across the optimal two or three hour window and can be considered conservative.
- No architectural drawings are available for Building PD2 at this stage. Building PD2 was therefore assessed based off an assumed solar access to individual apartments, with an average apartment size of 75 m². Apartments were aligned across the façade in accordance with this.
- Building ED2 was assessed by evaluating the available plans and determining which apartments the proposed development would potentially impact.

3.4 Impact on Neighbouring Solar Access Results

Table 1 Solar Access to Surrounds

Building	Percentage of Facades that meet the requirement			Total
	North	East	West	
PD1	100%	100%	0%	85.71%
PD2	61.19%	98.36%	0%	72.14%

Based off the outlined results in **Table 1** SLR is of the opinion that 2 hrs of solar access will reach buildings PD1 and PD2.

Based off the developed solar model and elevations provided for building ED2, SLR has made the following assessments with relation to the proposed developments impact:

- The proposed development will have minimal impact upon the eastern façade of building ED2.

- The proposed development will impact solar access to the northern façade, with the bottom four levels unable to achieve 2 hrs solar access between 9 am and 3 pm.
- The proposed development will have minimal impact upon the western facades solar access.

Based off the above assessments and the elevation depicted in **Figure 6**, SLR is of the opinion that the proposed development will have an impact on the solar access of 4 apartments within building ED2.

Figure 6 Northern Elevation for Building ED2



The impact on ED2 is considered to be minimal as:

- The four affected apartments have dual orientations to the north and the west and will receive some direct solar access, despite not achieving the 2 hr solar access criterion during mid-winter.
- The overshadowing is consistent with the height approvals in the planning proposal and the shadows cast by building envelopes within the height control.

ATTACHMENT 14 – PHOTOMONTAGES



ATTACHMENT 15 – DESIGN EXCELLENCE PANEL MINUTES



MEETING MINUTES DESIGN EXCELLENCE PANEL

Date:	22/01/18	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, Robert Buckham, Marika Hahn, Ashley Cook, Nicholas Carlton, Megan Munari, Rebecca Templeman,		
Guests:	Dan Szwaj - Turner Studio (architect) Greg Dowling - Dowling Urban (town planner) Matt Ritson - McGregor Coxall (Landscape Architect) George Gesouras - Sekisui House (Developer) Daniel Rainone - Sekisui House (Developer) Edward Natour - Sekisui House (Developer) Peter Valleau - Sekisui House (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.

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 4.2	1.30pm-3.0pm
DA Number	DA 46/2018/JP – 47, DA 736/2017/JP
Property Address	47 Spurway Drive Baulkham Hills
Proposal	<p>DA 46/2018/JP – 47 Spurway Drive Baulkham Hills A 12-13 Storey Residential Flat Building Development (Stages 2 and 3) comprising three hundred and thirty units (330) with basement parking for 539 vehicles and associated Community Title Subdivision.</p> <p>DA 736/2017/JP – 47 Spurway Drive Baulkham Hills. Concept Masterplan encompassing 10 residential flat buildings ranging between 4-12 storeys in height with a total of 1,300 dwellings, associated car parking, neighbourhood shops, fitness centre building, civil works, internal roads and landscaping over 5 stages.</p>
Applicant representative address to the design review panel	Dan Szwaj – Turner Studio (architect)
Background	The site was inspected by the panel: 9.55am - 10.20am February 22/02/18
Key Issues	<p>DA 736/2017/JP – 47 Spurway Drive Baulkham Hills.</p> <ul style="list-style-type: none"> • Departure from approved planning proposal masterplan • Street setbacks of 6m in lieu of 10m compromises solar amenity of existing built residential flat buildings to the south of the development. • Presentation not reflective of application sought <p>DA 46/2018/JP – 47 Spurway Drive Baulkham Hills</p> <ul style="list-style-type: none"> • Overshadowing of proposed development to south and nearby existing residential flat buildings. • Some ADG non-compliances

PANEL COMMENT

DA 736/2017/JP – 47 Spurway Drive Baulkham Hills.

1. The overall urban design approach in relation to variety of height, communal open space, site permeability and intent to have different development parcels designed by different groups of architects has been well considered, and is generally supported by the panel.
2. Treatment of the riparian corridor was respectful of context and natural systems. The 10m setback is supported in principle.
3. The Panel is concerned however that solar access to north facing units of an approved development on the adjacent site will be reduced as a result of non-compliant street setback and recommend that the applicant review how this can be addressed.
4. The Panel made a general comment in relation to the nexus between height and density. Residential FSRs of 2.5:1 and higher are generally best resolved with more flexibility in relation to height, particularly if the overall urban design vision is for buildings set within a generous landscape setting. The current height controls mean that built form will inevitably be compacted to achieve the target density, with central courtyards surrounded by dense, unbroken built form. The environmental amenity of these spaces is questionable in terms of privacy, and access to natural light and ventilation in the context of global warming.
5. This proposal is reflective of this, however it was noted by the panel that the architects have provided a well-resolved and highly competent scheme that complies with the controls.

DA 46/2018/JP – 47 Spurway Drive Baulkham Hills

1. The panel raised concerns about the development overshadowing itself.
2. The break- down of built form massing through architectural articulation was commended.
3. The panel queried a number of ADG compliance issues however the applicant was of the view they all required controls have been addressed.
Some concerns were:
 - Equity of access to the communal open space on the rooftop.
 - Some corridors in south eastern portion of development are excessive in length and do not meet the design guidelines 4F in the ADG.
 - Visual privacy between apartments within the development at internal courtyard corners
 - Overshadowing of the ground level communal open space and facilities by the north east development block.
 - Solar access compliance was not clearly demonstrated for this development.
4. The development has increased the setback to the north and decreased the street frontage setback to the street. This inevitably increases overshadowing of Spurway Drive and the residential flat development to the immediate south of the proposal.

RECOMMENDATION

DA 736/2017/JP – 47 Spurway Drive Baulkham Hills

That the panel recommendations be considered and the masterplan variation does not need to return to the panel.

DA 46/2018/JP – 47 Spurway Drive Baulkham Hills

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.

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

6. Close

ATTACHMENT 16 – APPLICANT’S CLAUSE 4.6 VARIATION REQUEST



Stage 2 The Orchards - Residential
47 Spurway Drive, Baulkham Hills
Clause 4.6 Request

Prepared on behalf of Sekisui House

May 2018

dowling urban



Suite 302 4-14 Buckingham Street Surry Hills NSW 2010
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APPENDIX 1 EXTRACT OF MASTERPLAN DESIGN STRATEGIES

APPENDIX 2 SHADOW ANALYSIS FOR CENTRAL PARK AVENUE DWELLINGS

COVER

Proposed Stage 2 development when viewed looking east on new Spurway Drive extension

This Clause 4.6 Request and Assessment has been prepared by:
Greg Dowling, BAS (Env Pl) M Urb Des (Syd) MPlA,
Dowling Urban Pty Ltd, Suite 302 4-14 Buckingham Street, Surry Hills NSW 2010.

1 Introduction

This report has been prepared to supplement the Statement of Environmental Effects (SEE) for the proposed residential development in Stage 2 of The Orchards at 47 Spurway Drive, Baulkham Hills to specifically request variations to development standards under Clause 4.6 of The Hills Local Environmental Plan 2012 (THLEP 2012).

In particular, this report assesses the cumulative potential impacts from all relevant stages of development that may arise from the proposed variations in this application and the overall masterplan. It also makes references to recent guidance from Land and Environment Court cases.

Referenced attachments to this report is a *Cumulative SW Spurway Solar Access Analysis* (Turner) as well as the *Architectural Statement for the Masterplan* (Turner), *Masterplan Review of Solar Access Impacts* (SLR Consulting) and *Clause 4.6 Request To Vary Development Standards Masterplan DA - 47 Spurway Drive, Baulkham Hills* (Urbis) which were lodged separately to this application.

For completeness, this assessment includes consideration of the proposed departure to the building setback to Spurway Drive, within Section 3.3, Part C Section 7 – Residential Flat Building of The Hills DCP 2012 as it relates to the effects of building heights on neighbouring properties.

Details of the development proposal are contained within the SEE. The SEE's discussion of the variations to development standards within THLEP 2012 as well as the setback provision within The Hills DCP is superseded by this report.

1.1 CASE LAW

This request has been prepared under Clause 4.6 of THLEP 2016 to justify the departures from development standards for height of building and floor space ratio within clauses 4.3 and 4.4 respectively as well as the apartment size and parking development standards within clause 7.11.

The request meets the objectives of clause 4.6(1),

- (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,*

and demonstrates for the purpose of clause 4.6(3):

- (a) that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standards.*

Case law (*Winten V North Sydney Council, Wehbe V Pittwater, Four2five V Ashfield Council*) provides guidance when considering an exception to development standards as follows:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
 - *Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives.*
 - *Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary;*
 - *Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;*
 - *Has Council by its own actions, abandoned or destroyed the development standard.*
- Is compliance with the development standard consistent with the aims of Clause 4.6?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Are there sufficient environmental planning grounds (specific to the site and particular to the circumstances of the proposed development) to justify contravening the development standard and therefore is the objection well founded?

Recent case law (*Micaul Holdings v Randwick City Council, Moskovich v Waverley Council*) has also established that:

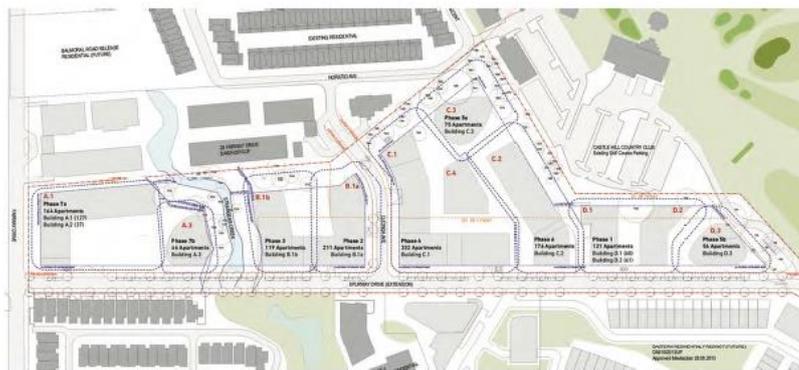
- the written request has to adequately address everything necessary in clause 4.6(3), rather than the consent authority being “satisfied directly”;
- the consent authority must be personally satisfied that development will be “consistent with” the objectives of the zone and the development standard;
- being “consistent with” these objectives is not a requirement to “achieve” them but that development be “compatible” with them or “capable of existing together in harmony”;
- establishing that “compliance with the standard is unreasonable or unnecessary” does not always require that the objectives of the standard are achieved but also that it may not be achieved or would be thwarted by a complying development;
- when a clause 4.6 variation request is being pursued, it is best to demonstrate how the proposal achieves a better outcome than a complying scheme.

1.2 DEVELOPMENT OVERVIEW

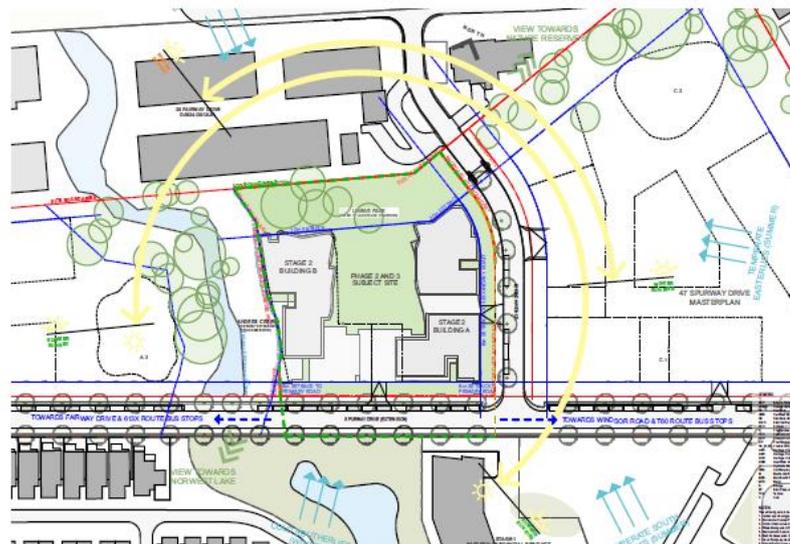
The application represents the second stage of the masterplanned development known as The Orchards which is the subject of a staged development application for 1,300 dwellings, with a mix of 1, 2, 3 and 4 bedroom apartments across 10 buildings with associated car parking, roads, a neighbourhood shop, community amenities, publicly accessible parks and landscaping.

The proposed Stage 2 development comprises 9 to 12/13 storey buildings “B1” and “B2” to be constructed in two stages, with 32,869 m2 of gross floor area utilised for 330 apartments in a mix of 1, 2, 3 and 4 bedrooms. It contains basement car parking spaces for 539 vehicles accessed from Spurway Drive and on-site loading and waste facilities loading from Lucinda Avenue, as well as landscaped private and communal open spaces, a publicly accessible new linear park with a pedestrian / cycle connection.

The staged development consent for the masterplan (736/2017/JP) provides the framework for the coordinated approvals and construction of subsequent phases of development with staged applications. Stage 1 of the masterplan was previously granted development consent for two seven-storey residential flat buildings containing 121 residential apartments.



Extract from master plan showing stages and phases with building numbers for reference.



Extract of Site Analysis Plan (and indicating photo locations section 2.5. (Source Turner)

2 Design Approach

In order to properly describe and assess the proposed exceptions to development standards, it is necessary to explain the design strategies which informed the masterplan in order to achieve:

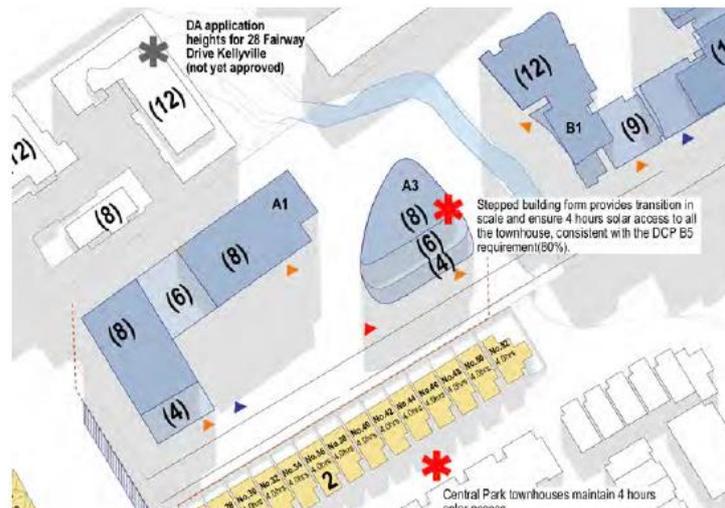
- The best planning outcome from the development having regard to the attributes of the site, the circumstances of development and the various planning and design objectives applying to the site; and
- A proper reflection of the intent of the concept which informed the adopted Planning Proposal and amendment to the THLEP 2012 that facilitates the redevelopment of the site in accordance with regional planning strategies.

An appropriate massing is considered a key issue to achieve the best planning outcome for the site which relies on the building heights as well as footprints and locations with special regard to setbacks that form the adopted building envelopes.

2.1 MASTERPLAN

2.1.1 Masterplan Design Strategies

A masterplan prepared for the site was arrived at after addressing matters raised in pre DA consultations. The extracts at Appendix 1 from the Turner design statement for the masterplan summarise the design strategies for the site, streets, setbacks, building envelopes, heights and amenity. These were adopted to optimise a better planning and design outcome for the site and form the basis of this clause 4.6 variation request.



Townhouse solar access analysis based on proposed masterplan building envelope. (Turner)

During the assessment of the staged development application for the Masterplan, additional responses to the issues raised by Central Park Avenue residents resulted in building A2 being removed from the masterplan to the west of the site and GFA

transferred to adjoining buildings (A1 and A3) with upper level setbacks to maximise solar access. The South West corner of Building B1 was also stepped (ranging in height from 9 – 12/13 storeys) to ensure 4 hours of sunlight was available to the dwellings in the Central Park Avenue development. The proposed setbacks were carefully considered to provide for enhanced amenity across the precinct.

2.1.2 Masterplan Staged Development Consent

Staged development consent was granted to the modified Masterplan on 11 April 2018 (736/2017/JP) which included the variations sought within this clause 4.6 request. The consent authority, The Sydney Central City Planning Panel concluded as follows.

The Panel has considered the applicant's request to vary the development standards contained in The Hills Local Environment Plan 2012 Clause 4.3 relating to height of buildings, Clause 4.4 Floor Space Ratio and Clause 7.11 Residential Development Yield on Certain Land. The Panel considers compliance with the standards would be unreasonable and unnecessary in the circumstances of this case as the variations provide a better design outcome through provision of additional and improved open space, greater retention of significant trees and provides better building relationships to adjoining properties, and will not result in development inconsistent with this locality. The development as designed remains consistent with the underlying intent of the standard and the objectives of the zone.

The Panel is therefore satisfied that the Applicant's clause 4.6 variation requests have adequately addressed the matters required to be demonstrated in clause 4.6 of the The Hills LEP 2012 and that the proposed development will be in the public interest because it is consistent with the objectives of the relevant controls and the objectives for development within the R4 zone in which the development is proposed to be carried out.

For the above reasons, the Panel is satisfied that the variations from the LEP development standards are in the public interest.

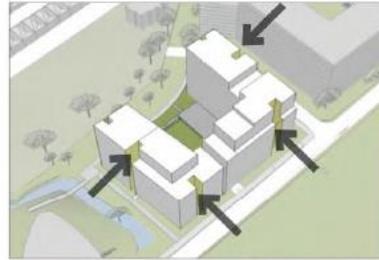
2.2 STAGE 2 MASSING AND CONFIGURATION

The proposed development for Stage 2 that is the subject of this application is configured to address the site's southern and eastern street frontages as well as the creek corridor frontage to the west. The upper level massing is modified to lessen overall bulk and while the building is setback to maximize tree retention to its rear.

The buildings will have a 6 m setback to Spurway Drive and Lucinda Avenue extensions and rear setback of 20 m or greater to the northern and western boundaries to facilitate the linear park and Stranger Creek corridor with publicly accessible connections proposed under the master plan. The buildings have been orientated to retain the significant trees adjacent to the north and west.



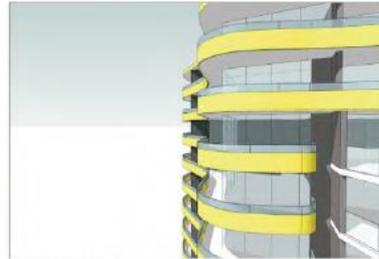
Building form stepped back to reduce overshadowing to adjacent development



Breaks in building form adds to the variety of scale



Bulk and mass is minimised through use of 4 facade languages



Ribbon element captures important vistas and provide variety of form

Extract of SEPP 65 Design Report

Areas for communal recreation with deep soil are provided to the rear of the building at ground level as part of a linear park pathway as well as in the creek corridor. Other communal recreational opportunities are provided within landscaped courtyard and roof top terrace. All areas enjoy good winter solar access and will feature mature tree plantings.

The buildings are arranged around four separate lift cores to provide optimum internal circulation and apartment amenity with entrances from three lobbies direct from Lucinda Avenue and Spurway Drive and a fourth from the Strangers Creek corridor.

The building is served by a multi-level basement containing car parking, general storage, separate waste facilities for residential occupants and building services with the main entrance from Spurway Drive. A separate garbage holding and loading area at ground level is accessed from Lucinda Avenue where a turntable is used to allow trucks to enter and leaving the site in a forward direction and lessen impact on the Avenue.

2.2.1 FSR and Building Height

The height of the proposed building varies from 9 to 12/13 storeys and responds to the slope of the land, which has a 6m difference from its eastern to western boundaries. The height of the buildings tend to average at RL40.2 established in the masterplan with extrusions for roof plant, lift overruns and shelters for the roof top communal area.



Example extract of elevations showing height relationships.

The proposed gross floor area is 32,869 m² which results in a FSR 3.3:1 when including the Strangers Creek corridor area (10,029 m² site area) or 3.9:1 for the DA area alone (8,442 m²).

However, it should be noted that these are net FSRs and when the masterplan areas are applied (12,829 m² as shown on the FSR analysis sheet DA-860-101) the gross staged FSR is 2.6:1 as anticipated in the averaging of accumulated FSRs within the masterplan.

While the height and FSR variations accord with the masterplan, the formal justification for the exceptions to LEP standards under clause 4.6 of THLEP 2012 is provided in this report.

3 Proposed Variations

The Masterplan and proposed Stage 2 development seeks to vary the prescribed development standards within THLEP 2012 relating to:

- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio; and
- Clause 7.11 - Residential development yield on certain land.

Since the effect of the variation to building height is related to the building setback to Spurway Drive, this report also addresses this development control within Section 3.3, Part C Section 7 – Residential Flat Building of The Hills DCP 2012.

3.1 MASTERPLAN

3.1.1 Clause 4.6

The variations to standards sought for the Stage 2 development conforms with the non-compliances granted for staged development consent of the site masterplan.

3.1.2 Spurway Drive Setback

The setbacks adopted for the Stage 2 development is in accordance with the masterplan proposal but setbacks to Spurway Drive is subject to assessment for each stage of development. The masterplan proposed a 6m setback to Spurway Drive, in lieu of the 10m DCP standard, in the context of the setback strategy set out in page 21 of the Design Statement (attached) whereby it states.

In line with the DCP objectives, the proposed setbacks have been developed to:

- *Complement the setting and contribute to the streetscape and character of the street by providing for greater separation of the proposed building envelopes adjacent to existing low rise development to the north and south;*
- *Allow flexibility in siting of buildings;*
- *Preserve the existing natural features of the site.*

The proposed variation to setbacks have been carefully considered.

- *The 20m setback to the north boundary allows for retention of an additional 93 existing trees.*
- *The wider road dedication (from 15.5m to 16.5m) provided for Spurway Drive remains consistent with Council's strategy*
- *The reduced street setback to Spurway Drive will still provide building separation distances in excess of the required minimum from the boundaries.*
- *The proposed setback of 6m to the Spurway Drive extension allows landscaping that will complement the building form and enhance the character of the street through the provision of a landscaped bio-retention zone that runs the length of the proposed road extension.*

In particular, the increased setback to the north (6m to 20m) will provide a new publicly accessible linear park with a range of spaces to promote active and passive uses. It will also provide greater separation from existing low rise residential to the north and retain existing significant trees.

The reduced setback to Spurway Drive (from 10m to 6m) is reflective of a more urban context within the close catchment of the new rail station and higher density area, and is appropriate for the function of the street.

The adopted setback will have minimal impact to the solar access of adjacent existing dwellings and higher density residential apartments, and retain a significant streetscape character with suitable landscaping as proposed. It should also be noted that the effect of the adopted setback is mitigated by the widening of the street as originally prescribed in the DCP from 15.5m to 16.5m .

Under the adopted setbacks, building separation between the proposed Stage 2 development and the adjacent residential development to the north and south will meet or exceed the minimum requirements of the DCP and ADG as the case may be.

It is therefore considered that the setback to Spurway Drive will meet the DCP's objectives of the under 3.3. Setbacks:

- (i) To provide an open streetscape with substantial areas for landscaping and screen planting.*
- (ii) To minimise overshadowing of adjoining properties.*
- (iii) To protect privacy and amenity of any adjoining land uses in accordance with Council's ESD objective 7.*
- (iv) To ensure developments are compatible with the character of surrounding housing areas in respect of the quantity and quality of open space.*

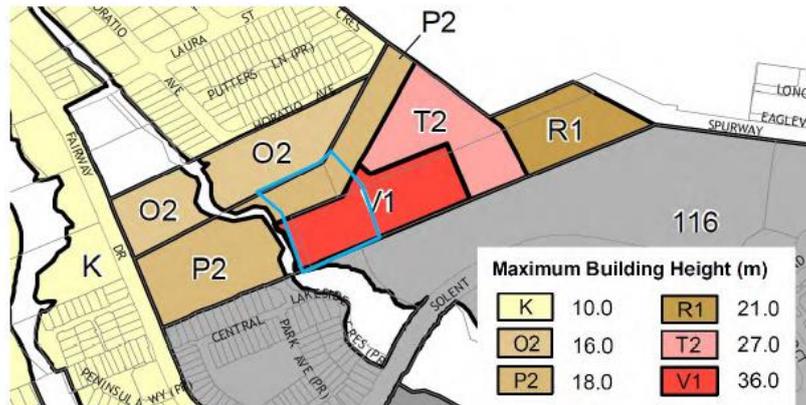
The approach to setbacks is also consistent with the Baulkham Hills Multi-Unit Housing – Urban Design Guidelines, which in regard to setbacks states, “Some variety in certain areas and situations enriches the streetscape and assists in creating open spaces that can be utilised for public purposes and accommodate various activities.”

3.2 STAGE 2

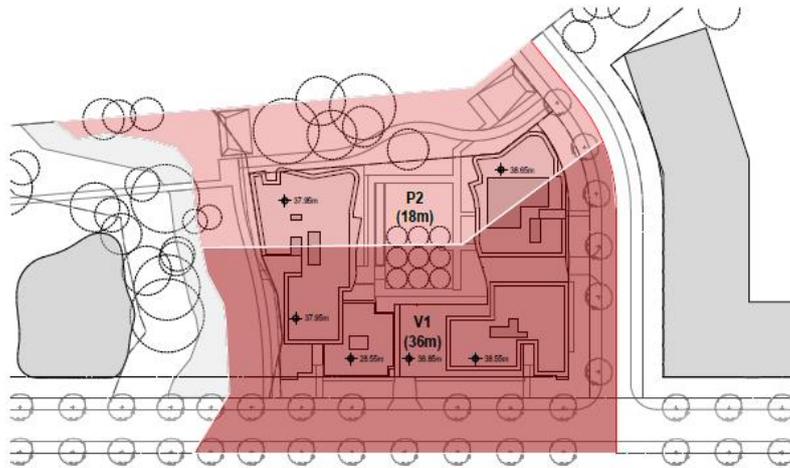
The following is the descriptions of the specific development standards that are contravened by the development proposal.

3.2.1 Part 4 Principal development standards

The site is subject to height of buildings development standards of 18 and 36 metres. The proposed buildings will have maximum heights of generally 40.2 metres excluding the plant room, rooftop garden shelter and some lift overruns in accordance with the masterplan.



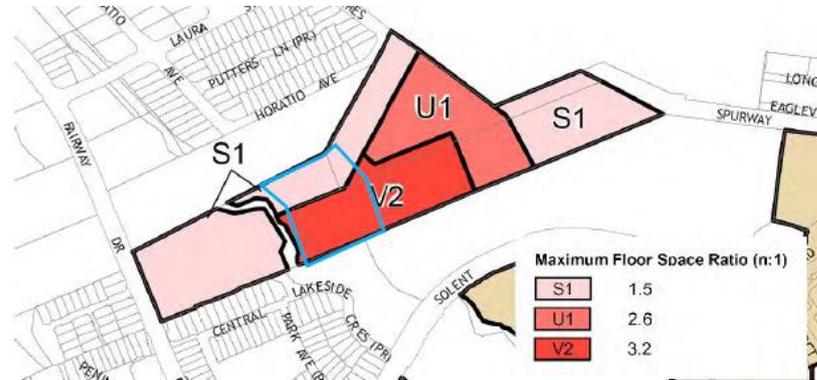
Extract of Height of Buildings Map Source: THLEP 2012



Plan showing spot heights of building and LEP height limits (Source Turner)

The proposed heights generally exceed the 36m height limit by 1.95 to 2.85m as a result of ADG adjustments and generally 20m above the 18m height standard as a result of re-massing under the masterplan design strategies.

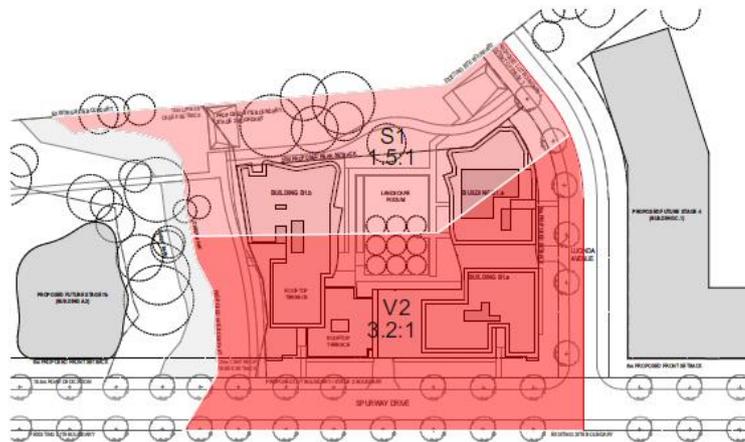
The site is subject to floor space ratio (FSR) development standards of 1.5:1 and 3.2:1 in separate categories applying to the land.



Extract from Floor Space Ratio Map Source: THLEP 2012

As shown on the architectural plan DA 860-101 (extract below), based on the areas of the site inclusive of the street and creek corridor lands within each of the two FSR categories, the permissible gross floor area (GFA) across the gross site is 32,536 m². The proposal has a GFA of 32,869 m². This is marginally above the GFA of 32,672 m² anticipated by the masterplan but which may be taken into account in subsequent stages.

The conversion of the gross FSR to the net FSR when streets and the Stranger Creek corridor is excluded results in an elevated FSR of 3.9:1 (combined category areas) when applied to the smaller development application area.



Extract from FSR Analysis Plan

3.2.2 Residential development yield on certain land (Clause 7.11)

Clause 7.11 of the THLEP 2012 includes requirements specific to the subject site.

The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings across the site. However, if development will result in more than 600 dwellings, the development must provide a prescribed mix of apartment typologies as follows.

Table summarising clause 7.11 LEP apartment size provisions

Apartment Size	Mix	Type 1	Type 2	Type 3
Range		=<30%	=<30%	
Studio or 1 bedroom	=<25%	50-65m ²	65-75m ²	>75m ²
2 bedroom		70-90m ²	90-110m ²	>110m ²
3+ bedroom	=>10%	95-120m ²	120-135m ²	>135m ²

As described in Section 3, the apartment mix complies with this provision as Studio and 1 bedroom apartments are less than 30% and 10% of apartments have 3 or 4 bedrooms.

However, as anticipated in the masterplan, there is variation to apartment size ranges in that Type 2 2-bedroom have an area of 88 m² which is only 2 m² less than the range specified for this category but which is satisfactory in terms of utility and amenity.

Therefore, Type 1 2-bedroom apartments technically comprise 57% but which reduces to 30% when the 2 bedroom apartments of 88 m² are considered as Type 2.

The table below highlights minor variances to the Type 3 apartments with the 2-bedroom at 102 m² rather than 110 m² min and some 3-bedrooms are at 130 which is less than the minimum of 135m².

Table comparing LEP and masterplan apartment sizes

Apartment Size	LEP m2	MP m2	Apartments	Totals	%
Type 1 – 1 Bed	50-65	55	7		
Type 1 – 2 Bed	70-90	79	89		
Type 1 – 3+ Bed	95-120	110	3		
<i>Sub Total</i>				99	30%
Type 2 – 1 Bed	65-75	65	7		
Type 2 – 2 Bed	90-110	88	89		
Type 2 – 3+ Bed	120-135	120	3		
<i>Sub Total</i>				99	30%
Type 3 – 1 Bed	75 m2 +	75	69		
Type 3 – 2 Bed	110 m2 +	102	36		
Type 3 – 3+ Bed	135m2 +	130-185	23		
<i>Sub Total</i>				132	40%
Total				330	100%

Under this clause the development must also provide a prescribed range of car parking as follows.

- *for each 1 bedroom dwelling—1 car parking space, and*
- *for each 2 or more bedroom dwelling—2 car parking spaces, and*
- *for every 5 dwellings—2 car parking spaces, in addition to the car parking spaces required for the individual dwelling.*

The car parking details are set out in Section 3 and the Traffic report and, as anticipated in the masterplan, there is a variation to the LEP parking requirements to reflect the site's access to future high levels of transport choice and mass transit services whereby the following rates have been adopted in consultation with Council.

- for each 1 bedroom dwelling—1 car parking space, and
- for each 2 bedroom dwelling—1.5 car parking space, and
- for each 3 or more bedroom dwelling—2 car parking space, and
- for every 5 dwellings—1 car parking spaces, in addition to the car parking spaces required for the individual dwelling.

The explanation and justification for the adoption of the above parking rates is provided in Section 4 of the Transport Impact Assessment. The assessment notes that the parking requirements under the LEP provisions (reflecting the THDCP) would result in a total of 709 car parking spaces and that the SEPP65 requirement to use the RMS guide would result in a total of 356 spaces. The agreed rate adopted for the masterplan reflected in this application results in a total of 536 spaces.

The request for an exception to the development standards with Clause 7.11 is provided in Section 4.6.

4 Clause 4.6 Assessment

4.1 ARE THE PLANNING CONTROLS A DEVELOPMENT STANDARD?

The planning controls in Clauses 4.3, 4.4 and 7.11 relating to maximum building height and floor space ratio, and minimum apartments sizes and parking are development standards under the definition within the *Environmental Planning and Assessment Act 1979* that defines development standards specifically as including height, as follows (*EP&A Act, Part 1 Section 4. Definitions*)

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including,

- (a) *the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point ...*
- (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) *the cubic content or floor space of a building,*
- (e) *the intensity or density of the use of any land, building or work,*
- (g) *the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,.....*

4.2 THE NATURE OF THE CONTRAVENTION OF THE STANDARDS

The site is subject to height of buildings development standards of 18 and 36 metres under clause 4.3 (categories P2 and V1 on the LEP HOB Map). The proposed buildings will have maximum heights of generally 40.2 metres but excluding the plant room, rooftop garden shelter and some lift overruns in accordance with the masterplan.

As set out in the masterplan design strategy, the modification to building heights across the whole site result from allowances for changes in topography, lift overruns and the floor-to-ceiling heights required under the ADG as well as responding to site conditions including for the retention of vegetation and the creation of public access ways and a linear park through re-massing the permitted floor area.

The site is also subject to floor space ratio (FSR) development standards of 1.5:1 and 3.2:1 in separate categories applying to the land (Categories S1 and V2 on the LEP FSR Map).

As shown on the architectural plan DA 860-101, based on the areas of the site inclusive of the street and creek corridor lands within each of the two FSR categories, the permissible gross floor area (GFA) across the gross site is 32,536 m². The proposal has a GFA of 32,869 m² which is marginally above the GFA of 32,672 m² anticipated by the masterplan but which may be taken into account in subsequent stages.

The conversion of the gross FSR to the net FSR when streets and the Stranger Creek corridor is excluded results in an elevated FSR of 3.9:1 (combined category areas) when applied to the smaller development application area.

The standards contravened under clause 7.11 consist of the range of apartment sizes under 5(c) and the rate of car parking provision under 5(d) of the clause.

As anticipated in the masterplan, there is variation to apartment size ranges in that in that Type 2 2-bedroom have an area of 88 m² which is only 2 m² less than the range specified for this category but which is satisfactory in terms of utility and amenity.

Therefore, Type 1 2-bedroom apartments technically comprise 57% but which reduces to 30% when the 2 bedroom apartments of 88 m² are considered as Type 2.

The table above highlights minor variances to the Type 3 apartments with the 2-bedroom at 102 m² rather than 110 m² min and some Type 3 apartments 3-bedrooms are at 130 which is less than the minimum.

In the case of the parking rates, the proposed provision varies the standard by adopting 1.5 car space instead of 2 for 2 bedroom apartments and 1 visitor parking space for each 5 apartments instead of 2 visitor spaces.

4.3 ASSESSMENT AGAINST THE PURPOSE/OBJECT OF THE STANDARD

4.3.1 Height of Building

The objectives of the height of building development standard under clause 4.3 are:

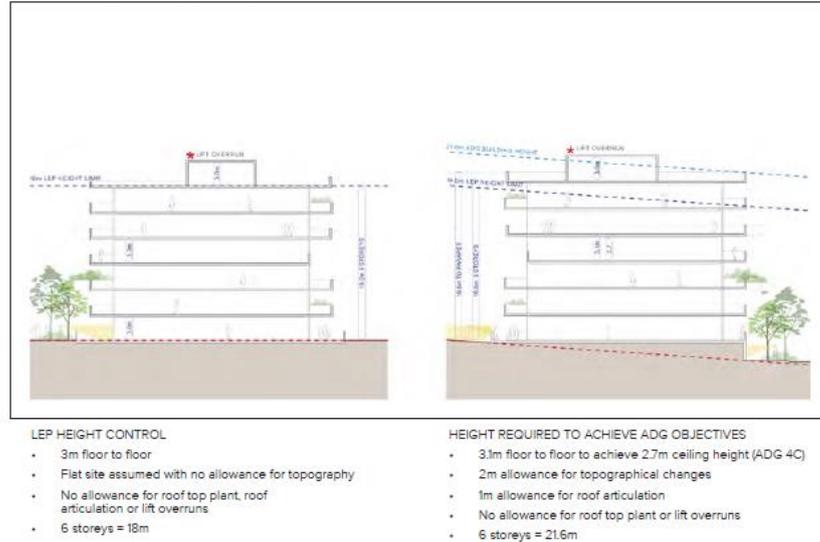
- (a) *to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
- (b) *to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

The objectives of the height of building controls will be satisfied by implementing the original concept which informed the Planning Proposal and subsequent masterplan. This provided for 6 and 12 storey buildings which has been retained in most circumstances including a small occurrence of 13 storeys to Spurway Drive in Stage 2 resulting from partially overlapping floors on the sloping site.

The design strategies within the masterplan architectural statement also set out the reasoning for further variations to the height standard in the distribution, site coverage and massing of floor area in order to achieve improved planning and design outcomes from the redevelopment as described.

The height and envelope strategies for the masterplan took into consideration the compatibility of heights with adjoining development and overall streetscapes as well as shadowing, visual, and privacy impacts on adjoining properties and open space areas.

In particular, underlying the height variation is the need to accommodate floor to ceiling height to achieve ADG requirements while also allowing for adjustments resulting from the slope of the land and necessary earth works altering the existing ground levels as shown in the following extract from the design statement.



Extract from Masterplan Design Statement explaining need to adjust building height (Source: Turner)

Detailed discussion on the effect of building height on shadowing is provided at section 4.6.

4.3.2 Floor Space Ratio

The objectives of the floor space ratio development standard under clause 4.4 are:

- (c) *to establish a maximum floor space ratio to enable appropriate development density to be achieved, and*
- (d) *to ensure that development intensity reflects its locality.*

The objectives of the floor space ratio controls are clearly met by the proposed development as it implements the masterplan which complies in total with the THLEP 2012 FSR standard which provides for 1300 dwellings as anticipated in the THLEP 2012.

The exception to the FSR standard for Stage 2 simply represents an altered distribution of floor space across the site in accordance with the masterplan design strategies in order to achieve improved planning and design outcomes.

Therefore, the development proposal will not lead to the contravention of the development density anticipated by the THLEP 2012 which in turn, reflects the locality's proximity to a wide range of jobs, services, recreational and mass transport opportunities.

4.3.3 Residential development yield

The objectives of the residential development yield development standards under clause 7.11 are:

- (e) to ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets,*
- (f) to ensure that development for residential flat buildings does not place an unreasonable burden on the provision of services, facilities and infrastructure in the area to which this clause applies,*
- (g) to provide opportunities for suitable housing density that is compatible with existing development and the future character of the surrounding area,*
- (h) to promote development that accommodates the needs of larger households, being a likely future residential use.*

Objectives (b) and (c) of these provisions are satisfied in that the 1300 dwellings maximum is not being breached, thereby ensuring that the density remains compatible with existing development and future character of the surrounding area as well as available services, facilities and infrastructure.

The mix of dwelling sizes remains substantially as prescribed with only minor variance to some apartment sizes thereby ensuring housing choice for different demographics, living needs and household budgets as well as for larger households as set out in objectives (a) and (d).

The minor variance to parking standards are also compatible with the objectives in general in that they still provide adequate support for the variety of housing choices while appropriately responding to the area's improved public transport infrastructure by limiting car ownership and visitation in an area of future high public transport accessibility as set out in the Transport Impact Assessment.

4.4 IS COMPLIANCE CONSISTENT WITH THE REQUIREMENTS OF CL 4.6?

The aims of Clause 4.6 are:

- (i) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (j) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

When the development is tested against the underlying objectives of the standard, compliance would not be inconsistent with the aims of the clause because the proposed FSR and height is a reflection of a considered masterplan design strategy for the entire development parcel that in turn is a response to the characteristics of the site and its context.

Otherwise, the variances to the residential development yield provisions are minor in nature and still implement the nature and purpose of the provisions. The proposed development is therefore a case where flexibility in the application of the development

standards is justified in order to implement the objectives and intent of THLEP 2012 and remain consistent with the masterplan adopted for the larger development parcel.

4.5 IS COMPLIANCE UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES?

Strict compliance with the relevant provisions of THLEP 2012 is considered unreasonable and unnecessary in the circumstances of the case as it would impede the considered implementation of the LEP Amendment that facilitated an accepted design concept and the masterplan staged development consent in which the subject land is included. Compliance would also impede the achieving of a better planning and design outcome for the site as represented by the adopted design strategy under the masterplan.

4.6 ARE THERE SUFFICIENT GROUNDS TO JUSTIFY CONTRAVENTION?

4.6.1 FSR and Development Yield

The contravention of the FSR standard as applied to the Stage 2 site is a result of the better distribution of building mass under the approved masterplan to achieve a better planning and design outcome for the entire parcel as demonstrated in the design strategies.

Since the overall gross floor area of the masterplan will not be breached, and accordingly, no more development or anticipated adverse impacts will occur than anticipated by THLEP2012, there is clearly sufficient grounds to justify the localised contravention of the FSR standard.

Similarly, the contravention of the residential yield standards is minor in nature and reflect the result of well-considered planning and design processes as well as the implementation of emerging travel demand management approaches to parking provision. Importantly, since no more development or anticipated adverse impacts will occur than anticipated by THLEP2012 there is clearly sufficient grounds to justify the contravention of the development yield standards for parking and apartment sizes.

4.6.2 Building Height

As discussed above, the contravention of the building height standard results from two separate requirements.

The first requirement is the need to adjust building heights to achieve ADG floor to floor height requirements and the practical consequences of a sloping site and alteration to existing ground levels. This contravention occurs in implementing the number of storeys and massing adopted for the concept which informed the Planning Proposal and subsequent drafting of the amendment to THLEP 2012.

Accordingly, the prescribed height of building standards did not adequately allow for these practical and foreseeable consequences for development, and accordingly sufficient grounds exist to the contravention this height standard on this basis.

The second requirement derives from applying well-reasoned design strategies for massing, as set out on the Design Statement to the masterplan. This has been undertaken in order to achieve better planning and design outcomes for the site as described, and includes better building relationships between adjoining sites, the greater retention of significant trees and the provision of a publically accessible linear park.

The more significant breaches occur to the north of the site under the 18m height limit with limited effect on the adjoining 4/5 storey apartment building and elevated dwellings especially because of the wider building separation proposed. Increases in scale closer to the rail station is also anticipated in the Norwest Strategy. Accordingly, sufficient grounds exist to contravene the height standard in this circumstance.

It is acknowledged that the variation in building heights within the masterplan and for Stage 2 specifically, has an indirect potential effect on the solar access from overshadowing to dwellings to the south-west of the site and an apartment building more directly to its south.

The design strategies incorporate mitigation by way of building setback to upper storeys to minimise the shadowing impacts. The degree of effect and justification is considered below in the context of cumulative shadowing that would occur for the implementation the masterplan as currently approved.

In regard to the dwellings to the south-west, the direct effect on shadowing from Stage 2 is shown on the submitted Shadow Diagrams DA-710-001 (extract below).



Extract of Stage 2 Shadow Diagram (Source Turner)

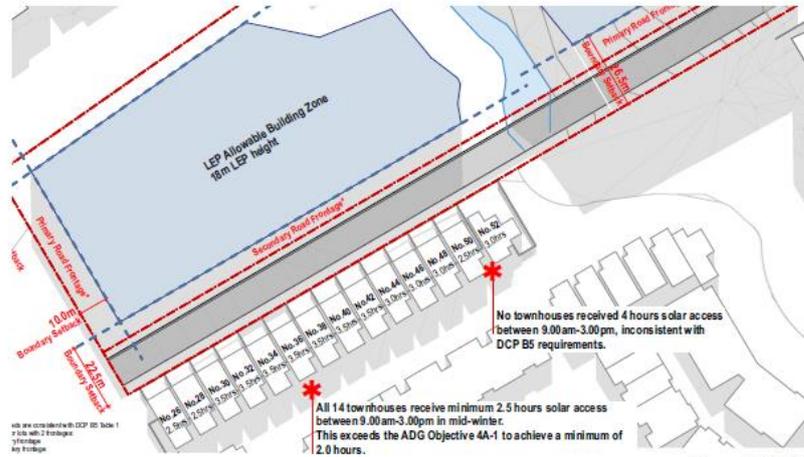
The cumulative effect of shadowing dwellings to the south-west from the masterplan, i.e., when buildings B1 and B2 from Stage 2 are combined with buildings A1 and A3, is shown on the Shadow Diagrams MP-710-001 and MP-710-002 based on the approved masterplan staged development consent (extracts below).



*Shadow Diagrams MP-710-001 and MP-710-002 showing shadow edge from LEP envelope, (green) and ADG adjusted height at 10m setbacks (orange) and proposed development (blue)
(Source: Turner)*

The masterplan responded to shadowing and outlook concerns of the adjoining residents, by removing the middle building A2, re-massing buildings A1 and A3 and setting back the upper levels of the buildings, and a portion of the twelfth storey of the Phase 2/3 development, which in effect 'lowers' the buildings in terms of mid-winter shadowing potential.

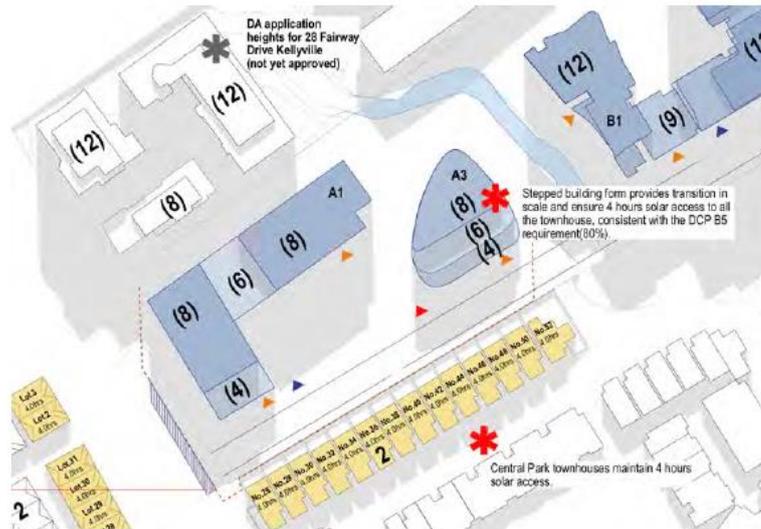
An analysis undertaken by Turner (attached in Appendix 2 and extract below) compared the shadowing that would occur to the townhouses under the THLEP 2012 height of building controls and with the proposed variations to demonstrate that this substantially mitigates potential shadowing impacts.



Townhouse solar access analysis based on complying building envelope. (Turner)

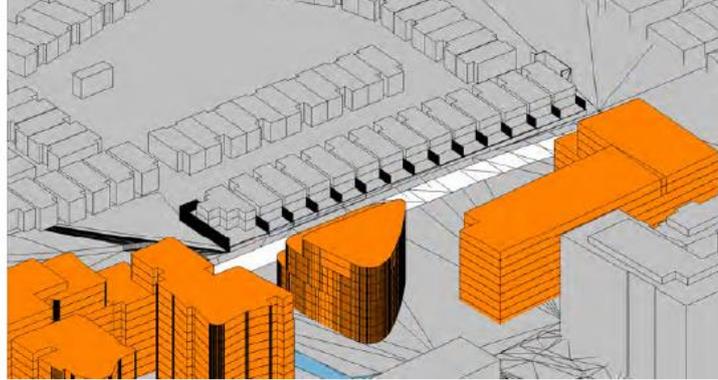
The solar access analysis based on complying building envelope (above) shows that the 14 townhouses would receive between 2.5 to 3.5 hours of mid-winter solar access but none would receive the minimum 4 hour mid-winter solar access as per the THDCP B5 requirement.

The solar access analysis based on the amended masterplan building envelopes (extract below) as described demonstrate that townhouses will receive at least 4 hour mid-winter solar access as per the DCP B5 requirement. The complete analysis is attached to this Report.



Townhouse solar access analysis based on building envelope with height contravention and setback. (Turner)

Analysis by SLR submitted to Council confirms that "100% (14 of 14) of neighbouring townhouses (dwellings) had received 4hrs solar access on June 21, as per the Baulkham Hills DCP". (Extract of submitted analysis below)

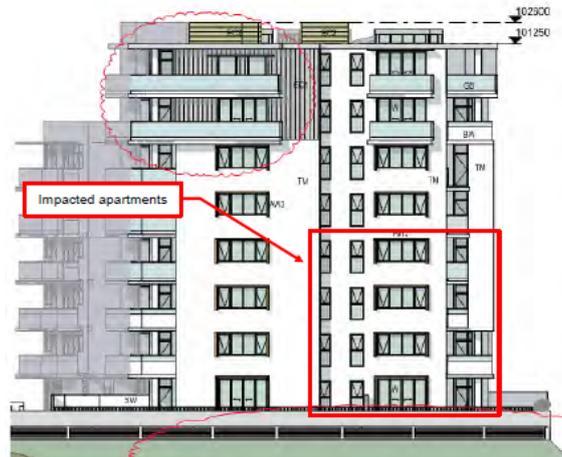


Sun eye view at 11:00 am 21 June showing effect of stepping back Stage 2 ,massing to provided improved solar access to adjoining dwellings (SLR)

In regard to the apartment building directly to the south of Stage 2, a Peer Review of Solar Impacts prepared by SLR (attached) examined the cumulative effect on building ED2 in the following diagram which will be subject to some winter shadowing from the Stage 2 development.



Extracts from Solar Access Peer Review showing relationship of masterplan to development to the south of the site (above) and identification effected apartments (below)



The SLR peer review concluded that the impact on the four apartments as shown above is considered to be minimal as:

- *The four affected apartments have dual orientations to the north and the west and will receive some direct solar access, despite not achieving the 2 hr solar access criterion during mid-winter.*
- *The overshadowing is consistent with the height approvals in the planning proposal and the shadows cast by building envelopes within the height control.*

Accordingly, given the minimal shadowing effect on adjoining townhouses and reasonable additional shadowing effect on adjoining apartment buildings when taking into account the cumulative effect from the approved masterplan, it is considered that shadowing impacts do not undermine the sufficient grounds which exist to contravene the height standard in this circumstance.

4.7 IS THE REQUEST WELL FOUNDED?

This request under clause 4.6 of THLEP 2012 is considered to be well founded for the following reasons.

- The proposed development remains consistent with the objectives, nature and intent of THLEP 2012 and the masterplan staged development consent in which the subject land is included.
- The development as proposed is based on a well-reasoned masterplan design strategy to achieve better planning and design outcomes appropriate in this location and provides for an appropriate response to the site and its context.
- Strict compliance with the height of building, floor space area, apartment size and parking controls in the circumstance would result in unnecessary design limitations and a consequent diminished urban outcome.

- The variation to floor space ratio is a result of the net effect of the DA boundary and does not alter the compliance of the overall masterplan to the accumulated FSR as well as the cap on dwellings within THLEP.
- The variation to height of buildings is consistent with the masterplan which allowed for ADG requirements while mitigating shadowing impacts as well as responding to site conditions including for the retention of vegetation and the creation of public access ways and a linear park.
- The variation to apartment sizes comprises only minor changes while all apartments remain well above the ADG minimums to respond to local needs reflected in the LEP provisions, and
- The variation to parking provisions is also minor in nature and better reflects metropolitan planning policy for accessibility to mass public transport and remains well above the ADG minimums while still responding to local conditions.
- The proposed development is wholly consistent with the underlying objectives of the development standards.
- The proposed variations do not add significantly to the overall impact to adjoining land uses and activities.
- Consequently, the non-compliances do not result in any additional adverse environmental impacts on the amenity of the surrounding area in general.

5 Conclusion

5.1 SUMMARY OF BETTER PLANNING OUTCOMES

The proposed exceptions to the development standards contained in The Hills Local Environment Plan 2012 Clause 4.3 Height of Buildings, Clause 4.4 Floor Space Ratio and Clause 7.11 Residential Development Yield on Certain Land will result in a better planning and design outcome as follows.

- The provision of additional and improved open space available to the public, greater retention of significant trees, improved shadowing impacts and better building relationships to adjoining properties and the context in general, resulting from well-reasoned massing and design strategies.
- The refinement of the prescribed apartment typologies to better meet demographic dwelling demand;
- Improved travel demand management through reduced parking provision to encourage less car use and better utilisation of the metro rail but which still meets the needs of residents and visitors.
- The ability to properly implement the intent of the site-specific local environmental planning provisions as well as the staged development consent.

The exceptions will not result in development inconsistent with the locality. The development as designed remains consistent with the underlying intent of the standard and the objectives of the respective zone.

5.2 CONCLUSION

It is concluded from the strategies and assessments within and referenced in this report, that the proposed contraventions to the development standards as described, do not undermine or frustrate the underlying objectives to those standards.

The non-compliances do not give rise to any significant additional adverse environmental impacts but provides for a better urban planning and design outcome as demonstrated by a well-reasoned masterplan design strategy. Compliance with the standards would likely result in a diminished planning and design outcome.

It is therefore considered that strict compliance with the height of building, floor space and residential development yield development standards is unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standards as proposed.

Further, this written request has adequately addressed the matters required to be demonstrated in establishing the above and that the proposed development will be in the public interest because it is consistent the objectives of the standards and the objectives for development within the respective zone.

It is also considered appropriate to provide the required flexibility in applying the development standards to achieve better outcomes for and from development as proposed for The Orchards site by allowing this flexibility in this particular circumstance.

Accordingly, the consent authority should find that it is able to support the requested exception to development standards under clause 4.6 of The Hills LEP 2012.

For the purpose of the delegated concurrence of the Secretary General, it is not considered that contravention of the development standard raises any matter of significance for State or regional environmental planning. Further, there are public benefits of not maintaining the development standard in this circumstance in order to better implement the urban renewal strategies adopted in response to the major community investment in mass transit at Norwest, to development of the site.

ATTACHMENT 17 – GENERAL TERMS OF APPROVAL DPI WATER



Department of
Primary Industries
Water

General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1100485
Issue date of GTA:	16 January 2018
Type of Approval:	Controlled Activity
Description:	Stages 2 and 3 of a concept masterplan to construct a Residential Flat Building development comprising three hundred and thirty units (330) with basement parking for 539 vehicles.
Location of work/activity:	47 Spurway Drive Baulkham Hills NSW 2153
DA Number:	46/2018/JP
LGA:	The Hills Shire Council
Water Sharing Plan Area:	Greater Metropolitan Region Unregulated River Water Sources

The GTA issued by DPI Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to DPI Water for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Design of works and structures	
GT0009-00004	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Crown Lands and Water Division, and obtained, for a controlled activity approval under the Water Management Act 2000.
GT0013-00001	A. Any proposed controlled activity carried out under a controlled activity approval must be directly supervised by a suitably qualified person. B. A copy of this approval must be: i. kept at the site where the controlled activity is taking place, and ii. provided to all personnel working on the controlled activity.
GT0019-00002	Any proposed excavation on waterfront land must be undertaken in accordance with a plan submitted as part of a controlled activity approval, to be approved by Crown Lands and Water Division.
Erosion and sediment controls	
GT0006-00003	The following plan(s): - Erosion and Sediment Control Plan; Storm Water Management Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0014-00003	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Crown Lands and Water Division as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021-00001	The proposed erosion and sediment control works must be inspected and maintained throughout the carried out; construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.
GT0022-00003	During the time the proposed controlled activity is taking place or being constructed, restrictions must be imposed by Crown Lands and Water Division, such as: A. machinery must not enter the water course at anytime, B. there must be a minimum flow in the water course.

Plans, standards and guidelines

Level 11, 10 Valentine Avenue, Parramatta, NSW 2124 | LOCKED BAG 5123, Parramatta, NSW 2124
water.enquiries@dpi.nsw.gov.au | www.water.nsw.gov.au



General Terms of Approval

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Water Sharing Plan Area:	Greater Metropolitan Region Unregulated River Water Sources

GT0001-00001	A. The application for a controlled activity approval must include the document(s) listed in Schedule 1. B. The document(s) must be prepared by a suitably qualified person.
GT0002-00103	A. This General Terms of Approval (GTA) only applies to the proposed activities described in the plans and associated documents found in Schedule 1, relating to Development Application IDAS1100485 provided by Council to Crown Lands and Water Division. B. Any amendments or modifications to the proposed activities may render the GTA invalid. If the proposed controlled activity is amended or modified, Crown Lands and Water Division, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0004-00002	A. A security deposit must be provided, if required by Crown Lands and Water Division. B. The deposit must be: i. a bank guarantee, cash deposit or equivalent, and ii. equal to the amount required by Crown Lands and Water Division for that controlled activity approval.
GT0005-00033	A. The application for a activities approval must include the following plan(s): - site plan, map and/or surveys; Works Schedule; structural design and specifications; outlet structures; laying pipes and cables in watercourses on waterfront; Erosion and Sediment Control Plan; Soil and Water Management Plan; Urban Stormwater: Soils and Construction; Vegetation Management Plan; Riparian Corridors; hydraulic modelling report; in-stream works; detailed structural drawings; monitoring plan; Storm Water Management Plan; final costings.. B. The plan(s) must be prepared in accordance with Crown Lands and Water Division's guidelines located on the website http://www.water.nsw.gov.au/water-licensing/approvals/controlled-activity..
GT0008-00005	A. Before the proposed activity can commence, a riparian corridor must be clearly marked, protected and maintained in accordance with a plan submitted as part of the controlled activity approval, and approved by Crown Lands and Water Division. B. The corridor must extend for: i. a width of 20 m, measured horizontally landward from the highest bank of the river, and ii. the length of the site directly affected by the activity.
GT0010-00003	All documents submitted to Crown Lands and Water Division as part of an application for a controlled activity approval must be prepared by a suitably qualified person.
GT0030-00001	The application for a controlled activity approval must include plans prepared in accordance with Crown Lands and Water Division's guidelines located on the website as follows: http://www.water.nsw.gov.au/water-licensing/approvals/controlled-activity .

Rehabilitation and maintenance

GT0007-00003 When the proposed controlled activity is completed, and the rehabilitation plan has been implemented, maintenance of the site must be carried out for a period of 2



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1100485

Issue date of GTA: 16 January 2018

Type of Approval: Controlled Activity

Description: Stages 2 and 3 of a concept masterplan to construct a Residential Flat Building development comprising three hundred and thirty units (330) with basement parking for 539 vehicles.

Location of work/activity: 47 Spurway Drive Baulkham Hills NSW 2153

DA Number: 46/2018/JP

LGA: The Hills Shire Council

Water Sharing Plan Area: Greater Metropolitan Region Unregulated River Water Sources

years in accordance with that rehabilitation plan submitted as part of the controlled activity approval, and approved by Crown Lands and Water Division.

GT0011-00001 A rehabilitation plan for the waterfront land must be provided as part of a controlled activity approval application.

GT0023-00001 Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).

Reporting requirements

GT0016-00002 The consent holder must inform Crown Lands and Water Division in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.

GT0017-00003 When required: A. a suitably qualified person must provide a certificate of completion for any controlled activity carried out under a controlled activity approval, and B. the certificate must be sent to Crown Lands and Water Division.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by DPI Water for integrated development associated with 46/2018/JP as provided by Council:

- 1) Council referral letter
- 2) Flora & fauna Assessment_10/16_Ref:A16122F Travers bushfire & ecology
- 3) Spurway Drive Water Sensitive Urban Design (WSUD) Strategy_05/09/16_Alluvium
- 4) Survey Plan_24/09/15_Lockley: 42451DT
- 5) Subdivision Plan_23/06/17_Lockley: 41917 - 44554DP