



SYDNEY CENTRAL CITY PLANNING PANEL

Electronic Determination

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ITEM	SUBJECT	PAGE
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ITEM-1	SWCCPP REPORT - DA 1395/2016/JP/A - A SECTION 4.55(2) MODIFICATION TO AN APPROVED MIXED USE DEVELOPMENT COMPRISING CHANGES TO UNIT MIX, INTERNAL LAYOUTS AND MINOR FAÇADE CHANGES – LOT 101 DP 1065520, 11-13 SOLENT CIRCUIT, BAULKHAM HILLS	3

ITEM-1

SWCCPP REPORT - DA 1395/2016/JP/A

Panel Reference	2017SWC112
DA Number	1395/2016/JP/A
LGA	THE HILLS SHIRE COUNCIL
Proposed Development	A SECTION 4.55(2) MODIFICATION TO AN APPROVED MIXED USE DEVELOPMENT COMPRISING CHANGES TO UNIT MIX, INTERNAL LAYOUTS AND MINOR FAÇADE CHANGES
Street Address	LOT 101 DP 1065520, 11-13 SOLENT CIRCUIT, BAULKHAM HILLS
Applicant/Owner	CAPITAL CORPORATION (WATERSIDE) PTY LTD
Date of DA lodgement	8 SEPTEMBER 2017
Number of Submissions	NIL
Recommendation	APPROVAL OF THE MODIFICATION
Regional Development Criteria (Schedule 4A of the EP&A Act)	Section 4.55(2) Modification Applications require determination by the Joint Regional Planning Panel
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> - The Hills Local Environmental Plan 2012 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy No. 55 – Remediation of Land - State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy (State and Regional Development) 2011 - DCP 2012 Part B Section 6 – Business - DCP 2012 Part B Section 5 – Residential Flat Buildings - DCP 2012 Part C Section 1 – Parking <ul style="list-style-type: none"> • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iv) <ul style="list-style-type: none"> - Voluntary Planning Agreement for 11-13 Solent Circuit Baulkham Hills between The Hills Shire Council and Hills Christian Life Centre Limited and Capital Corporation (Waterside) Pty Ltd, dated July 2015. • List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> - Environmental Planning and Assessment Act Regulation 2000

List all documents submitted with this report for the Panel's consideration	Nil
Report prepared by	CYNTHIA DUGAN DEVELOPMENT ASSESSMENT CO-ORDINATOR
Report date	Electronic Determination

Summary of S.4.15(1)(a) matters Have all recommendations in relation to relevant s4.15(1)(a) matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	No
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

Development Application No. 1395/2016/JP was approved by the then Joint Regional Planning Panel (JRPP) (now Sydney Central City Planning Panel) on 20 October 2016. The approval was for the demolition of existing structures and the construction of a mixed use development containing 247 residential units (36 x 1 bedroom, 179 x 2 bedroom, 25 x 3 bedroom and 7 x 4 bedroom), ground floor retail, three (3) levels of commercial offices, construction of a new boardwalk adjacent to Norwest Lake, landscaping works, tree removal and five (5) levels of parking providing 646 car parking spaces. The application was supported with a Clause 4.6 variation to vary the floor space ratio development standard from 2.42:1 to 2.536:1 which represents a variation of 4.8%. The original proposal included variations to The Hills Development Control Plan 2012 (DCP) comprising density, car parking, bicycle parking, loading bays, apartment sizes, private and common open space, landscaping, pedestrian access and storage.

The applicant seeks to amend the proposal by the addition of five residential units by altering unit mix and layouts and relocating the gymnasium from the fourth level to the

ground level. This would result in a total of 252 residential units comprising 51 x 1 bedroom, 167 x 2 bedroom, 31 x 3 bedroom and 3 x 4 bedroom units as well as the deletion of 5 commercial car parking spaces on ground level. Ground floor retail tenancies are also proposed to be reconfigured and retail spaces fronting Norwest Lakes are proposed for restaurant use. The proposal also comprises external façade alterations including obscured glazing to louvres on eastern terraces of commercial units and privacy screens eastern facades. The proposed modification would result in a further variation to the floor space ratio development standard to 2.54:1 which represents a cumulative variation of 5.5%.

The modified development produces variations to the Apartment Design Guide in respect to building separation, solar access, apartment layout and storage; however these variations are of the nature of those supported in the original application.

The modified development produces variations to DCP Part B Section 6 Business and Part B Section 5 Residential Flat Buildings in respect to car parking, apartment layout and unit mix, open space and storage. These variations are of the nature of those previously supported in the original application.

The proposed modification relates to 'Nominated Integrated Development' pursuant to a Clause 91 of the Environmental Planning and Assessment Act, 1979 and Clause 5(1b) of the Environmental Planning and Assessment Regulations 2000 as the original proposal required referral to the NSW Department of Primary Industries – Water for concurrence. The NSW Department of Primary Industries – Water have indicated that no objections are raised to the proposed modification and that the General Terms of Approval issued for the original consent remain valid.

The proposed modification was exhibited and notified to adjoining property owners for a period of 14 days. No submissions were received.

The proposed modification does not result in fundamental changes to the approved development and retains the predominant components of the approved layout. The proposal remains as a mixed use development with two residential towers over a commercial podium comprising Building A which is 15 storeys above a four storey commercial podium and Building B which is 16 storeys in height above 5 levels of car park. The overall heights of the buildings are reduced by 800mm for Building A and 850mm for Building B which would reduce the overall bulk and scale of the development. No change is proposed to the building envelopes and massing of the approved development and negligible changes are proposed to the eastern setback and external facades of the buildings. The development is still considered to be appropriate given the context of the site being located on the periphery of Norwest Lake and within the Norwest Business Park. Additionally, the change of use of retail to restaurants along Norwest Lake would further activate the uses at ground level. The implementation of privacy screens and altered façade changes of the development enhances residential amenity for both future residents within the subject buildings and adjoining neighbours.

The modification application is recommended for approval subject to revised conditions.

BACKGROUND**MANDATORY REQUIREMENTS**

Owner:	Hills Christian Life Centre Ltd and Norwest Association Ltd	1.	<u>LEP 2012</u> - Satisfactory
Zoning:	B2 Local Centre and SP2 Infrastructure (Drainage)	2.	<u>SEPP 65 – Design Quality of Residential Apartment Development – Satisfactory, see report</u>
Area:	1.2 Hectares	3.	<u>DCP 2012 Part B Section 6 – Business – Satisfactory</u>
Existing Development:	Vacant lot as demolition of Sydney Ice Arena has been carried out	4.	<u>DCP 2012 Part B Section 5 – Residential Flat Buildings – Variations required, see report</u>
		5.	<u>Section 4.15 (EP&A Act) – Satisfactory</u>
			<u>Section 4.55 (EP&A Act) – Satisfactory</u>
			<u>Section 7.11 Contribution</u> - No, however a Planning Agreement is in place. Currently \$3,130,000.00 (indexed in accordance with the Planning Agreement) for the first 240 units, as well as an additional amount of \$13,041.67 (indexed in accordance with the Planning Agreement) for each of the additional 12 units proposed in excess of 240 units.

SUBMISSIONS**REASONS FOR REFERRAL TO SCCPP**

1. Exhibition:	Yes, 14 days	1.	Section 4.55(2) Modification to an application approved by the then JRPP (now SCCPP).
2. Notice Adj Owners:	Yes, 14 days		
3. Number Advised:	457 adjoining land owners		
4. Submissions Received:	Nil		

HISTORY**20/11/2015**

Amendment No. 29 was notified on the NSW legislation website to increase the maximum permitted building height to RL 143.20, increase the floor space ratio to 2.42:1, allow additional permitted uses in the SP2 zone and specify a minimum 6,000m² of commercial floor space for the subject site.

20/10/2016

Development Application No. 1395/2016/JP was approved by the then Joint Regional Planning Panel (JRPP) (now Sydney Central City Planning Panel).

- 8/09/2017** Subject Section 4.55(2) modification lodged.
- 3/10/2017** The applicant was requested to provide additional information in relation to unit numbering, community facilities, access to facilities and visual amenity impacts to private open space of additional units adjoining communal open space areas.
- 11/10/2017** The applicant provided a response to the additional information.
- 22/01/2018** The applicant was requested to comply with Clause 7.7 Design Excellence of The Hills LEP 2012 as the proposal involved external façade changes to a building that has a height of 25 metres or more which was amended on 17 November 2017. Clause 7.7(3) requires that consent cannot be granted to the development unless the consent authority considers that the development exhibits design and must specifically take into consideration the findings of a Design Excellence Panel.
- 1/03/2018** The applicant was requested to submit amended plans to ensure that the floor plans included the correct headings for Levels and were consistent with the BASIX Certificate. A unit schedule detailing solar access, ventilation and storage was requested from the applicant.
- 6/03/2018** Amended plans and unit schedule received.

PROPOSAL

Development Consent No. 1395/2016/JP for the construction of a mixed use development containing 247 residential units, ground floor retail, three (3) levels of commercial offices, construction of a new boardwalk adjacent to Norwest Lake, landscaping works, tree removal and five (5) levels of parking was approved by the JRPP (now SCCPP) on 20 October 2016.

The subject Section 4.55(2) modification application seeks to amend the approval as follows:

- a. Relocation of gym from level 4 to ground level;
- b. The addition of 2 x one bedroom units (Units 418 and 419) on level four to replace the previous location of the gym. Unit 418 will have a floor area of 55m² and private open space area of 70m² and Unit 419 will have a floor area of 57m² with a private open space area of 40m²;
- c. Various changes to the configuration of units and the addition of 3 units as detailed below:

Building A*Level 5*

- Internal layout changes to a two bedroom unit with a floor area of 123m² (Unit 501).
- Internal layout changes and change in external wall design of a bedroom wall to a two bedroom unit with a unit area of 86m² (Unit 505).

Levels 6 – 13

- Internal layout changes to a typical two bedroom unit with no change to the approved internal area of 92m² (Units 601, 701, 801, 901, 1001, 1101, 1201 and 1301).
- Internal layout changes and change in external wall design of a bedroom wall to a typical two bedroom units with a unit area of 86m² (Units 606, 706, 806, 906, 1006, 1106, 1206 and 1306).

Levels 14 – 16

- Reconfiguration of 2 x typical two bedroom units with a floor area of 87m² (previously Units 1404, 1504, 1604, 1405, 1505 and 1605) to 3 x typical one bedroom units with floor areas of 55m² (Units 1404, 1504, 1604), 58m² (1405, 1505, 1605) and 59m² (1406, 1506 and 1606).

Level 17

- Reconfiguration of 3 x four bedroom units with floor areas of 146m² (previously Unit 1702), 155m² (previously Unit 1703) and 152m² (previously Unit 1704) and a 1 bedroom unit with a floor area of 52m² (previously Unit 1705) with a 3 bedroom plus study unit with a floor area of 178m² (Unit 1702), 3 x one bedroom units with floor areas of 55m² (Unit 1703), 59m² (Unit 1704) and 59m² (Unit 1705), and 2 x two bedroom units with unit areas of 86m² (Unit 1706) and 80m² (Unit 1707).
- Internal layout changes to Unit 1701 but no change made to the internal floor area of 92m².

Level 18

- Reconfiguration of a four bedroom unit to a three bedroom unit with the same floor area of 156m² (Unit 1803).

Level 19

- Reconfiguration of a four bedroom unit to a three bedroom unit with a floor area of 156m² (Unit 1903).
- Internal layout changes, change in external wall design of a bedroom wall and increased floor area comprising 152m² to a four bedroom unit (Unit 1904).

Building B*Level 4*

- The reconfiguration of 2 x two bedroom units (Units 414 and 415) to a three bedroom unit and one bedroom unit respectively. Unit 414 would have a floor area of 112m² and Unit 415 would have a floor area of 55m².

Level 5

- Reconfiguration of the internal layout and balcony of a three bedroom unit (Unit 514). No change is proposed to the unit area of 112m² however balcony size has increased to 18m².

Levels 6-13

- Internal layout changes to a typical two bedroom unit with a floor area of 94m² (Units 610, 710, 810, 910, 1010, 1110, 1210 and 1310).
- Reconfiguration of internal layout and balcony of a typical three bedroom unit (Units 615, 715, 815, 915, 1015, 1115, 1215 and 1315). No changes are proposed to the unit area of 112m² however balcony size has increased to 18m².

Levels 14-16

- Internal layout changes to a typical two bedroom unit (Units 1411, 1511 and 1611) with a unit area of 94m².

Level 17

- Reconfiguration of a three bedroom unit with a floor area of 113m² (previously Unit 1708), a two bedroom unit with a floor area of 106m² (previously Unit 1709), 2 x one bedroom units with floor areas of 53m² (previously Units 1710 and 1711) to 2 x two bedroom units with floor areas of 94m² (Unit 1710) and 78m² (Unit 1711), a three bedroom unit with a floor area of 117m² and balcony area of 24m² (Unit 1717) and a one bedroom unit with a floor area of 53m² (Unit 1713).

Level 18

- Reconfiguration of a three bedroom unit with a floor area of 113m² (previously Unit 1808), a two bedroom unit with a floor area of 106m² (previously Unit 1809), 2 x one bedroom units with floor areas of 53m² (previously Units 1810 and 1811) to 2 x two bedroom units with floor areas of 94m² (Unit 1810) and 78m² (Unit 1811), a three bedroom unit with a floor area of 117m² and balcony area of 24m² (Unit 1817) and a one bedroom unit with a floor area of 53m² (Unit 1813).

Level 19

- Changes to the configuration of balcony areas of Unit 1910. No change to the internal floor area is proposed.
- d. Reduction in heights of the roof level of the development. The top of roof of Building A would be reduced by 800mm and the top of roof of Building B would be reduced by 850mm.
- e. Reconfiguration of ground floor retail tenancies;
- f. Conversion of ground floor retail use for restaurant use resulting in a gross floor area of 191m² for retail use and a gross floor area of 1,597m² for restaurant use;
- g. Relocation of fire stairs and toilets for restaurant tenancies;
- h. Amendments to facades;
- i. Introduction to obscure glazing to louvres of eastern terraces to commercial tenancies to comply with condition No.11;
- j. Additional bathroom facilities as well as modification to approved WC layout on the ground floor for retail tenancies;
- k. Change to numbering of units on the plans;
- l. Minor reconfiguration of waste room on ground floor;
- m. Modification to condition No. 5 NSW Police requirements to delete the provision for the basement to be painted white to reflect light.

ISSUES FOR CONSIDERATION

1. Assessment under Section 4.55 Provisions

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979, Council may, in response to an application, modify a consent if the development, as modified, is substantially the same development as originally approved.

The proposed modification seeks approval for minor changes to the plans. The built form remains consistent with the original approval, responding appropriately to the interface of Norwest Lake within Norwest Business Park and is in keeping with the future character of development within close proximity to Norwest Station.

The proposed modification is considered to be substantially the same development as originally approved by Council.

The original development was determined by the then JRPP (now SCCPP) as the Capital Investment Value exceeded \$20 million. In addition, under Clause 151 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, the proposed Section 4.55(2) modification still requires determination by the SCCPP.

2. Assessment under SEPP 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide

The subject modification application has been considered under SEPP 65 requirements and the Apartment Design Guide (ADG). The proposed modification includes minor external façade changes by increasing the amount of glazed areas and implementation of privacy measures on the eastern facades. This improves the level of amenity and enhances the aesthetics of the building compared to the approved development. The proposal does not result in a change to the height, bulk and scale, sustainability, landscape, safety, housing diversity context and neighbourhood character. In this regard, the proposed modification is consistent with the original assessment of the relevant design quality principles within the SEPP.

2.1 Apartment Design Guide

In accordance with Clause 30(2) of SEPP 65, a consent authority in determining a development or modification to a residential flat building must have regard to the Apartment Design Guide. It may be noted that the original approval allowed variations to separation between buildings (to the eastern adjoining property), solar and daylight access, apartment layout, common circulation spaces and storage. The following table is an assessment of the proposed modification against the relevant guidelines in the Apartment Design Guide.

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

Siting		
Separation	For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys.	No change to approved development except for 500mm encroachment to east for Building A (7.5m compared to approved 8 metres) and 34m setback to eastern boundary for Building B. Refer to discussion below.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Privacy screens added to eastern façade to comply with recommended condition No. 11 in original consent. No further privacy impacts result from the proposed modification.
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>Complies.</p> <p>Requirement</p> <p>1 Bedroom: 30.6 2 Bedroom: 150.3 3/4 Bedroom: 47.6 Visitor: 50.4 Total: 279 (278.9)</p> <p>Provided</p> <p>1 Bedroom: 51 2 Bedroom: 167 3 & 4 Bedroom: 34 Visitor: 50 Total: 358 (Excludes tandem) Total: 387 (Includes tandem) Note: 29 Tandem spaces included in design</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>2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at midwinter.</p>	<p>Yes</p> <p>75% of apartments (190 units) receive 2 hours direct sunlight between 9am and 3pm midwinter.</p> <p>25% of apartments (62 units) receive no solar access, however variation of 24% supported in original application. Refer to discussion below.</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</p> <p>70% of apartments receive natural cross ventilation.</p> <p>Yes</p> <p>The maximum overall depth is 17 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 30° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p>	<p>Complies.</p> <p>Floor to ceiling height approx. 2.7 metres for all apartments, ground floor retail – 5.4 metres and first floor office – 3.3 metres.</p>
Apartment size	<p>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>Yes</p> <p>1 bedroom – 50m² 2 bedroom – 76m² 3 bedroom – 102m²</p> <p>Where additional bathrooms are proposed, an additional 5m² has been provided.</p>

	<p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>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>The smallest four bedroom apartment is 145m²</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>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts</p>	<p>Complies.</p> <p>Complies.</p> <p>Complies</p> <p>Complies</p> <p>Complies</p> <p>No further variation. Units on eastern side of Building A are less than 4 metres for a cross through however this was supported in the original application.</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>	Complies
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Complies. Circulation core location unchanged.

	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Number of apartments exceed the maximum of 40. However, this variation was supported under the original consent.
Storage	Storage is to be provided as follows: Studio – 4m ³ 1 bedroom – 6m ³ 2 bedroom – 8m ³ 3+ bedrooms – 10m ³ At least 50% of the required storage is to be located within the apartment.	All units contain the minimum storage areas however 67 units do not have 50% of the required storage within the apartment.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	Mix is satisfactory.

2.1.1 Building Separation

The proposed modification results in a minimum separation distance of 7.5m of Building A which does not comply with the ADG requirement that the minimum separation distance between habitable rooms and balconies should be 9 metres for a building height up to 25 metres (5–8 storeys) and 12 metres for buildings with a height above 25 metres or 9 storeys.

Notwithstanding, the original proposal was approved with a variation to the minimum separation distance of 8m for residential levels 5 to 19 in Building A. The approved modification would be a further encroachment of 500mm for a building length of 3m and comprises a blank wall serving a habitable room. The eastern elevation is predominately a blank wall with no openings running parallel to the boundary, resulting in minimal overlooking impacts to the adjoining eastern property. Full height vertical privacy screens have been incorporated onto the eastern side of balconies and all windows of habitable rooms face north or south. The proposed interface to the eastern boundary would be comparable to a non-habitable area where the ADG specifies a reduced separation requirement of 6 metres for a building height above 25 metres (9 storeys). Furthermore, it is noted that the depth of Building A represents approximately 21% of the length of the eastern property boundary with Building B setback 34 metres from the eastern property boundary. The setback and depth of the proposed development will accommodate adequate curtilage between existing and potential future buildings to the east of the site. No changes are proposed to the approved internal building separation of Buildings A and B. In this regard, the separation distance to the eastern boundary for Building A is considered to be satisfactory.

It is further noted that the separation distance to any future development of land immediately to the east will be further considered if or when the adjoining site is re-developed.

2.1.2 Solar and Daylight Access

The original proposal included a variation to the ADG requirements of a maximum 15% of apartments in a building receiving no direct sunlight between 9am and 3pm at mid-

winter. The proposed modifications include the reconfiguration of units and increase in 5 units which result in a maximum 25% of apartments in a building receiving no direct sunlight between 9am and 3pm at mid-winter. This is a further variation of 1% (2 units) from the approved development which was supported with a maximum 24% of apartments in a building receiving no direct sunlight.

The further variation is supported as the building envelopes for Building A and B remain as approved with the axis of the buildings orientated in a north-west and south-east alignment. This continues to maximise the northerly orientation and address the frontage of Norwest Lake however, the design of the floor plate results in at least 2 single aspect south facing units on each floor plate orientated in a south-east direction receiving no direct sunlight. Given the nature of the site and its orientation, the unit layout and aspect is unavoidable.

Nevertheless, the proposed modification would result in a development that will provide sufficient solar access to 75% of units for at least 2 hours between 9am and 3pm during mid-winter. This is an increase of 2.5% to the approved development. Additionally, at least 50% of the communal open space area on the podium level will receive at least 2 hours solar access between 9am and 3pm during mid-winter.

A further variation of 1% to apartments receiving no solar access is considered to be satisfactory in this instance.

2.1.3 Apartment Layout

The proposed modifications include the addition and reconfiguration of a number of units. These modifications are detailed below:

Building A

Level 5

- Internal layout changes to a two bedroom unit with a floor area of 123m² (Unit 501).
- Internal layout changes and change in external wall design of a bedroom wall to a two bedroom unit with a unit area of 86m² (Unit 505).

Levels 6 – 13

- Internal layout changes to a typical two bedroom unit with no change to the approved internal area of 92m² (Units 601, 701, 801, 901, 1001, 1101, 1201 and 1301).
- Internal layout changes and change in external wall design of a bedroom wall to a typical two bedroom units with a unit area of 86m² (Units 606, 706, 806, 906, 1006, 1106, 1206 and 1306).

Levels 14 – 16

- Reconfiguration of 2 x typical two bedroom units with a floor area of 87m² (previously Units 1404, 1504, 1604, 1405, 1505 and 1605) to 3 x typical one bedroom units with floor areas of 55m² (Units 1404, 1504, 1604), 58m² (1405, 1505, 1605) and 59m² (1406, 1506 and 1606).

Level 17

- Reconfiguration of 3 x four bedroom units with floor areas of 146m² (previously Unit 1702), 155m² (previously Unit 1703) and 152m² (previously Unit 1704) and a 1 bedroom unit with a floor area of 52m² (previously Unit 1705) with a 3 bedroom plus study unit with a floor area of 178m² (Unit 1702), 3 x one bedroom units with floor areas of 55m² (Unit 1703), 59m² (Unit 1704) and 59m² (Unit 1705), and 2 x two bedroom units with unit areas of 86m² (Unit 1706) and 80m² (Unit 1707).

- Internal layout changes to Unit 1701 but no change made to the internal floor area of 92m².

Level 18

- Reconfiguration of a four bedroom unit to a three bedroom unit with the same floor area of 156m² (Unit 1803).

Level 19

- Reconfiguration of a four bedroom unit to a three bedroom unit with a floor area of 156m² (Unit 1903).
- Internal layout changes, change in external wall design of a bedroom wall and increased floor area comprising 152m² to a four bedroom unit (Unit 1904).

Building B*Level 4*

- Addition of 2 x one bedroom units (Units 418 and 419). Unit 418 will have a floor area of 55m² and private open space area of 70m² and Unit 419 will have a floor area of 57m² with a private open space area of 40m². These units replace the relocated gym on Level 4.
- The reconfiguration of 2 x two bedroom units (Units 414 and 415) to a three bedroom unit and one bedroom unit respectively. Unit 414 would have a floor area of 112m² and Unit 415 would have a floor area of 55m².

Level 5

- Reconfiguration of the internal layout and balcony of a three bedroom unit (Unit 514). No change is proposed to the unit area of 112m² however balcony size has increased to 18m².

Levels 6-13

- Internal layout changes to a typical two bedroom unit with a floor area of 94m² (Units 610, 710, 810, 910, 1010, 1110, 1210 and 1310).
- Reconfiguration of internal layout and balcony of a typical three bedroom unit (Units 615, 715, 815, 915, 1015, 1115, 1215 and 1315). No changes are proposed to the unit area of 112m² however balcony size has increased to 18m².

Levels 14-16

- Internal layout changes to a typical two bedroom unit (Units 1411, 1511 and 1611) with a unit area of 94m².

Level 17

- Reconfiguration of a three bedroom unit with a floor area of 113m² (previously Unit 1708), a two bedroom unit with a floor area of 106m² (previously Unit 1709), 2 x one bedroom units with floor areas of 53m² (previously Units 1710 and 1711) to 2 x two bedroom units with floor areas of 94m² (Unit 1710) and 78m² (Unit 1711), a three bedroom unit with a floor area of 117m² and balcony area of 24m² (Unit 1717) and a one bedroom unit with a floor area of 53m² (Unit 1713).

Level 18

- Reconfiguration of a three bedroom unit with a floor area of 113m² (previously Unit 1808), a two bedroom unit with a floor area of 106m² (previously Unit 1809), 2 x one bedroom units with floor areas of 53m² (previously Units 1810 and 1811) to 2 x two bedroom units with floor areas of 94m² (Unit 1810) and 78m² (Unit 1811), a three bedroom unit with a floor area of 117m² and balcony area of 24m² (Unit 1817) and a one bedroom unit with a floor area of 53m² (Unit 1813).

Level 19

- Changes to the configuration of balcony areas of Unit 1910. No change to the internal floor area is proposed.

The ADG requires that a one bedroom unit has a minimum floor area of 50m², 2 bedroom units have a minimum floor area of 70m² and 3 bedroom units have a minimum floor area of 90m² with an additional 5m² required for additional bathrooms. The additional and modified dwellings exceed the minimum floor areas required.

In regard to the design and layout of the units, the units achieve the required solar access, depth requirements and balcony area required under the ADG and will achieve a reasonable level of amenity for residents.

The ADG also requires that units at ground level or on a podium or similar have a private open space area of 15m². The private open space area for the new units on the podium level (Unit 418 and 419) have private open space areas of at least 70m² and 40m² and the areas are directly accessible from living areas and will have appropriate screening to provide privacy from the communal open space areas.

The proposed design of the additional and modified units is satisfactory in regard to the ADG requirements and can be supported.

2.1.4 Storage

The ADG specifies that at least 50% of the required storage is to be located within the apartment. The proposed modification will provide internal storage for each respective unit. However, 67 units (27% of all units) do not provide more than 50% of the required storage within the apartment. The majority of storage area for these apartments will be located within the basement level.

A variation in this instance is considered to be satisfactory as the composition of storage area either within the basement or apartment is relatively marginal. Furthermore, the storage areas within the basement are immediately accessible from the circulation core or immediate to parking spaces.

2.1.5 Parking

The original proposal supported a variation to the ADG with regard to the split between resident and visitor parking as the guide requires consideration of the RMS rates. The RMS rates required the provision of 229 resident parking spaces and 51 visitor spaces, being a total requirement of 279 spaces. The approved development provided 646 spaces comprising 387 resident spaces (including 29 tandem spaces and 51 visitors spaces).

The proposal includes the deletion of five commercial car parking spaces for the relocation of the gymnasium within the ground level. The proposal still provides 641 spaces comprising 68 resident spaces and 6 visitor spaces. No alteration is proposed to the number of residential car spaces. In this regard, no further variation is proposed to the ADG requirements for parking.

The proposal continues to be satisfactory in regard to the ADG requirements.

3. Compliance with The Hills Local Environmental Plan 2012

The proposed development provides a minimum commercial floor space of 6,056m² which is provided in the form of office premises, retail premises and food and drink premises. The proposal accordingly complies with Clause 7.10 of the LEP.

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

DEVELOPMENT STANDARD	LEP REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
Floor Space Ratio	2.42:1	2.544:1	No – refer to discussion below.
Building Height	RL 143.200	Building A – RL 143.113 Building B – RL 141.2	Yes

3.1 Floor Space Ratio

The proposed modification comprises a floor space ratio of 2.544:1 which exceeds the development standard of 2.42:1 by 5.5%. This is an additional increase of 210m² in floor area resulting in a further 0.7% variation to the approved floor space ratio. As Clause 4.6 Exceptions to development standards only operate to prevent the grant of development consent, as distinct from the modification of development consent, the applicant has provided the following justification for the further variation to the development standard:

The proposed amendment results in a minor increase to the approved gross floor area of 210 square metres, or 0.7% greater than the approved development. A comparison of the FSR control, approved development and proposed development is provided in the table below:

Comparison	FSR	GFA
Control	2.42:1	29,040sqm
Approved	2.536:1	30,430sqm (+1,399sqm or 4.8%)
Proposed	2.544:1	30,649sqm (+1,609sqm or 5.5%)

The following environmental planning grounds are sufficient to justify contravention of the development standard:

- The recently adopted uplift in height and floor space ratio for the site was directly informed by the concept plan which accompanied the Planning Proposal for the site which was intended to provide certainty for the consent authority in relation to the likely built form which would result from the uplift in height and floor space ratio. However, it is understood that the gross floor area and resulting floor space ratio of 2.42:1 was specifically derived from a literal measurement of the indicative floor plans which accompanied the Planning Proposal which were only intended to demonstrate one possible option within the concept plan envelopes. Accordingly, there is no other strategic basis or other reason for the specific floor space ratio of 2.42:1 other than a measurement of one indicative option within the concept plan envelopes.*
- Whilst the proposed development differs from the indicative scheme which accompanied the concept plan envelopes which informed the Planning Proposal, it is noted that the proposed development is nonetheless contained wholly within the concept plan building envelopes with some significant articulation also provided within the envelope. Accordingly, notwithstanding the minor variation to*

the floor space ratio control, the proposed development is consistent with the bulk and scale anticipated for the site by Council when it increased the height and floor space ratio.

- The proposed variation to the floor space ratio control results in 252 apartments which is only 12 more apartments or 5% increase in yield, when compared to the indicative number of 240 which informed the Planning Proposal and subsequent floor space ratio figure. This increase in yield is insignificant in terms of impact and does not result in any meaningful change to the perceived density of the proposal.*
- The proposed minor variation to the floor space ratio control and the proposed density does not prevent achievement of the 9 principles of SEPP 65. Apartments within the development are provided with a high level of amenity as the proposal provides for cross ventilation, solar access, open space, deep soil and landscaping in accordance with the relevant requirements therefore strict compliance with the floor space ratio control is considered to be unnecessary and unreasonable to achieve an appropriate level of amenity within the development.*
- There are no adverse impacts in terms of shadow, view, visual and acoustic privacy impacts to adjacent sites resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.*
- The development provides the required provision of car parking and the proposed variation to the floor space ratio control will not result in any acceptable impact on local traffic conditions.*
- The proposed variation to the floor space ratio control will provide an improved diversity and quantum of housing within a strategically identified site which will assist in meeting demand generated by changing demographics and housing needs in an existing urban area with excellent access to transport and services.*

Having regard to the fact that the proposed development is contained wholly within the concept plan building envelopes for the site, provides for an appropriate level of amenity for future occupants and does not result in adverse impacts to adjacent properties or the locality, the subject site is demonstrated to have the environmental capacity to absorb the proposed density and there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

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

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

The proposed modification comprises a floor space ratio of 2.544:1 which exceeds the development standard of 2.42:1 by 5.5%. The proposal further exceeds the approved floor space ratio of 2.536:1 by an additional 0.7%. It is noted that during the course of the original assessment, the applicant reduced the floor space ratio of the development from 2.66:1 resulting in the reduction of 1,502 square metres of gross floor area which represented a reduction of 20 units. The reduction in gross floor area was attributed to the reduction in massing to the eastern side of Building B.

The objective of Clause 4.4 'Floor Space Ratio' is to ensure that development is compatible with the bulk, scale and character of existing and future surrounding development. Additionally, the floor space ratio development standard aims to restrict the amount of gross floor area and should be considered in conjunction with controls relating to the building envelope. As the proposed modification does not alter the building height, design, landscaping and provides adequate setbacks and amenity to existing and future surrounding development, the merits of a further variation will be considered.

The proposed modification reduces the roof level of the residential towers by 800mm for Building A and 850mm for Building B, retaining the maximum building height of RL143.113 which complies with the development standard height of RL 143.2 pursuant to Clause 4.3 of the LEP. The height and proportion of the development is considered to be commensurate with the planning framework established for the site and the desired future character of development in proximity to Norwest Station.

The proposed modification will comply with the building setbacks adopted specifically for the subject site. The DCP requires a minimum setback to Solent Circuit of 23 metres to the podium levels and for the residential towers a minimum setback of 29 and 65 metres respectively. The proposed development fully complies with the setback requirements of the DCP. Further, it is noted that the proposed development also provides adequate building separation as required by SEPP 65 and the Apartment Design Guidelines.

The proposed modification does not alter the communal open space and deep soil zone of the approved development. The approved development provides a communal open space area of 27% of the site area and a deep soil zone of 18% which exceeds the requirements under SEPP 65 – Apartment Design Guide. The objective of these controls is to enhance the landscaping area whilst minimising the footprint of the building. The proposed modification does not alter the building footprint and the approved development incorporates a landscape scheme that will substantially enhance the landscaped setting of the site and surrounds.

The proposed modification comprises minor alterations to the external facades by increasing glazed areas, vertical blade elements and the implementation of privacy screens and highlight windows. The amended design still responds appropriately to the surrounding urban context through the spread of building mass. The proposed design for Buildings A and B comprises two slender towers on top of podium levels and includes design elements that are considered to provide good vertical and horizontal articulation, thereby enhancing the architectural quality and visual interest of the development when viewed from the public domain. The design of the proposed development is anchored by the podium levels resulting in a development where the predominant building mass will be perceived to be at the base as opposed to the upper portion of the buildings.

As the proposed modification does not increase the height or alter the predominant building mass, the proposal will not generate additional shadow cast onto adjoining properties. Existing residential properties within the Central Norwest Residential Precinct will still receive at least 4 hours of solar access as required by the DCP. Furthermore, the variation to the floor space ratio will not result in undue opportunities for overlooking within the site and to adjoining properties as privacy mitigation measures have been implemented on the eastern facade.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.4 'Floor Space Ratio' and the B2 Local Centre and SP2 Infrastructure zone. In this regard, the further variation to floor space ratio will not create a building of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining residential properties. A variation to

the floor space ratio in this instance is considered to be satisfactory given that the application of the development standard in this instance is considered to be both unreasonable and unnecessary. In this regard, the variation can be supported.

3.2 Clause 7.7 Design Excellence

Clause 7.7 Design Excellence of The Hills LEP 2012 was amended on 17 November 2017. The Clause specifies an objective to deliver the highest standard of architectural and urban design and applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more. Clause 7.7(3) states 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.

Clause 7.7(4) states that 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.*

The applicant has provided the following response to the Clause:

Clause 7.7 of THLEP applies to development involving the erection of a new building or external alterations to an existing building and applies to the subject site. In approving the proposal, Council formed the view that the approved development achieved design excellence. The amended proposal retains the characteristics of the approved development which were the basis for Council's conclusion that the development achieved design excellence and the amend proposal continues to exhibit design excellence. In particular, the amended proposal provides a high level of residential amenity as it achieves or exceeds the standards of the ADG and the amended development incorporates high quality finishes and architectural design, which provides visual interest and will result in a substantial improvement to the quality of the surrounding public domain.

Amendment 43 to the Hills LEP, which introduced the amended clause 7.7 with its 'Design Excellence' requirements, was gazetted without any savings provision. It expressly commenced "on the day on which it [was] published on the NSW legislation website", namely 17 November 2017. This means that it immediately applied to any development application that had already been lodged with Council as at that date, and will apply to all future development applications lodged after that date. In other words, the absence of a savings provision means that Council must apply the clause immediately, when determining any development application.

In the present circumstances however, the clause plainly does not apply to the s96 Mod, even though that application has yet to be determined. This is because clause 7.7 only operates to prevent the grant of development consent, as distinct from the modification of a development consent. Clause 7.7(3), which is the operative component of the clause, expressly states that "Development consent must not be granted to development to which this clause applies unless...". It does nothing more than prevent the grant of development consent unless certain preconditions are met, for example considering the matters set out in clause 7.7(4). It does not place any limitation on the modification of a development consent under s96 of the Environmental Planning and Assessment Act 1979 (Act).

In that regard, both the Act and the Courts have long made it clear that the grant of development consent is very different to the modification of a development consent.

Firstly, the Act itself says at s96(4) that "The modification of a development consent in accordance with this section is taken not to be the granting of development consent". That statement could not be clearer. As such, clause 7.7 of the LEP simply cannot apply to a modification application as the Act expressly states that a modification of a consent is "taken not to be the granting of development consent". Clause 7.7(3) therefore cannot apply.

This approach is also supported by a number of Court authorities which have held that modification applications are not the same as development applications and that the exercise of the modification power is not the exercise of the power to determine a full development application: Makram Constructions Pty Ltd v North Sydney Council [2002] NSWLEC 4, applying North Sydney Council v Michael Standley and Associates Pty Ltd (1998) 97 LGERA 433; Coalcliff Community Association Inc v Minister for Urban Affairs and Planning [1999] NSWCA 317 .

By way of example, the Courts have held that a s96 modification application can be approved without the need for a SEPP 1 (or now clause 4.6) variation, whereas a full development application cannot. This is because where an LEP states that "development

consent must not be granted..." (as is the case with clause 7.7 of the LEP), it is only a prohibition on the grant of development consent, ie consent to a full development application under s97: It has no application whatsoever to the modification of a development consent under s.96, as that is an entirely different power: Lido Real Estate Pty Ltd & Anor v Woollahra Council (11 August 1997, unreported) and North Sydney Council v Michael Standley and Associates Pty Ltd (1998) 97 LGERA 433; and Houlton v Woollahra Municipal Council (Land and Environment Court, unreported, 30 July 1997).

This view is similarly supported by the principle that a development consent cannot be granted retrospectively but can be modified retrospectively. The distinguishing factor again is that the Courts differentiate between 'the grant of development consent' under s97 and the entirely different power of 'modification of a development consent' under s.96. In a long line of cases dealing with the question of retrospective approval for building works, the Courts have repeatedly held that retrospective approval can be given by way of a s.96 application but not for a full development application – because a DA involves 'the grant of consent' whereas a section 96 modification does not: Windy Dropdown Pty Ltd v Warringah Council [2000] NSWLEC 240. The critical issue is that the 'grant of development consent' is not the same as the 'modification of a development consent'.

In this instance, clause 7.7 contains only one operative constraint or requirement. That is, in clause 7.7(3) it provides 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". For the reasons outlined above, it is perfectly clear that this applies only to the granting of 'development consent'. It cannot also be applied to the modification of a development consent, because development consent has already been granted.

Comment:

The proposed modification includes reduced heights of 800mm for Building A and 850mm for Building B. As a result, the floor to floor height of level 19 is reduced from 4.8m to 4m for both buildings in lieu of a reduced roof slab. In addition, the following design changes to the external facades are proposed:

Northern Elevation

Building A

Increase in glazing and privacy screen dimensions to the top level and western side of the façade.

Building B

- Extension of balconies and full height privacy screens to western side of elevation of all residential levels
- Addition of full height privacy screens for podium level
- Change in doors and windows for commercial entrances
- Minor reduction in awning length on the ground level
- Change in location of mullions on glazed windows on level 19

Southern Elevation

Building A

- Minor reduction to length of highlight windows on the western side of the façade
- Increase in balcony sizes
- Change in awning style on ground floor

Building B

- Change of privacy mitigation measures including the replacement of fixed privacy screens with highlight windows and replacement of highlight windows with reduced sill heights and narrow windows

Eastern Elevation*Building A*

- Full height opaque glazing to a height of 1.5m from finished floor level for podium levels
- Full height opaque/obscured glazing to balconies for podium levels
- Modified commercial entrances with narrower doors and highlight windows

Building B

- Design of full height privacy screens amended and balcony lengths shortened.
- Window height extended on Level 19

Western Elevation*Building A*

- Change in awning styles amended on entrance to ground floor

Building B

- No further changes

The amended design reduces the roof height of Buildings A and B by up to 850mm which would minimise the bulk and scale of the development. The design changes consist mainly of increasing privacy screens and glazing on the facades which would enhance residential amenity by providing better solar access and privacy for residents and adjoining properties. The changes are considered minor in nature and do not deviate from the approved development consent which has already been assessed as achieving design excellence.

With respect to Clause 7.7(4)(a) and (b) the proposed modification is considered to still achieve a high standard of architectural design, incorporating a high quality residential resort within public and private landscaped areas along Norwest Lakes. The residential towers incorporate full height glazing to living space and large balconies which portray an open appearance and take advantage of the "waterside" setting. The angling of the glazing, screens, the horizontal slabs provide for articulation and an undulating quality to the façade. The podium levels are largely unaltered with highly animated projecting balcony boxes, planters and angled cladding fins screening car park levels. The ground floor restaurants and retails spaces are fully glazed and activate the private/public interfaces, improving the amenity of the public domain. The materials approved are of high quality with stone cladding, perforated metal and timber lining to the podium and metal cladding, precast concrete and glass to the residential tower components.

With respect to Clause 7.7(4)(c), the proposed modification does not impinge on any view corridors.

With respect to Clause 7.7(4)(d), the proposed modification provides adequate solar access and is considered satisfactory with regards to meeting the objectives of SEPP 65 – Apartment Design Guide and The Hills DCP 2012.

With respect to Clause 7.7(4)(e), the proposed modification meets the objectives of all the controls in The Hills DCP 2012.

With respect to Clause 7.7(4)(f), the proposed modification does not change the use of the approved mixed use development which comprises two residential towers and a commercial podium incorporating office, retail and restaurant uses which has been assessed as suitable for the site in the original application. The mixed use development continues to be satisfactory with regarding to the context of the site being located on the periphery of Norwest Lake and within the Norwest Business Park and provides adequate access to the public domain. The proposal is considered to be satisfactory with regard to

the relationship with neighbouring sites, providing suitable amenity, building separation, setbacks and urban form. The bulk and massing of the approved development is unaltered and the minor façade changes including the implementation of privacy screens, highlight windows and use of high quality finishes continues to provide articulation and modulation in the buildings. The proposed modification does not alter the street frontage heights and the assessment of environmental impacts, ecologically sustainable development, pedestrian, cycle, vehicular and service access, circulation requirements were considered satisfactory in the original application. The proposal does not alter the configuration and design of public access areas, recreation areas and communal open space on the site which was assessed as satisfactory in the original application.

With respect to Clause 7.7(4)(g), as development consent has already been granted for the mixed use development and only minor alterations are proposed which do not alter the bulk and scale, building envelope and landscaping of the approved development, referral to the Design Excellence Panel was not warranted.

In this regard, it is considered that the proposed modification continues to exhibit design excellence and satisfies the intent of Clause 7.7.

4. Compliance with The Hills DCP 2012

The proposed modifications do not amend the built form, maximum height, building envelope massing of the approved development. Minor modifications have been proposed on the external facades to enhance the design and provide further privacy mitigation measures for the building.

The following table details the relevant parts of the DCP where they relate to the proposed changes:

4.1 Part B Section 6 – Business

The following table details the relevant parts of the DCP where they relate to the proposed changes:

CLAUSE	DCP STANDARD	REQUIRED	PROPOSED	COMPLIANCE
2.16	Car Parking	Address THDCP Part C, Section 1 – Parking. Office premises - 1 space per 25m ² Retail - 1 space per 18.5m ² <u>Day time rate</u> Restaurants in a commercial building - 1 space per 25m ²	Required: <u>Day time rate</u> Office - 182 (181.9) spaces Retail - 9 (8.3) spaces <u>Day time rate</u> Restaurants - 64 (63.9) spaces Total - 255 (254.1) car spaces	No – variation of 1 space proposed for day time rate.

		<p><u>Night time rate</u></p> <p>Restaurants – 1 per 5 seats, plus 12 spaces per 100m² of GFA.</p> <p>Parking should be provided for “parents with prams” within shopping centres and public facilities.</p>	<p><u>Night time rate</u></p> <p>Retail – 9 (8.3) spaces</p> <p>Restaurants – 192 (191.64) spaces</p> <p>Total – 200 (199.94) car spaces</p> <p>Provided:</p> <p>254 car spaces</p>	
2.19	Pedestrian Access and Movement	<p>Pathways and ramps to conform to AS 1428.1 – 2001 Design for Access and Mobility.</p> <p>All surfaces should be stable, even and non-slip.</p> <p>Clear pedestrian pathways are to be indicated along arterials road, between developments and links to public transport stations and rail link lines (e.g. North West Rail Link and North West T-way Stations).</p>	<p>Amended accessibility report confirms that all pedestrian pathways conform to AS1428.1</p>	Yes
2.22	Waste Management – Storage and Facilities	<p>All waste areas to be screened from the street and adjoining properties.</p> <p>Adequate storage for waste materials must be provided on site and are not to restrict access to parking spaces.</p> <p>Waste storage areas to be kept clean and tidy.</p>	<p>No change to the location of the approved Waste storage areas which are still within the car park area and not visible from the street or adjoining properties. The waste storage area is separately confined and will not restrict access to parking spaces.</p>	Yes

2.23	Waste Management	WMP required to be submitted and address demolition, construction and ongoing use requirements.	Satisfactory	Yes
2.33	11-13 Solent Circuit	<p>(a) Development shall consist of a four (4) to five (5) storey podium containing restaurants, commercial uses and car parking. Slender, twin residential towers shall be placed in an offset position atop the podium.</p> <p>(b) The bulk and scale of the development is to be minimised through the use of setbacks, materials and colours that emphasise the podium levels rather than upper levels when viewed from the surrounding area.</p>	<p>No change to podium levels. Change of use proposed to retail floor space for restaurant use. The proposed development incorporates a 4-5 storey podium level. The residential towers are relatively slender however the proposed development has incorporated a broader floor plate which has resulted in the FSR variation.</p> <p>No change to bulk and scale of approved development. The bulk and scale of the development is considered to be satisfactory with regard to the planning proposal and the future context of the area.</p>	Yes
		Development shall be designed to reduce the appearance of bulk and scale of the building, particularly when perceived from ground level, nearby residential development and with consideration of view corridors to and from Bella Vista Farm Park.	No change to the bulk and scale. The development is sympathetic to the site surrounds and is not inconsistent with the bulk and scale envisaged on adjoining sites.	Yes

		<p>Development shall be set back from the Solent Circuit property boundary by: –</p> <p>a minimum of 23 metres to the podium levels; and –</p> <p>a minimum of 29 metres and 65 metres to each residential tower</p>	<p>No change to podium level setback.</p> <p>Approved podium level is setback 24 metres and complies with the DCP.</p> <p>Building B is setback 29 metres</p> <p>Building A is setback 66 metres</p>	Yes
		<p>(a) Above ground parking levels shall be sleeved by residential or commercial uses or otherwise appropriately screened from public areas using decorative screening, green walls or similar.</p> <p>(b) Parking for the residential and commercial components of the development must be clearly delineated.</p>	<p>Appropriate architectural screening provided to car parking levels.</p> <p>Parking continues to be clearly delineated.</p>	Yes
		<p>(a) A functional, open and high quality landscaped setting including seating and shading shall be provided at ground level.</p> <p>(b) A timber boardwalk of at least 3 metres in width must be maintained or replaced along the lake frontage of the site.</p> <p>(c) Pedestrian access shall be provided through the site in accordance with the easement for public access shown on Deposited Plan 1003042. This easement is to remain free of any restaurant seating or commercial use.</p>	<p>No change to approved landscaping. A high quality landscaping area is provided adjacent to Norwest Lake.</p> <p>No change to the boardwalk adjacent to the lake will have a minimum width of 4 metres.</p> <p>No change proposed to pedestrian access</p>	Yes

		(a) The development must incorporate podium level recreational spaces for residents including facilities such as a children's playground, pool and terrace, gymnasium, gardens / passive areas, tennis court and a club room or similar that can accommodate private resident functions.	Podium level communal open space area which includes swimming pool/water features, a cinema and putting green.	Yes
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The original approval allowed variations to site coverage, car parking, bicycle parking, loading docks and pedestrian access. There are no further variations proposed to the development with the exception of car parking as the proposed modification results in the deletion of five commercial car parking spaces and the change in use of retail floor space to restaurant floor space which is discussed below:

4.1.1 Car Parking

The proposed development has been assessed against the relevant commercial parking provisions of the DCP. The proposal provides 254 commercial car parking spaces where the DCP requires 255 (254.1) car parking spaces.

The required parking rate and the provision of commercial parking are detailed in the table below:

Parking Type	Required Day Time	Required Night Time (Post 6:30pm) and Weekend	Proposed Day Time	Proposed Night Time and Weekend
Office	182	-	182	-
Retail	9	9	9	9
Restaurants	64	192	64	245
Total	255	200	254	254

The applicant has provided the following justification:

Under strict application of the DCP, parking requirement are rounded up to the nearest whole number resulting in a requirement for 255 commercial spaces whereas the unrounded figure is 254.1 spaces. A total of 254 commercial spaces are proposed which therefore technically results in a deficiency of a single space. Notwithstanding, having consideration of the rounding issue, this is not deemed a significant departure from the nominal DCP requirement and therefore considered acceptable. This is particularly the case in this instance where the parking provided for office uses (at 1 space per 25m²) is substantially higher than would be applied in other LGAs (1 space/40m² is recommended by the RMS Guide) for development in close proximity to a future rail station.

It is noted that the approved restaurant parking rate is that outlined in Council's DCP for the Main Street Precinct, Castle Hill. Whilst the Site is not located within Castle Hill, both locations share similar characteristics including being within a distance of 400m to the future Sydney Metro North West and Castle Hill Stations, respectively. Both are situated

in mixed-use areas consisting of major retail and commercial centres surrounded by high density residential buildings. It is considered that a similar rationale for reduced restaurant parking demands would apply to a development in this context, noting the close proximity to future Sydney Metro North West station and the associated high density residential and commercial areas within the precinct which would be expected to reduce parking demands. The current approval acknowledges the potential for shared use of parking between restaurant and other uses.

Comment:

The proposed modification deletes 5 commercial car spaces and changes the use of retail space to restaurant use, thus lowering the required car parking spaces as originally approved. However, the development results in a shortfall of 0.1 or 1 commercial car parking space. It is noted that a car park management report was submitted with the original application that applies a dual use parking arrangement to allow 176 commercial car parking spaces to be used for restaurant and retail patrons after the approved hours of operation for the commercial use.

The proposal is located 500m south of the future Norwest Rail Station. A key principle informing the corridor strategy is the integration of land use and transport planning by the provision of transit orientated development. This is defined as mixed use communities within walking distance of a transit node that provides for a range of residential, commercial, open space and public facilities. In this regard, the parking rates under The Hills DCP are substantially higher than required for the future desired character of the site. When applying the rate for office uses in the RMS Guide of 1 space/40m², only 114 car spaces are required compared to 182 car spaces required under The Hills DCP.

The approved development supported a variation of 4 parking spaces during daytime and 25 parking spaces at night time and on weekends on the basis of the commercial component being utilised under a dual use arrangement for restaurant tenancies between 6:30pm to midnight on weeknights and during the weekend. The proposed modification would continue to apply the dual use arrangement and would fully comply with the night time parking rates under the DCP. The application of this dual use parking arrangement was implemented as a condition of consent (refer condition 8) in the original consent and continues to apply for the modified development.

The variation of 1 commercial car parking space during the day time is considered negligible as the proposal is still in keeping with the future desired character of the locality. In this regard, a variation can be supported.

4.2 Part B Section 5 – Residential Flat Buildings

Part B Section 5 Residential Flat Buildings applies to land where residential flat buildings are permissible. The proposed modification relates to a mixed use development with a residential flat building component. The DCP contains provisions which typically apply in residential zones where the maximum height limit is in the order of four storeys. In this regard, this particular section of the DCP has been used as a guide to assess the residential component of the development noting that the site is subject to site-specific LEP height and FSR controls and provisions under DCP Part B Section 6 – Business. The following table details the relevant parts of the DCP where they relate to the proposed changes:

DEVELOPMENT STANDARD (CLAUSE NO.)	BHDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
3.4 Building Heights	<p>Refer to building height maps of The Hills Local Environmental Plan 2012.</p> <p>No buildings shall contain more than 4 storeys above natural ground level.</p>	<p>Building height is further reduced by 800mm for Building A (RL140.95 at Roof Level) and 850mm for Building B (RL139.70 at Roof Level and RL141.2 at top of plant)</p> <p>Maximum permitted height: RL 143.2</p> <p>Approved height: 143.113</p> <p>Building height control of 4 storeys is irrelevant in this instance.</p>	Yes
3.5 Building Separation and Treatment	12m	No change to approved 26m building separation. between Building A and B	Yes
3.7 Building Length	Max. 50m	<p>No change to approved development</p> <p>Building A – 50 metres</p> <p>Building B – 51 metres</p> <p>*Measurement taken from residential component only, not podium levels.</p>	No change to approved development
3.8 Building Design and Streetscape	<p>Must refer to Council's "Multi-Unit Housing: Urban Design Guidelines 2002"</p> <p>Designs must be in harmony in terms of form, mass, colour and structure with existing and likely future development in the street.</p>	<p>The proposal is consistent with the Multi-Unit Housing: Urban Design Guidelines 2002.</p> <p>The proposed modifications include minor alterations to the external facades incorporating more glazing and privacy screens and do not alter the predominant built form, mass, colour and structure of the</p>	Yes

	<p>Siting and design to ensure clear definition of street edge and reinforce street corners. Building lines together with landscaping treatments should distinguish the public and private realms.</p> <p>Must not be repetitive in design and incorporate harmonious design variations such as verandas, entrances, facades, etc.</p> <p><u>Walls and Rooflines:</u></p> <ul style="list-style-type: none"> - Articulation provided to reduce bulk - With variety of colours to reduce monotony and add enhance the streetscape - With windows to enhance façade appearance - Well balanced vertical and horizontal proportions - Break up large horizontal facades (whether walls or roofs) into smaller sections no longer than 10m - Use of well-proportioned and balanced projections and recesses on facades. - Provision of architectural features in the façade such as entry porches, pergolas, etc. <p><u>Entrances:</u></p> <ul style="list-style-type: none"> - Clearly visible from the public and semi-public areas. Lighting to be provided for safety at night. - Entries to be readily apparent from the street and clearly visible from inside the dwelling for casual surveillance. - Space around building entrance to be sufficiently large to stand out and have a 	<p>approved design of the development.</p> <p>The proposed modification does not alter the siting of the building, which predominantly aligns to the street and Norwest Lake and will reinforce public interfaces.</p> <p>The proposed modifications do not result in a mirroring effect of the built form and results in a harmonious design.</p> <p>Minor modifications are made to the façades of the development fronting Solent Circuit and Norwest Lake which still comprise of high quality materials and finishes such as sandstone cladding, metallic cladding, ceramic tile cladding and glazing.</p> <p>The proposed development will comprise of a basement garage and parking will be predominately concealed from public view.</p> <p>The main entries into the central colonnade are essentially the same as approved with minor modifications to the mullions and glazing of windows and doors. These entries are still clearly visible from Solent Circuit and defined by a projecting awning. The entries are suitably articulated and are identifiable to</p>	
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	<p>distinctive architectural form.</p> <ul style="list-style-type: none"> - Entries to be distinctive, attractive and welcoming. - Provide sheltered transitional areas around building entries. - All ground floor dwellings to have their own entry at ground level. - Building entries to be visible from, or address the site front boundary, and clearly delineated and observable from the driveway. <p><u>Views and Siting:</u></p> <ul style="list-style-type: none"> - Siting of building to take advantage of any views to nearby/adjoining landscaped open space or any public reserve. - Siting and design to take advantage of any views to open space, public reserves and bushland to promote natural surveillance and enhance visual amenity for residents. - Avoid blank courtyard walls along boundaries shared with open space or reserves. - Provide opportunities to create and orient dwellings to permit direct views from living areas into the open space/reserve. - Avoid courtyards facing a street or public place. If cannot be avoided due to design constraints, design to comply with Section 3.27 Fencing giving consideration to streetscape and visual impact issues. 	<p>residents and visitors.</p> <p>No changes are proposed to the siting of the approved built form.</p>	
3.9 Urban Design Guidelines	Demonstrate conformity with "Baulkham Hills Multi Unit Housing – Urban Design Guidelines 2002"	The proposal is consistent with the Multi-Unit Housing Urban Design Guidelines 2002.	Yes

3.10 Density	150-175 persons per hectare	426 persons per hectare Original consent approved 428 persons per hectare. Consistent with Planning Proposal for mixed use development and close proximity to Norwest train station.	No further variation proposed																										
3.11 Unit Layout and Design	<p>Apartment Mix</p> <p>(a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments.</p> <p>(b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.</p> <p>Residential Flat Development (30 or more units) (d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following:</p> <table><tr><th>Apartment Size Category</th><th>Apartment Size</th></tr><tr><td colspan="2">Type 1</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 or more bedrooms</td><td>95m²</td></tr><tr><td colspan="2">Type 2</td></tr><tr><td>1 bedroom</td><td>65m²</td></tr><tr><td>2 bedroom</td><td>90m²</td></tr><tr><td>3 or more bedrooms</td><td>120m²</td></tr><tr><td colspan="2">Type 3</td></tr><tr><td>1 bedroom</td><td>75m²</td></tr><tr><td>2 bedroom</td><td>110m²</td></tr><tr><td>3 or more bedrooms</td><td>135m²</td></tr></table>	Apartment Size Category	Apartment Size	Type 1		1 bedroom	50m ²	2 bedroom	70m ²	3 or more bedrooms	95m ²	Type 2		1 bedroom	65m ²	2 bedroom	90m ²	3 or more bedrooms	120m ²	Type 3		1 bedroom	75m ²	2 bedroom	110m ²	3 or more bedrooms	135m ²	<p>Complies. A maximum of 20% of units are 1 bedroom</p> <p>Complies. 14% of units are 3 or more bedrooms</p> <p>Type 1: 1BR-51/51 units 2BR -131/167 units 3BR – 23/34 units</p> <p>Type 2: 2BR – 36/167 3BR – 2/34</p> <p>Type 3: 2BR – NIL 3BR – 9/34 units</p>	<p>Yes</p> <p>Yes</p>
Apartment Size Category	Apartment Size																												
Type 1																													
1 bedroom	50m ²																												
2 bedroom	70m ²																												
3 or more bedrooms	95m ²																												
Type 2																													
1 bedroom	65m ²																												
2 bedroom	90m ²																												
3 or more bedrooms	120m ²																												
Type 3																													
1 bedroom	75m ²																												
2 bedroom	110m ²																												
3 or more bedrooms	135m ²																												

	<p>Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.</p> <p>Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.</p> <p>All remaining apartments are to comply with the Type 3 apartment sizes.</p>	<p>81% of units are type 1 (205 units).</p> <p>Complies. 15% of units are type 2 (38 units).</p> <p>4% of units are type 3.</p>	<p>No – variation proposed.</p> <p>Yes</p> <p>No – variation proposed.</p>
3.12 Building Materials	<p>Must comply with the Local Government Act, 1993, Local Government regulations and Building Code of Australia</p> <p>Reflect and complement the existing character and streetscape.</p> <p>Choice of materials to consider both their environmental and economic costs.</p> <p>Use graffiti resistant materials in areas accessible by the general public and communal areas within the development.</p> <p>Use colours that are visually pleasing and reflect the predominant colours in the area.</p> <p>Avoid materials and colours with excessive glare.</p>	<p>A condition of consent has already been imposed to ensure compliance with the Building Code of Australia.</p> <p>The proposed modification does not deviate from the approved materials, colours and finishes will complement the existing streetscape and desired future character.</p> <p>The selection of materials considers both environmental and economic costs.</p> <p>A condition in the consent has already been imposed to ensure graffiti resistant materials will be used as recommended by the NSW Police.</p> <p>The colour selection does not alter from the approved development.</p> <p>The standard of glazing will be determined at the Construction Certificate stage and will be compliant with Australian Standards so as to minimise the effect of glare.</p>	Yes

		<p>Avoid materials that are likely to contribute to poor internal air quality.</p> <p>Select materials that will minimise the long-term environmental impact over the whole life of the development.</p> <p>Preference to materials derived from renewable sources or are sustainable and generate lower environmental cost, recycled material/s with low embodied energy, better lifecycle costs and durability.</p>	<p>The selection of materials will not result in poor internal air quality.</p> <p>The material selection is considered to afford the built form with longevity.</p> <p>The selection of materials is considered to provide for satisfactory thermal comfort and durability.</p>	
3.13 Open Space	<p>Private: Ground level – 4m x 3m (min)</p> <p>Above ground – min. 10m² with min. depth 2.5m</p> <p>Common: 20m² per dwelling</p>	<p>Podium level private open space areas comply.</p> <p>Minimum 8m² with min. depth of 2m</p> <p>No change to common open space areas provided in original consent. However, the additional 5 units require 5,040m² common open space. 3,240m² is approved under original consent.</p>	<p>Yes</p> <p>No, refer to discussion below.</p> <p>No, refer to discussion below.</p>	
3.14 Solar Access	<p>Adjoining buildings / open space areas – 4 hours between 9am and 3pm on 21 June</p> <p>Common open space – 4 hours between 9am and 3pm on 21 June</p>	<p>Adjoining residential properties will receive 3 hours of solar access between 9am and 3pm on 21 June.</p>	<p>Yes</p>	
3.15 Ventilation	<p>- Consider prevailing breezes in relation to building orientation, window design and internal circulation.</p> <p>- Place windows to allow for cross ventilation i.e. on</p>	<p>The proposed orientation and internal configuration of the development responds to prevailing breezes in order to maximise natural ventilation to apartments. At least</p>	<p>Yes</p>	

	<p>opposite sides of the building rather than adjacent walls where possible. These windows are to be lockable in a partly open position.</p> <ul style="list-style-type: none"> - Promote air circulation and consider the installation of fans, roof vents, louvered windows and high-level windows to aid air circulation. - Provide security screen doors at unit entries. - Minimise air gaps by incorporating door and window seals. 	<p>70% of apartments are naturally ventilated which exceeds the 60% requirement of the ADG.</p> <p>Windows have been located on opposite sides or to a different aspect where possible.</p>	
3.19 Car parking	<p><u>Rate per unit & visitor parking:</u> 1 space per 1 BR 2 spaces per 2 or 3 BR Visitor – 2 spaces per 5 dwellings</p> <p><u>Parking Dimension:</u> - Lockable single garages min. dimension – 5.5 metres x 3 metres (exclusive of storage) - Lockable double garages min. dimension – 5.5 metres x 5.4 metres (exclusive of storage) - Visitor parking dimensions – 5.5 metres x 2.6 metres</p> <p><u>Manoeuvring and Ramps:</u> - First 6 metres of the driveway inside the property boundary to be a maximum of 5% - Ramp grades to comply with Australian Standard 2890.1 - Manoeuvring in accordance with Australian Standard 2890.1</p>	<p>Required:</p> <p>1 bedroom – 51 2 bedroom – 334 3/4 bedroom – 64</p> <p>Visitor - 101</p> <p>Total required: 550 spaces</p> <p>Proposed: Total: 358 (Excludes tandem) Total: 387 (Includes tandem)</p>	<p>No – refer to discussion below</p>
3.20 Storage	<p>10m³ with an area 5m² and dimension 2 metres</p>	<p>Minimum 8m³</p>	<p>No – refer to discussion below.</p>

3.21 Access and Adaptability	<p>Lift provided if greater than 2 storeys</p> <p>Accessible housing: 5% in a development >20 units</p>	<p>13 adaptable units provided as per accessibility report. This equates to 5.15%.</p>	Yes
3.23 Privacy – Visual and Acoustic	<ul style="list-style-type: none"> - Minimise direct overlooking of main internal living areas and private open space of dwellings both within and adjoining the development through building design, window locations and sizes, landscaping and screening devices (refer to section 3.13 Open Space). - Consider the location of potential noise sources within the development such as common open space, service areas, driveways, and road frontage, and provide appropriate measures to protect acoustic privacy such as careful location of noise-sensitive rooms (bedrooms, main living areas) and double glazed windows. - Dwellings adjoining arterial roads to be designed to acceptable internal noise levels, based on AS 3671 – Road Traffic Noise Intrusion Guidelines. 	<p>Internal building separation is unaltered. Units have been designed to minimise the potential for direct overlooking through the sufficient separation of Building A and B in addition to the appropriate placement of balconies and windows. Additional full height privacy screens and highlight windows have been implemented on the facades to further mitigate privacy impacts.</p> <p>Given that the site is isolated and combined with the substantial distance to adjoining residential properties, the proposal will not result in undue overlooking into adjoining residential properties.</p> <p>The internal configuration of the development has been designed to consider the location of potential noise sources.</p>	Yes
3.25 Waste Management – Storage and Facilities	<ul style="list-style-type: none"> - Waste collection and separation facilities to be provided for each dwelling. Each dwelling should have a waste storage cupboard in the kitchen capable of holding at least a single days waste, and sufficient to enable separation of recyclable material. - Adequate storage for 	<p>No change to the location of the communal waste storage areas.</p> <p>No objections received by Council's Resource Recovery Officer and relevant conditions implemented in original consent.</p>	Yes

	<p>waste materials must be provided on site and any such waste must be removed at regular intervals and not less frequently than once per week for garbage and fortnightly for recycling.</p> <ul style="list-style-type: none"> - Screen views of waste and storage facility from any adjoining property or public place while ensuring there is some natural surveillance from within the development to minimise vandalism and other anti-social activity. - Waste storage areas to be kept clean, tidy and free from offensive odours at all times. 		
3.26 Waste Management Planning	Submission of a Waste Management Plan – demolition, construction and on-going use.	No objections received by Council's Resource Recovery Officer and relevant conditions implemented in original consent.	Yes

The original approval allowed variations to landscaping, building length, density, private open space, common open space, apartment sizes, car parking and storage. The proposed modification includes the reconfiguration of sixty five units and an increase in five additional units which result in further variations to apartment sizes, common open space, car parking storage. These variations are discussed below:

4.2.1 Unit Layout and Design

The proposed modification includes the addition and reconfiguration of the following units:

Units 414, 415, 418, 419, 501, 514, 601, 606, 610, 615, 701, 706, 710, 715, 801, 806, 810, 815, 901, 906, 910, 915, 1001, 1006, 1010, 1015, 1101, 1106, 1110, 1115, 1201, 1206, 1210, 1215, 1301, 1306, 1310, 1315, 1404, 1405, 1406, 1411, 1504, 1505, 1506, 1511, 1604, 1605, 1606, 1611, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1709, 1710, 1711, 1713, 1717, 1803, 1810, 1811, 1813, 1817, 1903, 1904 and 1910.

The proposed modification results in apartment sizes that are inconsistent with the minimum unit size typology as required by the DCP. The proposal would provide the following apartment sizes:

One Bedroom: 50m² to 63m²

Two Bedroom: 76m² to 93m²

Three Bedroom: 106m² to 169m²

Four Bedroom: 147m² to 150m²

With respect to compliance, 81% of units are Type 1, 15% of units are Type 2 and 4% of units are Type 3. In this regard, the proposal significantly exceeds the maximum permitted Type 1 apartment by 51% and has a shortfall of 36% of Type 3 apartment size.

The applicant has submitted the following as justification for the increase in number of one bedroom units:

The proposed amendments will result in a decrease in the provision of 2 bedroom apartments from 72.5% to 66.3% and a corresponding increase in 1 bedroom apartments from 14.5% to 20.2%. The basis for this proposed amendment is as follows:

- The number of 1 bed stock with the approved DA was 36 out of 247 total apartments and all have been sold since the consent was granted due to a more affordable price point and there is continuing demand for 1 bedroom apartments. Conversely, whilst the 2 bedroom apartments are selling steadily, there is still a significant number of 2 bedroom apartments that have not been sold to date.*
- The increase in 1 bedroom apartments and corresponding reduction in 2 bedroom apartments actually reduces the profitability of the project. However despite this, the marketing process has revealed that there is a need to provide an increased percentage of more affordable housing stock within the development and it has become apparent that there is social responsibility to meet this need in the area.*
- Capital Bluestone are committed to creating more affordable stock for young adults and first home owners to allow them to grow or remain in The Hills.*
- Notwithstanding the proposed increase in 1 bedroom apartments to provide a more affordable outcome, Capital Bluestone also recognise the need to deliver larger apartments to meet the need to accommodate families and as such are retaining all 3 bed plus stock, which has in fact been increased by 1.*

Comment:

The objectives of the DCP are:

- (i) To ensure that individual units are of a size suitable to meet the needs of residents.*
- (ii) To ensure the layout of units is efficient and units achieve a high level of residential amenity.*
- (iii) To provide a mix of residential flat types and sizes to accommodate a range of household types and to facilitate housing diversity.*
- (iv) Address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*
- (v) To ensure designs utilise passive solar efficient layouts and maximise natural ventilation.*

It is noted that the approved development supported a variation to the control with 80% of Type 1 units and 37% of Type 3 units. The proposed modification would result in a further variation of 1% of Type 1 units and 1% of Type 3 units.

The proposal seeks to increase the number of one bedroom apartments from 14.5% to 20.2% of apartments, decrease the number of two bedroom apartments from 72.5% to 66.3% and increase the number of three and four bedroom apartments from 13% to 13.5%. The proposed increase in one bedroom apartments and decrease in two bedroom units is considered minor in nature as the proposal continues to provide a reasonable mix of apartments, with 51 x 1 bedroom, 167 x 2 bedroom and 31 x 3 bedroom units and 3 x 4 bedroom units proposed within the design. The proposal meets the objectives of the DCP in that the units are a suitable size, have layouts which have a high level of amenity by providing adequate solar access and natural ventilation, provides housing choice and have efficient designs.

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

In this regard, the further variation is considered negligible and is considered that the proposed apartment size and unit mix caters for different users/household types and meet the objectives of the control. The proposed unit mix is considered satisfactory and can be supported.

4.2.2 Private Open Space

The DCP requires that private open spaces above ground floor comprise a minimum of 10m² with minimum depth 2.5 metres. The modified development will include thirty balconies that are 8m² with minimum depth 2.5 metres. These are all one bedroom units.

The applicant has provided the following justification:

Pursuant to Clause 6A of SEPP 65 if a development control plan contain provisions that specify requirements, standards or controls in relation to private open space, those provisions have no effect. As such the private open space standards of the Apartment Design Guide prevail.

Comment:

The private open space areas comply with the requirements of the Apartment Design Guidelines which specify a minimum area of 8m² for one bedroom units. Additionally, the proposed development provides for a high level of residential amenity with over 70% of private open space areas receiving 2 hours of solar access during mid-winter. Furthermore, the communal open space area provides for both passive and recreational activities. In this regard, a variation is considered to be satisfactory.

4.2.3 Common Open Space

The DCP requires that developments greater than 20 dwellings should provide a common open space area at a rate of 20 square metres per dwelling. This would result in an area of 5,040m² for 252 units. No change has been proposed to the approved common open space area of the approved development.

The applicant has provided the following justification:

The DCP suggests a provision of common open space based on a rate of 20 square metres per dwelling. The approved 247 apartments would have generated the need for 4,940 square metres of common open space, however Council supported a reduced provision of 3,249 square metres of common open space or 27% of the site area. The amended proposal increases the number of apartments to 252 which would increase the requirements under the DCP for a further 100 square metres. The proposal does not seek to increase the provision of common open space which is considered to remain satisfactory despite the minor increase in the number of apartments on the basis that it is still in excess of the minimum requirements under the ADG and will continue to provide a generous and attractive space for residents which is appropriate having regard to the nature and location of the development”.

Comment:

The proposed development provides a communal open space area of 3,240 square metres. The communal open space is located on the podium level and which will be extensively landscaped around the periphery with the exception of the gymnasium which has been relocated to the ground floor. The communal open space area will promote a range of activities and include a swimming pool, water features, fitness stations, an outdoor cinema, dining areas and putting green.

In combination with areas for private open space, the proposed development is considered to be suitable with respect to communal open space areas capable of accommodating both passive and recreational uses.

4.2.4 Car Parking

The proposed development has been assessed against the relevant residential parking provisions of the DCP. The proposal provides 387 car parking spaces where the DCP requires 550 car parking spaces. It is noted that the DCP excludes tandem car parking spaces from the parking provision. On this basis, there are 56 tandem car parking spaces of which only 29 will be counted in the car parking provision. Therefore, the total number of car parking spaces equates to 358.

The applicant has provided the following justification:

The DCP includes a range of parking rates, however, the reduced rates provided by SEPP 65 are able to be relied upon in this instance to reduce the Council rates as the application cannot be refused on the basis of car parking if the proposal meets the RTA Guide to Traffic Generating Development rates pursuant to Clause 30(1)(a) of SEPP 65. The amended proposal provides greater residential car parking than could be provided under SEPP 65.

Comment:

The proposed modification alters the unit mix of the proposal by increasing the number of 1 bedroom units and reducing the number of 2 bedroom units. The modified development results in a shortfall of 163 car parking spaces in accordance with the DCP controls. It is noted that the original assessment supported a variation of 197 car parking spaces.

The site is located in the Norwest Business Park in close proximity to Norwest Station currently under construction and will be highly accessible to future public transport links. The variation to the car parking provision is considered to be satisfactory and will indirectly discourage vehicular dependency which is consistent with planning principles established for transit-orientated developments. It is anticipated that residents of the

development would take advantage of transport links to commute to places of employment or other destinations.

The DCP rate in this instance is considered to be superfluous for the proposed development given the high accessibility to future transport links. It is considered that the DCP rate would be relevant to other parts of the LGA where accessibility to public transport is limited.

In this regard, it is considered that the variation to the parking provision is considered to be satisfactory.

4.2.5 Storage

The DCP requires storage to be provided at a rate of 10m³ with an area 5m² and dimension 2 metres for each residential unit. The proposed development will provide a minimum storage volume of 8m³.

The proposed development provides storage areas within the car park and units. The proposed storage is considered functional, meets the Apartment Design Guide minimum volume area and is satisfactory.

SUBDIVISION ENGINEERING COMMENTS

The Application was referred to Council's Subdivision Engineering Section. No objections were raised to the proposed modification and no additional conditions were recommended.

TRAFFIC MANAGEMENT COMMENTS

The Application was referred to Council's Subdivision Engineering Section. No objections were raised to the proposed modification and no additional conditions were recommended.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

The Application was referred to Council's Environmental Health Section. No objections were raised to the proposed modification and no additional conditions were recommended.

RESOURCE RECOVERY COMMENTS

The Application was referred to Council's Resource Recovery Officer to review waste management. No objections were raised to the proposed modification and no additional conditions were recommended.

LAND AND SPATIAL INFORMATION COMMENTS

The Application was referred to Council's Land and Spatial Information Section. No objections were raised to the proposed modification subject to an amendment to condition No. 15 in the consent.

SECTION 7.11 COMMENTS

The Application was referred to Council's Land and Spatial Information Section. No objections were raised to the proposed modification subject to an amendment to condition No. 19 and 78 in the consent.

NSW DEPARTMENT OF PRIMARY INDUSTRIES WATER

The Application was referred to The NSW Department of Primary Industries – Water. No objections are raised to the proposed modification and that the General Terms of Approval issued for the original consent remain valid.

CONCLUSION

The Section 4.55 application has been assessed against the provisions of Section 4.15 and 4.55(2) of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide, The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered satisfactory.

The development as modified will remain substantially the same as originally approved.

The proposal is consistent with the controls and objectives of the site specific DCP and provides a built form that is envisaged for the desired future character of the area.

The proposed development includes variations to The Hills DCP car parking, apartment sizes and mix, open space and storage. The variations are addressed in the body of the report and do not warrant refusal of the application.

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

IMPACTS:**Financial**

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

The Hills Future - Community Strategic Plan

The proposal is considered satisfactory in regard to The Hills Future Community Strategic plan and will provide housing diversity within the Shire through the provision of a variety of unit layouts and sizes in a Town Centre location.

RECOMMENDATION

The Modification Application be approved subject to the following:

1. Condition 1 be deleted and replaced with:

1. Development in Accordance with Submitted Plans

The development being carried out in accordance with the following approved plans and details, stamped 1395/2016/JP and as amended by 1395/2016/JP/A and returned with this consent except where amended by other conditions of consent.

REFERENCED PLANS AND DOCUMENTS – 1395/2016/JP

DRAWING NO.	DESCRIPTION	ISSUE	DATE
DA-100-001	Site Plan prepared by Turner	J	03/08/2016
DA-110-009	Basement Plan prepared by Turner	J	08/08/2016
DA-110-010	Ground Level Plan prepared by Turner	K	19/09/2016
DA-110-011	Level 01 Plan prepared by Turner – Amended in red.	K	16/09/2016
DA-110-012	Level 02 Plan prepared by Turner – Amended in red.	K	19/09/2016
DA-110-014	Level 03 Plan prepared by Turner – Amended in red.	K	19/09/2016
DA-110-015	Level 04 Plan prepared by Turner	K	19/09/2016
DA-110-016	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-017	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-018	GA Plans prepared by Turner	N/A	19/09/2016
DA-110-019	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-020	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-021	Service Level prepared by Turner	J	08/08/2016
DA-110-022	Roof Level prepared by Turner	J	08/08/2016
DA-250-001	North Elevation prepared by Turner	K	15/09/2016
DA-250-002	South Elevation prepared by Turner	K	15/09/2016
DA-250-003	East Elevation prepared by Turner – Amended in red.	K	15/09/2016
DA-250-004	West Elevation prepared by Turner	K	15/09/2016
DA-250-005	Building A South Elevation prepared by Turner	K	15/09/2016
DA-250-006	Building B North Elevation prepared by Turner	K	15/09/2016
DA-350-001	Section 01 Plan prepared by Turner	K	15/09/2016
DA-910-001	910 Finishes prepared by Turner	N/A	N/A

SK02	Planting Philosophy prepared by Scape Design	G	N/A
SK03	Ground Floor Plan prepared by Scape design	T	N/A
SK04	Podium Level Plan prepared by Scape Design	Q	N/A
SK05	Pool Level Design prepared by Scape Design	H	N/A

REFERENCED PLANS AND DOCUMENTS – 1395/2016/JP/A

DRAWING NO.	DESCRIPTION	ISSUE	DATE
DA-110-009	GA Plans Basement Plan prepared by Turner	N	15/08/2017
DA-110-010	GA Plans Ground Level Plan prepared by Turner	N	15/08/2017
DA-110-011	GA Plans Level 01 Plan prepared by Turner	N	15/08/2017
DA-110-012	GA Plans Level 02 Plan prepared by Turner	N	15/08/2017
DA-110-013	GA Plans Level 03 Plan prepared by Turner	N	15/08/2017
DA-110-014	GA Plans Level 04 Plan prepared by Turner– Amended in red.	N	15/08/2017
DA-110-015	GA Level 05 Plan prepared by Turner	N	1/03/2018
DA-110-016	GA Plans Typical Levels 06-13 prepared by Turner	N	5/03/2018
DA-110-017	Typical Residential Levels 14-16 prepared by Turner	N	5/03/2018
DA-110-018	GA Plans Level 17 prepared by Turner	N	1/03/2018
DA-110-019	GA Plans Level 18 prepared by Turner	N	15/08/2017
DA-110-020	GA Plans Level 19 prepared by Turner	N	15/08/2017
DA-110-021	Service Level prepared by Turner	N	15/08/2017
DA-110-022	Roof Level prepared by Turner	N	15/08/2017
DA-250-001	North Elevation prepared by Turner	N	28/07/2017
DA-250-002	South Elevation prepared by Turner	N	28/07/2017
DA-250-003	East Elevation prepared by Turner – Amended in red.	N	28/07/2017
DA-250-004	West Elevation prepared by Turner	N	28/07/2017

DA-250-005	Building A South Elevation prepared by Turner	N	28/07/2017
DA-250-006	Building B North Elevation prepared by Turner	N	28/07/2017
DA-350-001	Section 01 Plan prepared by Turner	N	28/07/2017

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

2. Condition 5 be deleted and replaced with:

5. Compliance with NSW Police Requirements

The following conditions shall be incorporated into the proposal where relevant:

Surveillance

- During the construction phase security sensor lights be used and security guards are to monitor the site.
- Paint the basement white to reflect light.
- CCTV is required to be installed at entry/exit points to the carpark, within the basement car parking and common areas. Height stickers are also required on entry/exit doors.
- Vegetation is to be maintained at all times to allow natural surveillance and reduce opportunities for concealment.

Lighting and Technical Supervision

- Lighting is to be utilised within the site in accordance with Australian Standards.

Environmental Maintenance

- Materials chosen are to have regard to the potential for graffiti.

Access Control

- Fencing is required to be vertical style to stop unauthorised access, with spaces left between vertical elements to limit physical access.
- The ground floor units are required to have upgraded security measures, such as alarmed doors and windows, thickened glass and sensor lights.
- Signage is to be erected to ensure that people are aware they are entering private property. The signage is also required to include details of what security treatment has been implemented.
- Ensure that the section of the security roller shutter near the manual door release is solid, that garage shutter doors are strong and that good-quality locking mechanisms are used.
- Letterboxes and caged storage areas are to have good-quality locking mechanisms and be secure.

3. Condition 7 be deleted and replaced with:

7. Provision of Parking Spaces

The development is required to be provided with 641 off-street car parking spaces with a composition of 387 residential spaces and 254 commercial car parking spaces. These car parking spaces shall be available for off street parking at all times.

4. Condition 11 be deleted.
5. Condition 15 be deleted and replaced with:

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

The responsibility for property numbering is vested solely in Council.

The property address for this development is: 11 Solent Circuit Baulkham Hills

Unit numbering is as per schedule below.

<i>Building Level</i>	<i>Lift Level Identification</i>	<i>Building A</i>	<i>Building B</i>
Basement	Basement	Carpark	Carpark
Ground	Ground	Commencing at G01	Carpark
Level 1	Level 1	Carpark	Carpark
Level 2	Level 2	201-212	Carpark
Level 3	Level 3	301-212	313 & Carpark
Level 4	Level 4	401-412	413-419
Level 5	Level 5	501-507	508-516
Level 6	Level 6	601-608	609-617
Level 7	Level 7	707-708	709-717
Level 8	Level 8	801-808	809-817
Level 9	Level 9	901-908	909-917
Level 10	Level 10	1001-1008	1009-1017
Level 11	Level 11	1101-1108	1109-1117
Level 12	Level 12	1201-1208	1209-1217
Level 13	Level 13	1301-1308	1309-1317
Level 14	Level 14	1401-1409	1410-1416
Level 15	Level 15	1501-1509	1510-1516
Level 16	Level 16	1601-1609	1610-1616
Level 17	Level 17	1701-1708	1709-1716
Level 18	Level 18	1801-1806	1807-1814
Level 19	Level 19	1901-1906	1907-1910

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.

6. Condition 19 be deleted and replaced with:

19. Planning Agreement

The obligations in the Planning Agreement between The Hills Shire Council and Hills Christian Life Centre Limited and Capital Corporation (Waterside) Pty Ltd, dated July 2015, signed 11 August 2015 (**Planning Agreement**), must be performed in accordance with the terms of the Planning Agreement including, but no limited to, the payment of monetary contributions identified in Schedule 1 of the Planning Agreement.

7. Condition 74 be deleted and replaced with:

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. 658108M_04 are to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

8. Condition 78 be deleted and replaced with:

78. Planning Agreement

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, the obligations in the Planning Agreement between The Hills Shire Council and Hills Christian Life Centre Limited and Capital Corporation (Waterside) Pty Ltd must be performed in accordance with the terms of the Planning Agreement. This includes, but is not limited to, the payment of monetary contributions in accordance with the Planning Agreement, valued at \$3,130,000.00 (indexed in accordance with the Planning Agreement) for the first 240 units, as well as an additional amount of \$13,041.67 (indexed in accordance with the Planning Agreement) for each of the additional 12 units proposed in excess of 240 units.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Floor Space Ratio Map
5. Height of Buildings Map
6. Approved Site Plan
7. Approved Ground Floor Plan
8. Proposed Ground Floor Plan
9. Approved North Elevation
10. Proposed North Elevation
11. Approved South Elevation
12. Proposed South Elevation
13. Approved East Elevation
14. Proposed East Elevation
15. Approved West Elevation
16. Proposed West Elevation
17. Approved Building A South Elevation
18. Proposed Building A South Elevation
19. Approved Building B North Elevation
20. Proposed Building B North Elevation
21. Original Consent No. 1395/2016/JP

ATTACHMENT 1 – LOCALITY PLAN



☐ SUBJECT SITE

✓ PROPERTIES NOTIFIED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

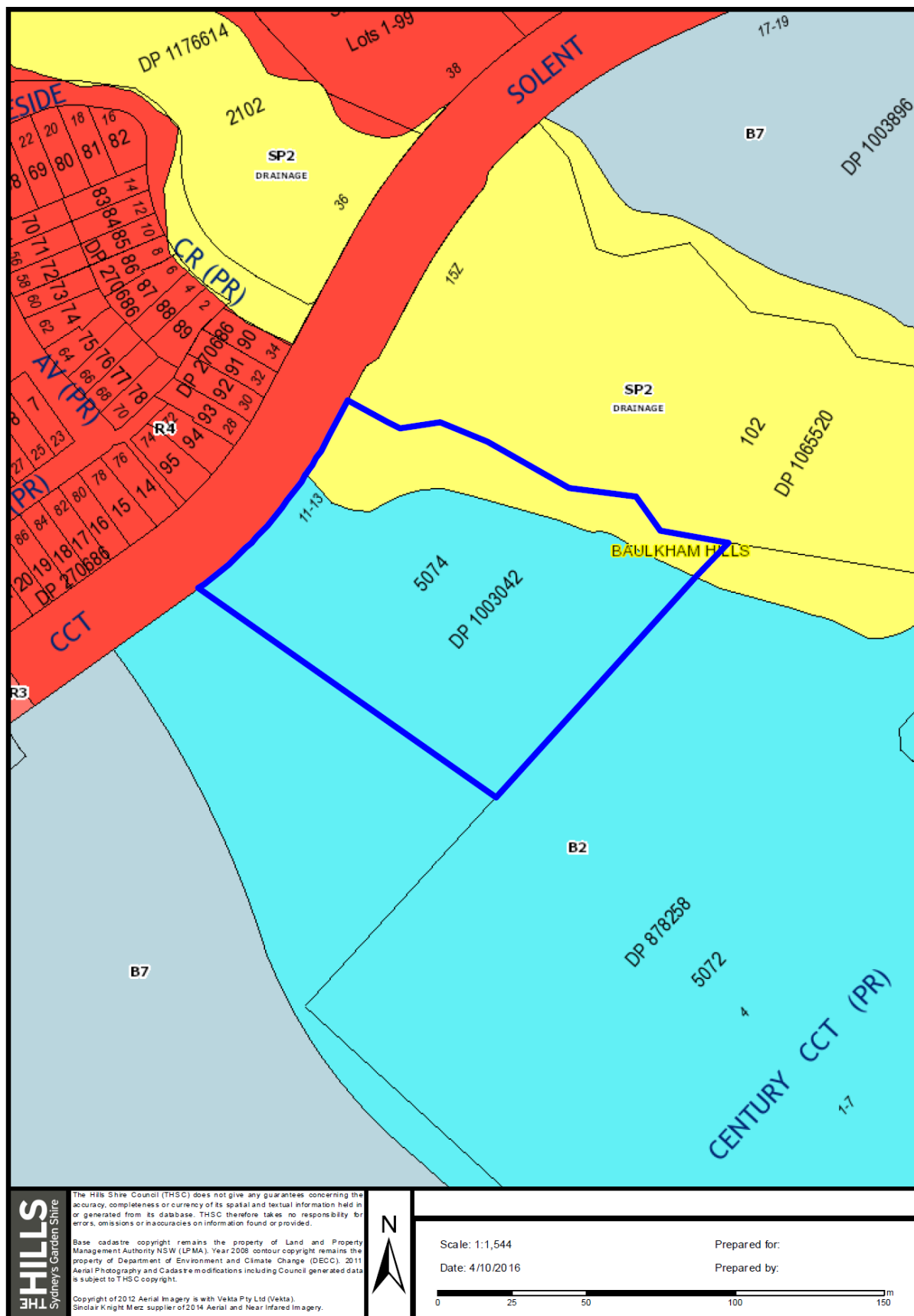
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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

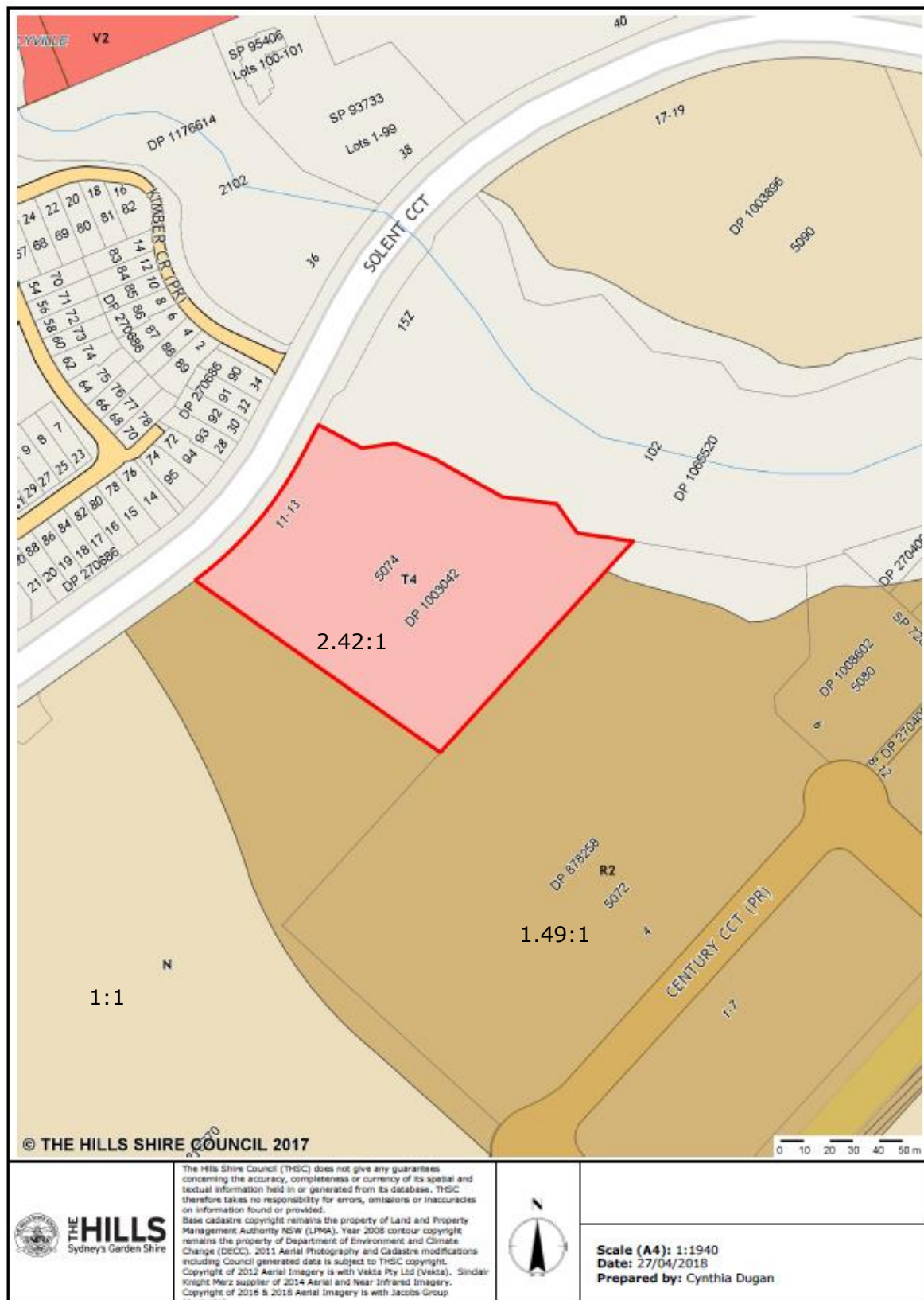
ATTACHMENT 2 – AERIAL PHOTOGRAPH



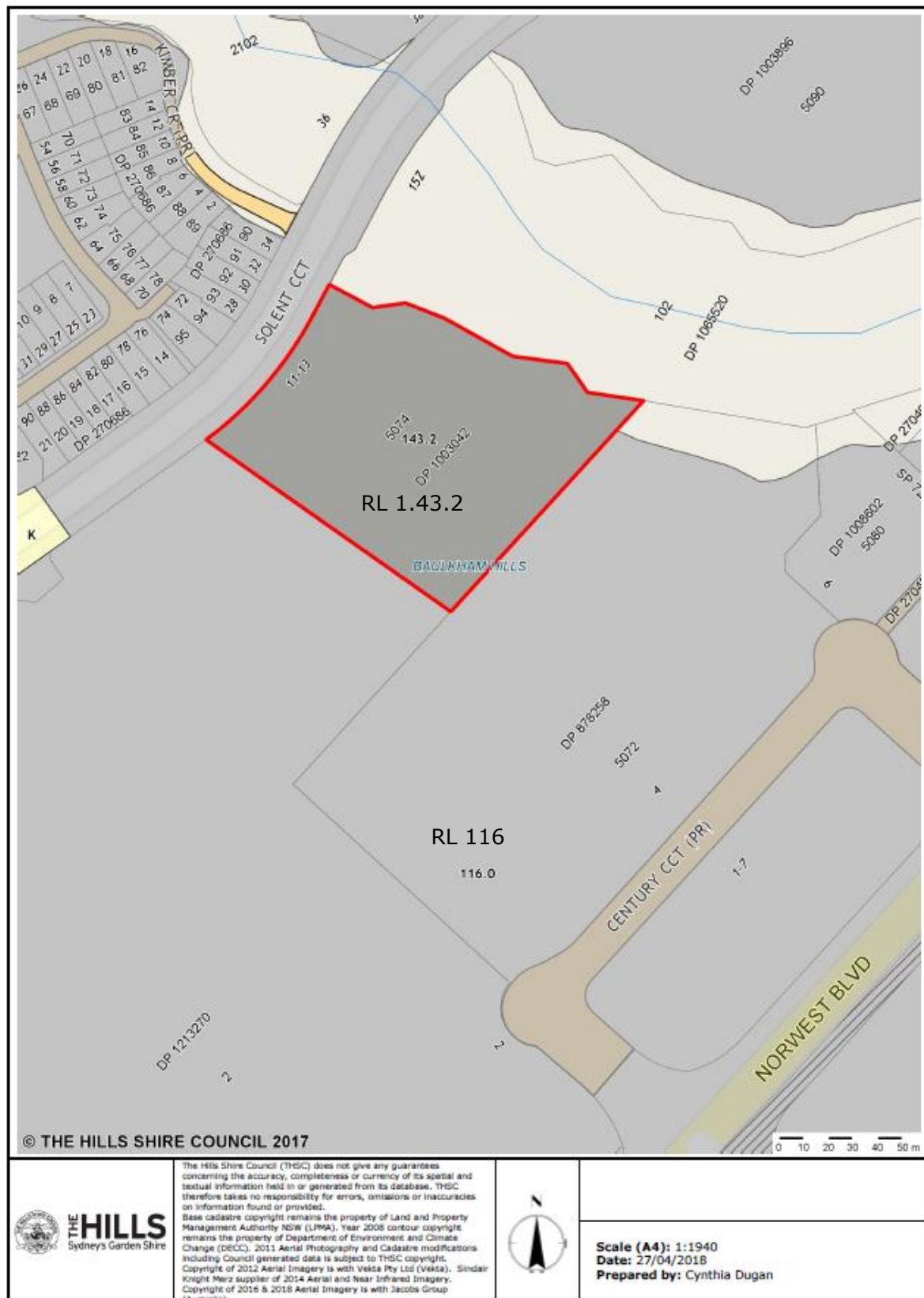
ATTACHMENT 3 – ZONING MAP



ATTACHMENT 4 – FLOOR SPACE RATIO MAP



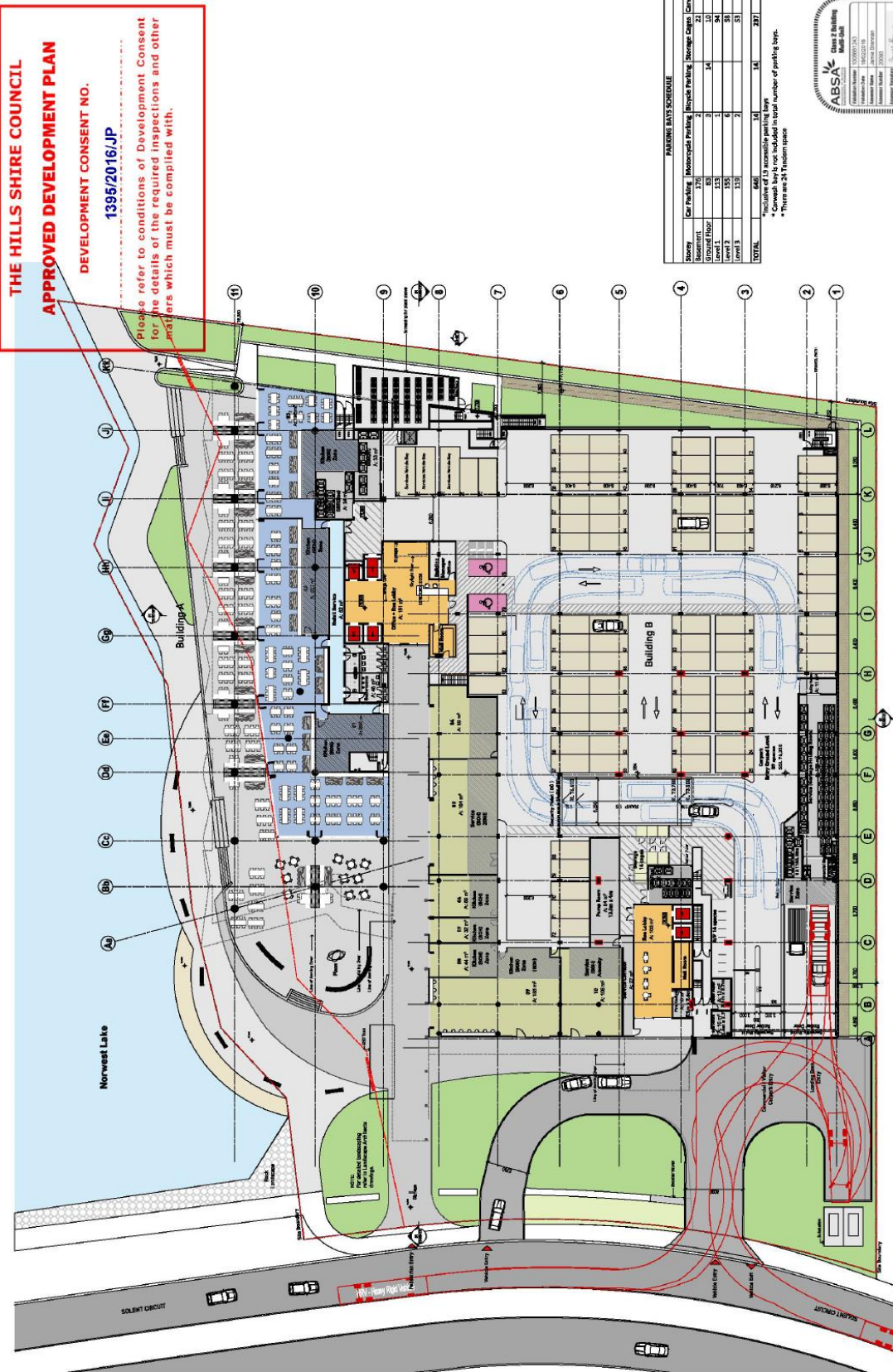
ATTACHMENT 5 – HEIGHT OF BUILDINGS MAP



ATTACHMENT 6 – APPROVED SITE PLAN

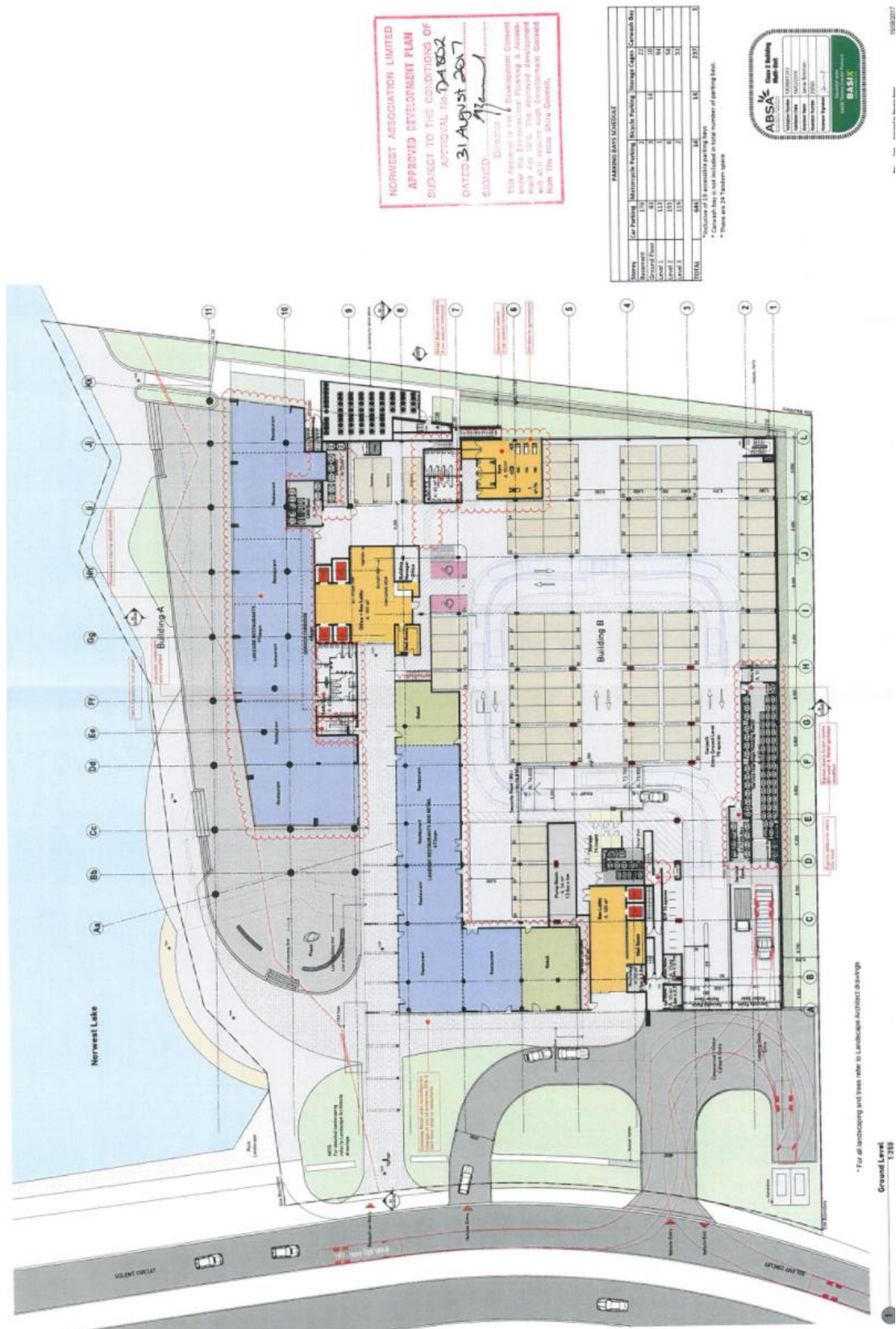


ATTACHMENT 7 – APPROVED GROUND FLOOR PLAN



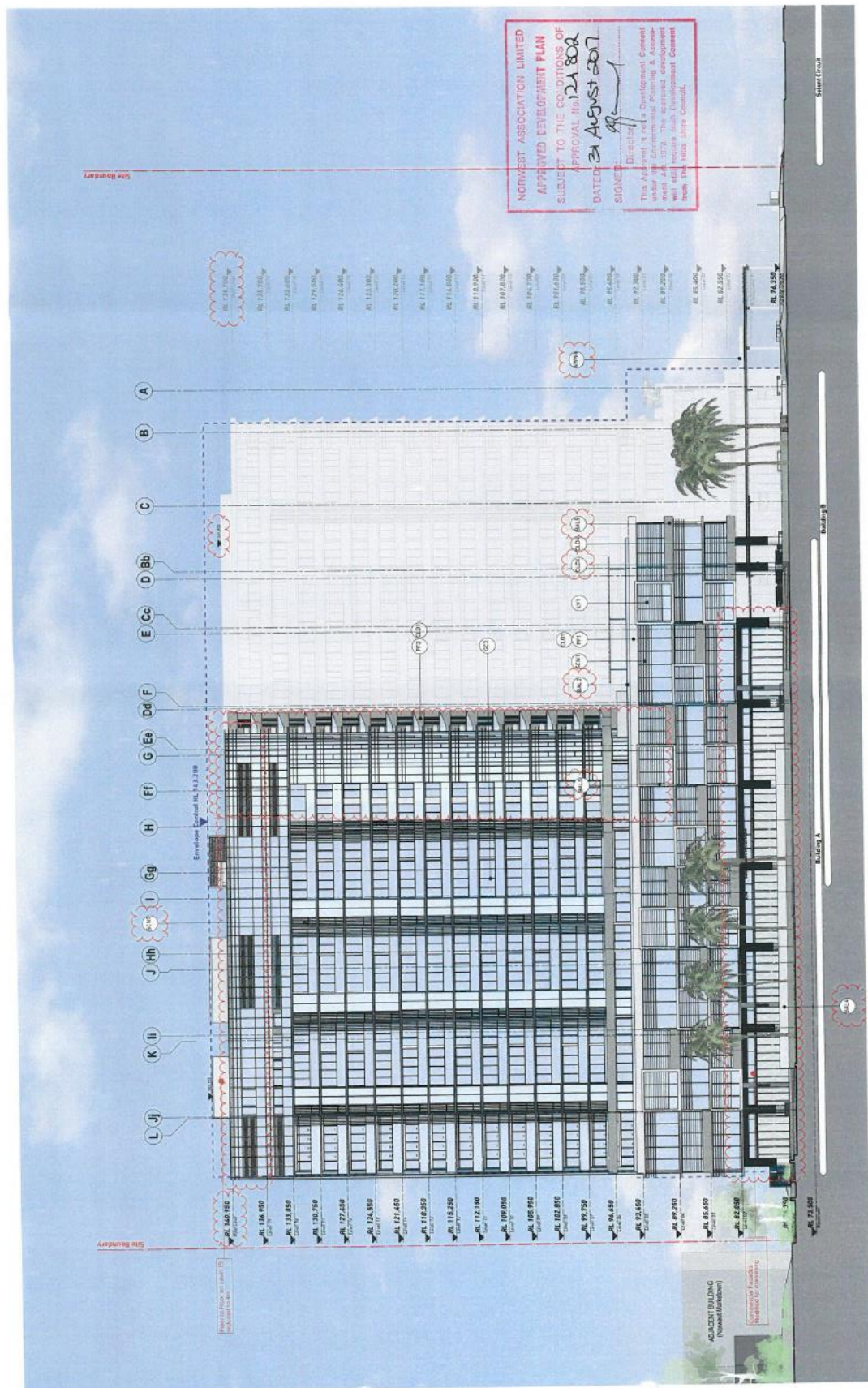
PRELIMINARY 01.07.2016

ATTACHMENT 8 –PROPOSED GROUND LEVEL PLAN

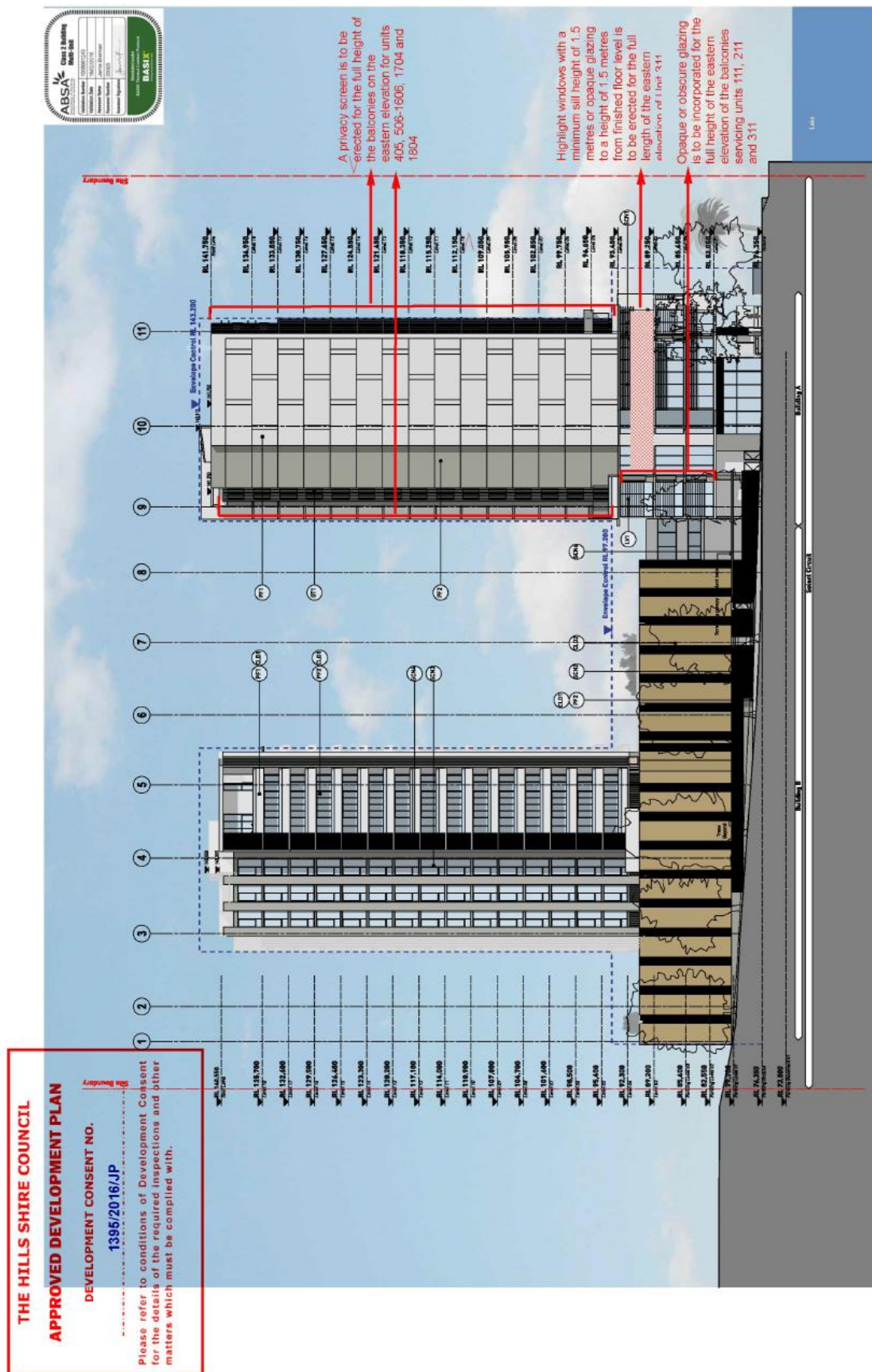


[illegible]

ATTACHMENT 10 – PROPOSED NORTH ELEVATION

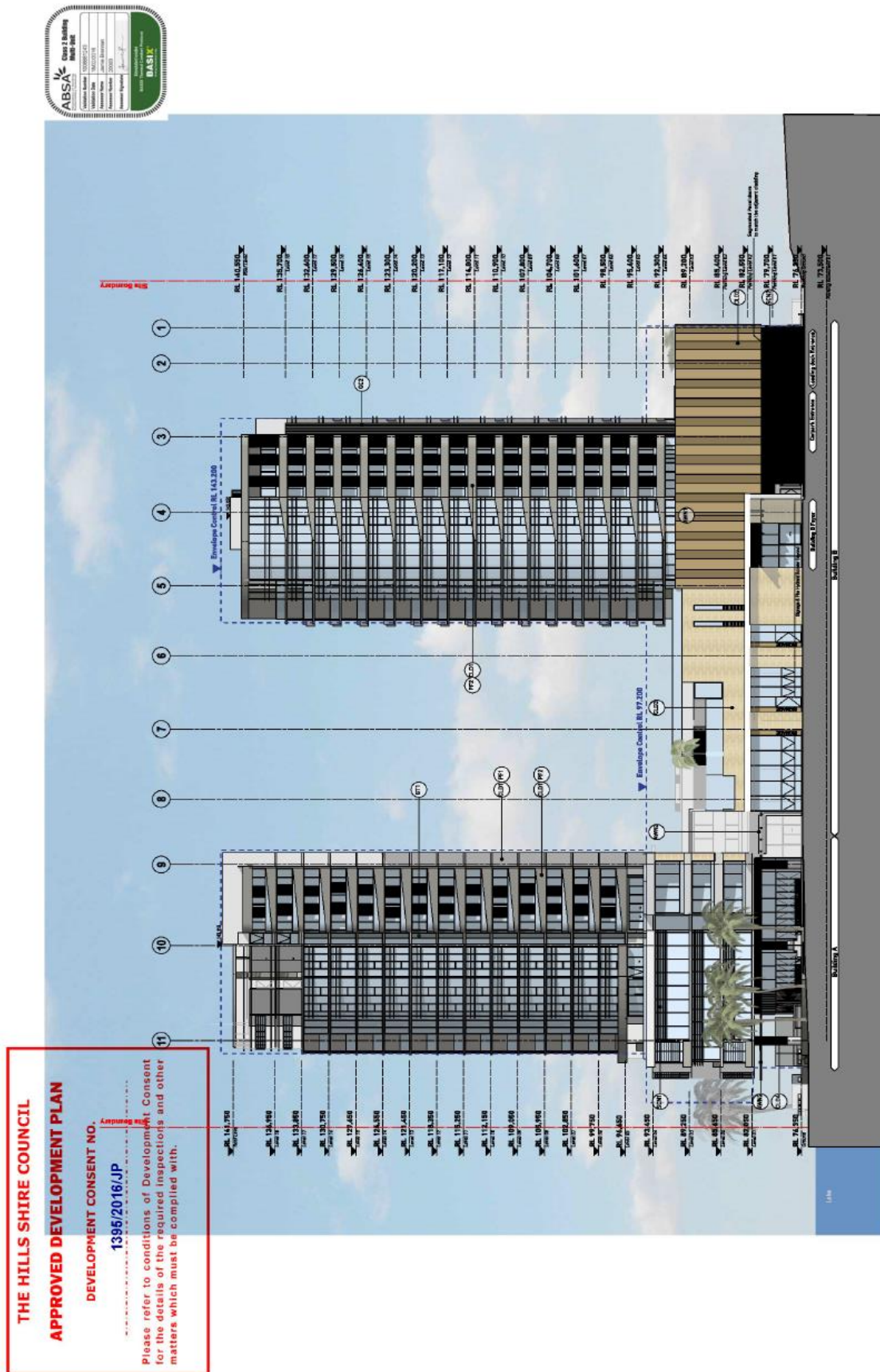


ATTACHMENT 13 – APPROVED EAST ELEVATION

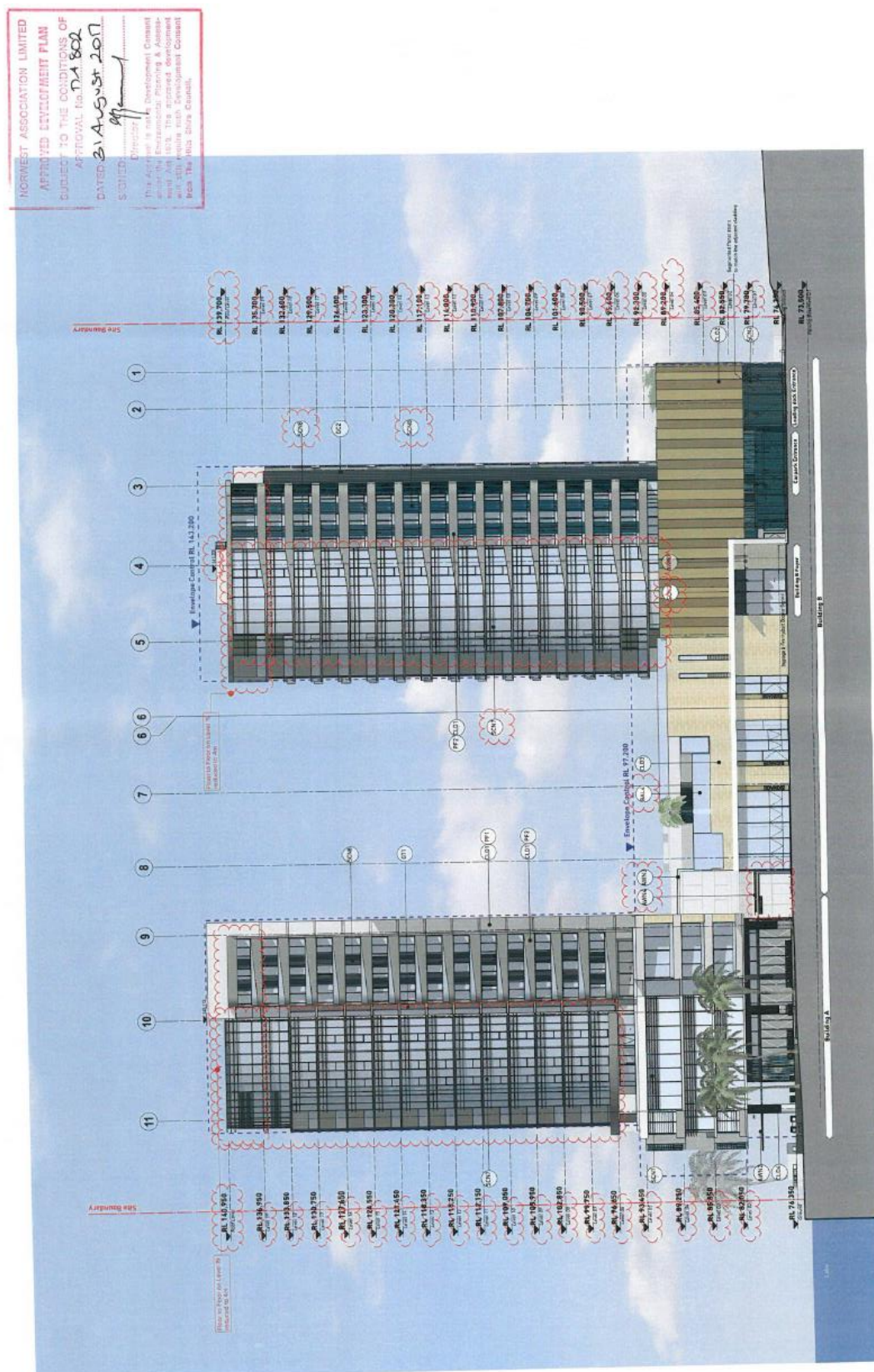


This architectural drawing shows the proposed elevations for an 11-story building. The drawing includes a north arrow pointing towards the top right. The building is divided into two main sections: a taller section on the left and a shorter section on the right. The elevations are labeled with numbers 1 through 11, corresponding to the building's height. The drawing also includes various annotations and notes, such as 'Elevation Control RL 43.260' and 'Elevation Control RL 37.238'. The building is shown with a modern design, featuring large windows and a flat roof. The drawing is a technical representation of the building's appearance and is used for planning and construction purposes.

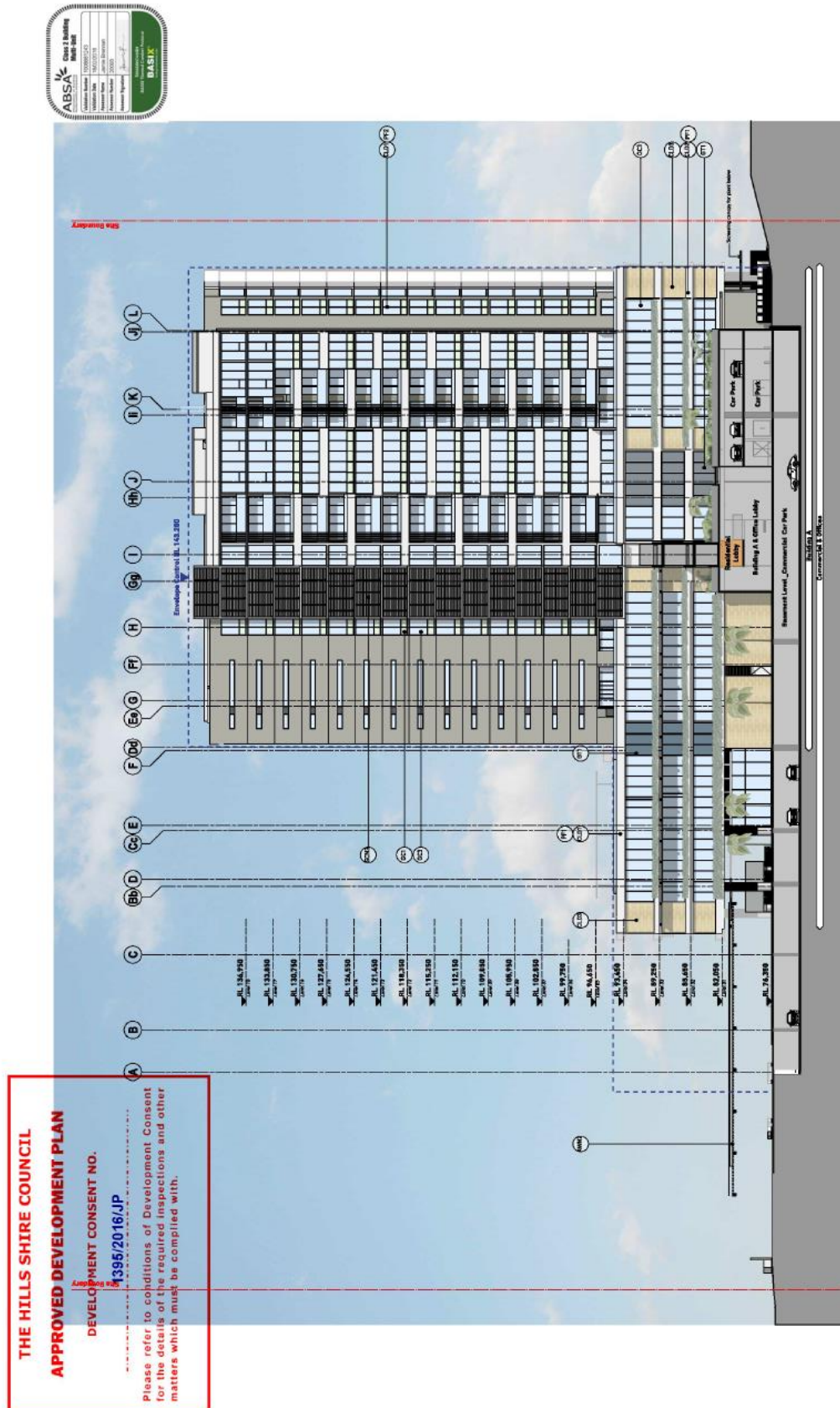
ATTACHMENT 15 – APPROVED WEST ELEVATION



ATTACHMENT 16 – PROPOSED WEST ELEVATION



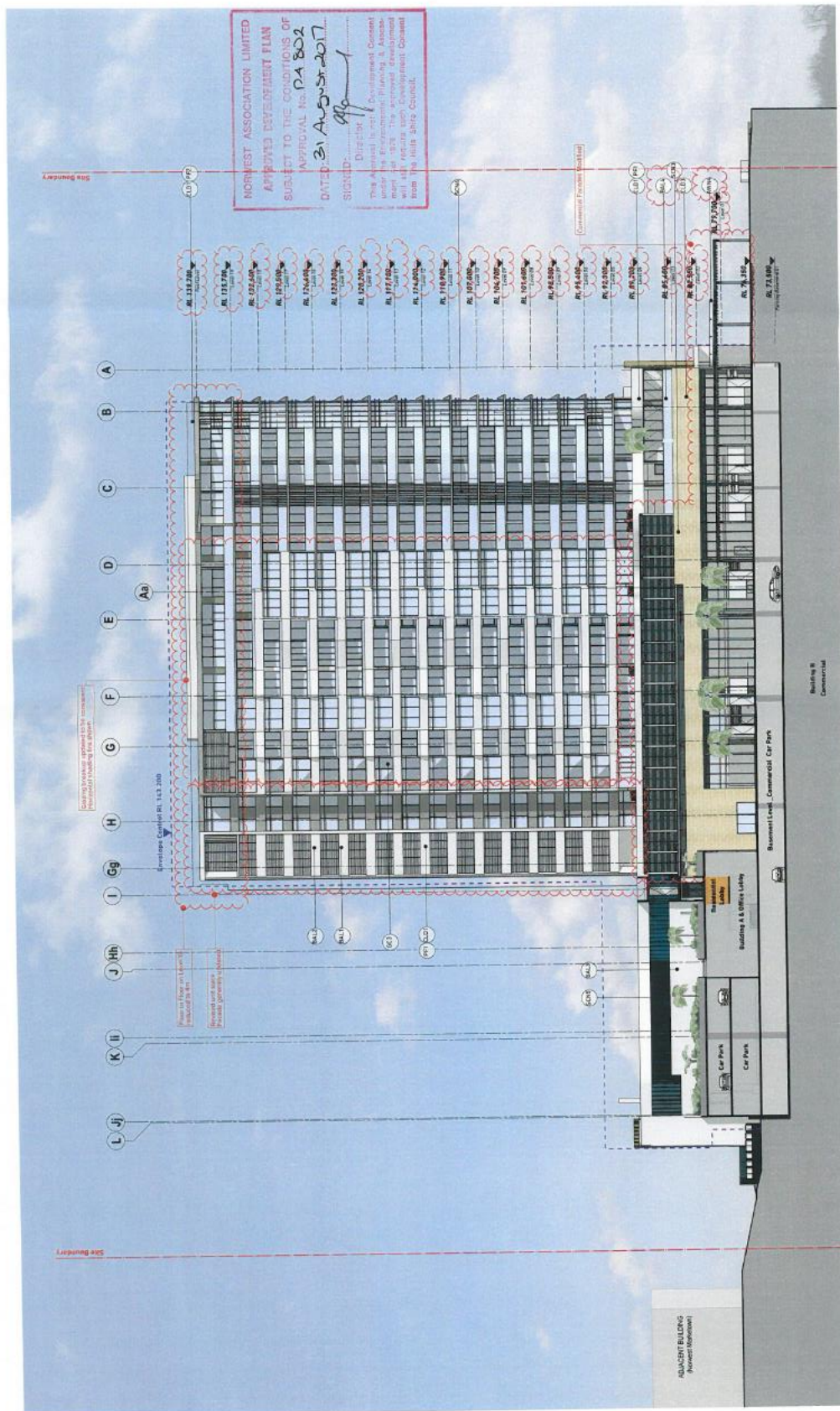
ATTACHMENT 17 – APPROVED BUILDING A SOUTH ELEVATION



ATTACHMENT 18 – PROPOSED BUILDING A SOUTH ELEVATION



ATTACHMENT 20 – PROPOSED BUILDING B NORTH ELEVATION



ATTACHMENT 21 – ORIGINAL CONSENT NO. 1395/2016/JP

27 October 2016

Capital Bluestone
Level 7, 71 Macquarie St
SYDNEY NSW 2000

Ref No.:1395/2016/JP
Joint Regional Planning Panel (Sydney West Region): 20 October 2016

Dear Sir/Madam

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Pursuant to Section 81 of the Environmental Planning and Assessment Act, 1979, notice is hereby given of the determination by NSW Government Joint Regional Planning Panel (Sydney West Region) of the Development Application referred to herein.

The Application has been determined by the granting of Consent subject to the conditions referred to in this Notice.

The conditions of the Consent referred to herein are deemed necessary by The Hills Shire Council, pursuant to Part 4, Division 2 of the Environmental Planning and Assessment Act, 1979.

This Consent shall become effective from the endorsed date of Consent.

This Consent shall lapse unless development, the subject of the Consent, is commenced within five (5) years from the endorsed date of Consent or as otherwise provided under Section 95 of the Environmental Planning and Assessment Act, 1979 which may vary the above date of the lapsing of the Consent.

Right of Appeal

Section 97 of the Environmental Planning and Assessment Act 1979 confers on the applicant who is dissatisfied with the determination of a consent authority, a right of appeal to the NSW Land and Environment Court exercisable within six (6) months after receipt of this notice. For development applications lodged before 28 February 2011, the statutory timeframe for appeal is twelve (12) months from the determination date.

APPLICANT Capital Bluestone

OWNER: Hills Christian Life Centre Ltd and Norwest Association Ltd

PROPERTY: Lot 5074 DP 1003042, Lot 102 DP 1065520
11-13 Solent Circuit, BAULKHAM HILLS NSW 2153, LAKE, Norwest Boulevard, BELLA VISTA NSW 2153

DEVELOPMENT: The Development Application is for the Demolition of Existing Structures and the Construction of Two Mixed Use Buildings.

ENDORSED DATE OF CONSENT: 20 October 2016

CONDITIONS OF CONSENT

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	ISSUE	DATE
DA-100-001	Site Plan prepared by Turner	J	03/08/2016
DA-110-009	Basement Plan prepared by Turner	J	08/08/2016
DA-110-010	Ground Level Plan prepared by Turner	K	19/09/2016
DA-110-011	Level 01 Plan prepared by Turner	K	16/09/2016
DA-110-012	Level 02 Plan prepared by Turner – Amended in red.	K	19/09/2016
DA-110-013	Level 03 Parking/Level 02 Office prepared by Turner – Amended in red.	K	19/09/2016
DA-110-014	Level 03 Plan prepared by Turner– Amended in red.	K	19/09/2016
DA-110-015	Level 04 Plan prepared by Turner	K	19/09/2016
DA-110-016	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-017	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-018	GA Plans prepared by Turner	N/A	19/09/2016

DA-110-019	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-020	Typical Residential Levels prepared by Turner	K	19/09/2016
DA-110-021	Service Level prepared by Turner	J	08/08/2016
DA-110-022	Roof Level prepared by Turner	J	08/08/2016
DA-250-001	North Elevation prepared by Turner	K	15/09/2016
DA-250-002	South Elevation prepared by Turner	K	15/09/2016
DA-250-003	East Elevation prepared by Turner – Amended in red.	K	15/09/2016
DA-250-004	West Elevation prepared by Turner	K	15/09/2016
DA-250-005	Building A South Elevation prepared by Turner	K	15/09/2016
DA-250-006	Building B North Elevation prepared by Turner	K	15/09/2016
DA-350-001	Section 01 Plan prepared by Turner	K	15/09/2016
DA-910-001	910 Finishes prepared by Turner	N/A	N/A
SK02	Planting Philosophy prepared by Scape Design	G	N/A
SK03	Ground Floor Plan prepared by Scape design	T	N/A
SK04	Podium Level Plan prepared by Scape Design	Q	N/A
SK05	Pool Level Design prepared by Scape Design	H	N/A

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. 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.

3. 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.

4. Compliance with NSW Department of Primary Industries – Water

Compliance with the requirements of the NSW Department of Primary Industries – Water throughout all stages of the subdivision as outlined in their letter dated 5 May 2016 Ref 10 ERM2016/0217 attached to this consent as Appendix A.

5. Compliance with NSW Police Requirements

Compliance with the requirements of the NSW Police as outlined in their letter dated 18 April 2016 Ref D/2016/162565 as follows:

Surveillance

- During the construction phase security sensor lights be used and security guards are to monitor the site.
- Paint the basement white to reflect light.
- CCTV is required to be installed at entry/exit points to the carpark, within the basement carparking and common areas. Height stickers are also required on entry/exit doors.
- Vegetation is to be maintained at all times to allow natural surveillance and reduce opportunities for concealment.

Lighting and Technical Supervision

- Lighting is to be utilised within the site in accordance with Australian Standards.

Environmental Maintenance

- Materials chosen are to have regard to the potential for graffiti.

Access Control

- Fencing is required to be vertical style to stop unauthorised access, with spaces left between vertical elements to limit physical access.
- The ground floor units are required to have upgraded security measures, such as alarmed doors and windows, thickened glass and sensor lights.
- Signage is to be erected to ensure that people are aware they are entering private property. The signage is also required to include details of what security treatment has been implemented.
- Ensure that the section of the security roller shutter near the manual door release is solid, that garage shutter doors are strong and that good-quality locking mechanisms are used.
- Letterboxes and caged storage areas are to have good-quality locking mechanisms and be secure.

6. Compliance with Norwest Association Requirements

The development is required to comply with the requirements of Norwest Association as follows:

- The Applicant is to maintain safe pedestrian access at all times during construction of the Development within the Easement for Public Access between Solent Circuit and Lot 5072 in DP878258 (Norwest Marketown).
- All building services, plant and equipment are to be screened from view from any public street or place and comply with the requirements of Council.
- External seating for restaurant patrons is to be restricted so as to maintain a safe passageway of not less than 2 metres in width along the frontage of the restaurants and not less than 5 metres in width along the boardwalk adjacent to the restaurants for unencumbered pedestrian flow.
- An automated irrigation system is to be provided and used in all landscaped areas.
- On completion of the landscaping works, the Applicant is to provide certification by a suitably qualified landscape architect that the landscaping as installed fully satisfies the design intent of the approved landscape concept and complies with the approved landscape plans.
- The party responsible for maintenance of common property in the Development is to maintain the landscaping with particular attention being given to the maintenance of perimeter landscaping, and in the absence of satisfactory maintenance, the party responsible for maintenance of common property in the Development authorises Norwest Association Limited and its agents to enter the

property to carry out such maintenance works and draw down at the cost of the party responsible for maintenance of such common property as required.

- The Applicant is required to reinstate any works, infrastructure, paving or landscaping adjoining to the boundary of the Property disturbed during the construction phase.

7. Provision of Parking Spaces

The development is required to be provided with 646 off-street car parking spaces with a composition of 387 residential spaces and 259 commercial car parking spaces. These car parking spaces shall be available for off street parking at all times.

8. Dual Use Parking Spaces and Compliance with Carpark Management Report

The 176 car parking spaces located on the basement level car park and dedicated to parking for the office component on Levels 1-3 are to be freely available after 6:30pm to midnight on weeknights and on weekends for restaurant and retail patrons. This arrangement is to be carried out in accordance with the traffic report by TDG and the carpark management report prepared by InterPark.

9. Separate application for signs

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

10. Separate Development Application for Occupations

A separate development application is required for the occupation of the ground floor commercial tenancies. This application is required to provide assessment against:

- The Hills Local Environmental Plan 2012; and
- The Hills Development Control Plan 2012.

The above assessment should specifically address the following:

- Proposed use and its Permissibility
- Hours of Operation
- Delivery Details
- Staff Numbers
- Signage
- Parking Provision and,
- Acoustic Impacts

11. Privacy Treatment

The following privacy measures are to be adopted:

- A privacy screen is to be erected for the full height of the balconies on the eastern elevation for units 405, 506-1606, 1704 and 1804 as shown in red amendments on the approved plans referenced in Condition No. 1.
- Opaque or obscure glazing is to be incorporated for the full height of the eastern elevation of the balconies servicing units 111, 211 and 311 as shown in red amendments on the approved plans referenced in Condition No. 1.
- Highlight windows with a minimum sill height of 1.5 metres or opaque glazing to a height of 1.5 metres from finished floor level is to be erected for the full length of the eastern elevation of Unit 311 as shown in red amendments on the approved plans referenced in Condition No. 1.

Amended plans detailing the above measures are to be submitted to the satisfaction of Council's Manager Development Assessment prior to the issue of the Construction Certificate.

12. Compliance with Access Review

The recommendations contained within Access Review prepared by Morris Goding Accessibility Consultants and dated 25 February 2016 are to be incorporated into the design of the development.

13. Compliance with Pedestrian Wind Environment Statement

The recommendations contained within the Pedestrian Wind Environment Statement prepared by Windtech and dated 9 February 2016 and supplementary statement dated 10 August 2016 are to be incorporated into the design of the development.

14. Litter Control

A sufficient number of litter bins must be provided on the premises for litter disposal.

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

The responsibility for property numbering is vested solely in Council.

The property address for this development is: 11 Solent Circuit Baulkham Hills 2153

Unit Numbering is as per plans submitted – Revision K
Basement Levels- Carpark

Levels	Building A	Building B
Ground	Commencing at G01	Carpark
1 st	101-112	Carpark
2 nd	201-212	213 & Carpark
3 rd	301-312	313-319
4 th	401-407	408-416
5 th	501-508	509-517
6 th	601-608	609-617
7 th	701-708	709-717
8 th	801-808	809-817
9 th	901-908	909-917
10 th	1001-1008	1009-1017
11 th	1101-1108	1109-1117
12 th	1201-1208	1209-1217
13 th	1301-1308	1309-1316
14 th	1401-1408	1409-1416
15 th	1501-1508	1509-1516
16 th	1601-1608	1609-1616
17 th	1701-1706	1707-1714
18 th	1801-1806	1807-1810

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.

16. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic Consultancy Pty Ltd, referenced as 20150907.1/2001A/R2/BW, dated 20 January 2016 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Section 6.1 Table 7 Glazing Construction Requirements.
- Section 6.2 Roof/Ceiling Construction
- Section 6.3 External Walls
- Section 7.3 Recommendations

17. Contamination Assessment Recommendations

The recommendations of the Preliminary Contamination Assessment prepared by Douglas Partners, dated 30 September 2016 and submitted as part of the Development Application are to be implemented as part of this approval.

18. Control of early morning noise from trucks

Trucks associated with the construction of the site that will be waiting to be loaded must not be brought to the site prior to 7am.

19. Planning Agreement

The obligations in the Planning Agreement between The Hills Shire Council and Hills Christian Life Centre Limited and Capital Corporation (Waterside) Pty Ltd, dated July 2015, signed 11 August 2015 (Planning Agreement), must be performed in accordance with the terms of the Planning Agreement including, but not limited to, the payment of monetary contributions identified in Schedule 1 of the Planning Agreement.

20. Adherence to Operational Waste Management Plan

All requirements of the Operational Waste Management Plan submitted as part of the Development Application must be implemented during construction (design of facilities) and operation of the development, except where amended by other conditions of consent.

21. Adherence to Construction and Demolition Waste Management Plan

All requirements of the Construction and Demolition Waste Management Plan submitted as part of the development application must be implemented during construction of the development, except where amended by other conditions of consent. The information submitted can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. 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. 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.

22. Management of Construction and Demolition Waste

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

23. 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 onsite. 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.

24. Commencement of Domestic Waste Service

The property owner or agent acting for the owner must arrange the commencement of a domestic waste service with Council. This applies to the collection of waste and recycling from the residential units. The service must be arranged prior to occupancy of the development and no sooner than two weeks prior to occupancy. All servicing instructions from Council must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

25. Commencement of Commercial Waste Service

The property owner must ensure that there is a contract with a licensed contractor for the removal of all waste generated on site. This applies to the collection of waste and recycling from commercial and retail units. Written evidence of valid and current collection contract must be held on site at all times and produced in a legible form to any authorised officer of the Council who asks to see it.

26. Construction of Separate Waste Storage Areas

The buildings must incorporate separate waste storage areas constructed in accordance with the specifications below, to facilitate the separation of commercial waste and recycling from residential waste and recycling. The residential garbage holding room must have minimum storage provision for 15 x 1100L garbage bins and 25 x 660L recycling bins. All waste storage areas must be designed and constructed in accordance with the following requirements:

1. The areas must be of adequate size to comfortably store and manoeuvre the minimum required number of bins.
2. The layout of the areas must ensure that each bin is easily accessible and maneuverable in and out of the area with minimal or no manual handling of other bins.
3. The walls of the areas must be constructed of brickwork.
4. The floor of the areas must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
5. The areas must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors.
6. The areas must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door should be outside of the truck loading bay area.
7. All doors of the areas, when fully opened, must be flush with the **outside wall** and must not block or obstruct vehicle access or footways. All doors must be able to be fixed in position when fully opened.
8. The areas must be adequately ventilated (mechanically). Ventilation should not be connected to the same ventilation system supplying air to the units.

9. The areas must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the areas, it is not to conflict with the space designated for the placement of bins.
10. The areas must be provided with an internal light (artificial).
11. The maximum grade acceptable for moving bins for collection purposes is 7% (5% for 660L and 1100L bins). Under no circumstance are these grades to be exceeded. They are to allow safe maneuvering and servicing of the full bins by waste collection operators.
12. The areas must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Owners Corporation.
13. Finishes and colours of the areas must complement the design of the development

27. Residential Garbage Chute System

A dual chute system enabling chute disposal of both garbage and recycling must be provided in each building with openings on every residential floor. The chutes must terminate in a waste storage room. Garbage must discharge into 1100L bins placed on a linear track conveyor fitted with a compactor set at 2:1 compaction. Recycling must discharge into 660L bins placed on a linear track conveyor with no compaction. No changes are permitted without the previous written approval of Council.

28. Residential Bulky Goods Area

A separate room or caged area must be allocated in close proximity to the waste loading area for the interim storage and management of unwanted bulky goods. The minimum floor area shall be 20 cubic metres. A similar space should also be allocated for retail and commercial units.

29. Tree Removal

Approval is granted for the removal of forty (40) trees as shown in on the Existing Tree Plan prepared by Scape Design and recommended in the Arboricultural Impact Assessment prepared by Urban Tree Management, dated 07/12/12.

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.

30. Planting Requirements

Tree species *Archontophoenix alexandrae* (Alexander Palm) is on Council's exempt trees list. As such they are to be substituted with an alternative appropriate palm or tree fern species that isn't on Council's list of exempt tree species.

31. Retention of Trees

All trees not specifically identified for removal on the Existing Tree Plan prepared by Scape Design are to be retained and protected in accordance to Council's **Protection of Existing Trees** condition.

32. Parking Spaces – Access/ Dual Use

The residential and residential visitor spaces are located on levels one to three. The commercial spaces are located in the basement and the ground floor commercial spaces (retail/ restaurants) are located on the ground floor. With respect to this arrangement the following specific requirements apply in addition to the information provided with the traffic report by TDG and the carpark management report prepared by InterPark and submitted with the development application:

- The security point obstructing access to the basement from the ground floor needs to be open from 6:30pm onwards so that the basement is open/ available for the exclusive use of the ground floor commercial uses (retail/ restaurants).

- Access from the ground floor to the residential visitor spaces on level one must be available at all times. The design, configuration and use of the security point at the top of the ramp leading to level one from the ground floor needs to provide for this.

33. Subdivision Certificate Preliminary Review

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

34. Process for Council Endorsement of Legal Documentation

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

35. Water Sensitive Urban Design Handover Process

An operations and maintenance plan must be prepared for all WSUD proposals. The operations and maintenance plan must include:

- The location and type of each WSUD element, including details of its operation and design;
- A brief description of the catchment characteristics, such as land uses, areas etc;
- Estimated pollutant types, loads and indicative sources;
- Intended maintenance responsibility, Council, landowner etc;
- Inspection method and estimated frequency;
- Adopted design cleaning/ maintenance frequency;
- Estimate life-cycle costs;
- Site access details, including confirmation of legal access, access limitations etc;
- Access details for WSUD measure, such as covers, locks, traffic control requirements etc;
- Description of optimum cleaning method and alternatives, including equipment and personnel requirements;
- Landscape and weed control requirements, noting that intensive initial planting is required upfront to reduce the requirement for active weed removal;
- A work method statement;
- A standard inspection and cleaning form.

For the purposes of complying with the above a WSUD treatment system is considered to include all functional elements of the system as well as any landscaped areas directly surrounding the system.

36. 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.

37. Approved Subdivision Plan

The stratum subdivision of the approved building into three lots is included as part of this consent. The subdivision component of the development must be carried out in accordance with the approved plan of subdivision prepared by JBW Drawing 124913/DA-STRATUMSUBD Sheets 1 to 8 dated 11/02/2016 subject to the following amendments/requirements:

- The subdivision plan must be amended to reflect the approved architectural plans, noting that an amended subdivision plan did not accompany the amended architectural plans.
- Lot 1 relates to the ground floor commercial uses (retail/ restaurant) and the parking spaces associated with those uses on the ground floor.
- Lot 2 relates to the remainder of the commercial areas and the associated parking spaces in the basement level.
- Lot 3 relates to the residential areas and the associated parking spaces on levels one, two and three.
- The actual split between the parking spaces and their lots needs to be detailed on the final plan.
- The final plan needs to make allowance for the fact the basement parking level that forms part of lot two is to be made available for use by the ground floor commercial uses (retail/ restaurant), as required by this consent.
- A building (or strata) management statement must accompany the final plan.

38. 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. With respect to the latter, this consent does not allocate parking spaces to each individual dwelling/ residential unit/ commercial tenancy. This requires separate approval as per SEPP (Exempt and Complying Development Codes) 2008.

39. Protection of Public Infrastructure

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

40. Structures Adjacent to Piped Drainage Easements

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

Specifically, there are two existing easements across the front of the property shown on the approved subdivision plan and submitted survey plan that need to be considered.

41. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

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

42. Gutter and Footpath Crossing Application

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

43. Minor Engineering Works

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

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

a) Driveway Requirements

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

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

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

b) Disused Layback/ Driveway Removal

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

c) Concrete Footpath/ Paving

The existing 2.5 wide paved footpath (or a similar alternative treatment approved in writing by Council's Manager – Subdivision and Development Certification) in Solent Circuit fronting the site, including access ramps at all intersections, must be maintained during construction and replaced or altered where the finished levels adjacent are varied as part of the approved works.

d) Site Stormwater Drainage

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

44. 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.

45. Finished Floor Level – Flooding

The finished floor level (or levels) of the structure must reflect the approved plans and are to be no lower than RL 76.3 AHD.

46. External Finishes

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

47. 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).

48. Additional Acoustic Assessment

As the plant and equipment selections were not available at the time of the development approval an additional acoustic assessment is required to be submitted to the certifying authority. The assessment is to consider noise impacts and noise attenuation for the plant and equipment including the ventilation system for the building and underground carparks, pool pumps and potential locations and noise attenuation methods for future

commercial kitchen exhausts. The assessment is to be based on the recommendations and the Plant Noise Objectives of the initial acoustic report prepared by Acoustic Logic Consultancy Pty Ltd.

49. 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 heavy rigid waste collection vehicle (i.e. 28 tonne gross vehicle mass) from the boundary to the waste collection point including any manoeuvring areas.

50. 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.

51. Sediment and Erosion Control Plan

A sediment and erosion control plan prepared in accordance with Council's Works Specification Subdivision/ Developments must be submitted. The plan must include:

- Lot boundaries;
- Roads;
- Contours;
- Existing vegetation;
- Existing site drainage;
- Critical natural areas;
- Location of stockpiles;
- Erosion control practices;
- Sediment control practices; and
- A maintenance program.

52. Works in Existing Easement

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

53. Works on Adjoining Land

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

54. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$198,900.00 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 (180m) multiplied by the width of the road carriageway (accounting for the landscaped median) (13m).

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

The bond is refundable upon written application to Council and is subject to all work being restored to Council's satisfaction. Should the cost of restoring any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these costs.

55. Engineering Works and Design

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

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

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

The following engineering works are required:

a) Onsite Stormwater Detention – Norwest Business Park

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters accounting for the detention function provided for the existing lake/ basin adjacent to the subject site.

The stormwater concept plan prepared by van der Meer Consulting dated 27/07/2016 is for development application purposes only and is not to be used for construction. The detailed design must reflect the approved concept plan and the following necessary changes:

- The design needs to be updated to reflect the amended/ stamped approved architectural plans.
- The volume of the OSD tank must be 35m³ minimum.
- The volume of the rainwater reuse tank is 20,000 litres minimum.
- The orifice needs to be sized so that the full volume cited above is in use during the design 1:100 year storm.
- All works are to be clear of the existing drainage easements shown on the approved concept plan.
- The design must include the non-return valve to stop the basement from flooding.

The design and construction of the OSD system must be approved by either Council or an accredited certifier. A Design Compliance Certificate (DCC) certifying the detailed design of the OSD system can be issued by Council.

b) Water Sensitive Urban Design Elements

Water sensitive urban design elements, consisting of a rainwater reuse tank, pit inserts (except within street drainage pits) and seven SPEL filters (or an approved equivalent) within the OSD tank, 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/>

PRIOR TO WORK COMMENCING ON THE SITE**56. 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.

The plan is to address the management, treatment and disposal of water which may collect in uncovered excavations. Water polluted with greater than 50mg/L of suspended solids must not be discharged to the stormwater system or any body of water.

57. Demolition Works and Asbestos Management

The demolition of any structure is to be carried out in accordance with the Work Health and Safety Act 2011. All vehicles transporting demolition materials from the site are to have covered loads and are not to track any soil or waste materials on the road. Should demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoard or fence. All demolition works involving the removal and disposal of asbestos (of an area more than 10 square metres) must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW EPA regarding the movement of waste using their WasteLocate online reporting tool www.wastelocate.epa.nsw.gov.au. Asbestos removal must be carried out in accordance with the WorkCover, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

58. Protection of Existing Trees

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

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

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

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

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

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

59. 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.

60. Separate OSD Detailed Design Approval

No work is to commence until a detailed design for the OSD system has been approved by either Council or an accredited certifier.

61. 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.

62. 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 receipt from Sydney Water Tap in™ 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.

63. Consultation with Service Authorities

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

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

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

64. Principal Certifying Authority

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

65. 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.

66. 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).

67. 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.

DURING CONSTRUCTION

68. Hours of Work

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

Monday to Saturday - 7.00am to 6.00pm;

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

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

69. Further contamination assessment

A contamination assessment of the soils shall be carried out in areas that were inaccessible at the time of the initial contamination assessment. A copy of the assessment shall be submitted to Council's Manager – Environment & Health.

70. 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.

71. 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)*. A construction noise management plan shall be developed and made available in the event of complaints of excessive noise.

72. 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.

73. Survey Report

Survey Certificate to be submitted to the Principal Certifying Authority at footings and/or formwork stage. The certificate shall indicate the location of the building in relation to all boundaries, and shall confirm the floor level prior to any work proceeding on the building.

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. 658108M_03 are to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

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

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

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

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

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

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.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

77. Compliance with NSW Department of Primary Industries – Water Requirements

A letter from the NSW Department of Primary Industries – Water must be submitted confirming that all works associated with the Controlled Activity Authority have been completed to their satisfaction.

78. Planning Agreement

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, the obligations in the Planning Agreement between The Hills Shire Council and Hills Christian Life Centre Limited and Capital Corporation (Waterside) Pty Ltd must be performed in accordance with the terms of the Planning Agreement. This includes, but is not limited to, the payment of monetary contributions in accordance with the Planning Agreement, valued at \$3,130,000.00 (indexed in accordance with the Planning Agreement) for the first 240 units, as well as an additional amount of \$13,041.67 (indexed in accordance with the Planning Agreement) for the additional 27 units proposed in excess of 240 units.

79. Internal Pavement Construction

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

80. Final Inspection of Waste Storage Areas

Prior to an Occupation Certificate being issued, a final inspection of the waste storage areas and management facilities must be undertaken by Council. This is to ensure compliance with design specifications specified in other conditions of this consent and that necessary arrangements are in place for waste collection by Council. Please telephone Council on (02) 9843 0310 to arrange this inspection.

NOTE: The garbage chute systems must be fully operational at the time of the inspection.

81. Agreement for Onsite Waste Collection

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

82. Landscaping Prior to Issue of Occupation Certificate

Landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) in accordance with the Landscape Plans prepared by Scape Design. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

83. 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.

Sydney Water's guidelines provide for assumed concurrence for the strata subdivision of a development approved by an earlier consent covered by a compliance certificate.

84. 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 under-grounding 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.

85. Provision of Telecommunication Services

Submission of a telecommunications infrastructure provisioning confirmation certificate issued by the relevant telecommunications provider authorised under the Telecommunications Act, or a design compliance certificate and an as-built compliance certificate from the company engaged to design and construct the pit and pipe infrastructure, confirming satisfactory arrangements have been made for the provision, or relocation, of telecommunication services including telecommunications cables and associated infrastructure. This must include the under-grounding of the existing telecommunication 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.

86. 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).

87. Amendment of Existing Easement

The existing easement for public access must be amended to reflect the approved building extent. As Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges.

88. Building Adjacent to Proposed Boundary

Where any part of an existing/ partially constructed building is located within 2m of a proposed boundary the location of such must be determined by a registered surveyor and shown on the final plan.

89. Building Services

A letter from a registered surveyor must be submitted certifying that all facilities servicing the existing/ partially constructed buildings are located wholly within their respective lot or are otherwise contained within a suitable easement.

90. 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) Easement – Right of Access/ Easement for Services

A right of access/ easement for services must be created over the three stratum lots to address access through separate lots and to provide for the shared use of infrastructure (such as parking) as required by this consent. These types of matters must be addressed via a combination of the final plan, the implied easements created via stratum subdivision and the building (or strata) management plan.

b) Restriction – Flood Planning Level

All three lots must be burdened with a restriction that refers to the flood information submitted with the development application using the "flood planning level" terms included in the standard recitals.

c) Restriction – Bedroom Numbers

Lot 3 must be burdened with a restriction using the "bedroom numbers" terms included in the standard recitals.

d) Covenant – Onsite Waste Collection

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

e) Restriction/ Covenant – Onsite Stormwater Detention

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

f) Restriction/ Covenant – Water Sensitive Urban Design

All three lots 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) Covenant – Parking Spaces – Access/ Dual Use

All three lots must be burdened with a positive covenant relating to the shared use of parking spaces throughout the development along with access to the same, as per the information provided with the traffic report by TDG and the carpark management report prepared by InterPark and submitted with the development application and the condition titled "Parking Spaces – Access/ Dual Use" included earlier.

91. 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.

92. 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.

93. OSD System Certification

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

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

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

94. 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.

THE USE OF THE SITE**95. 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*.

96. Operational hours for Property and Garden Maintenance

The use of power tools for the maintenance of the grounds and buildings is restricted to within 7am and 8pm Monday to Saturday and 8am and 8pm Sunday and Public Holidays.

97. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area, which includes provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. All waste storage areas must be screened from view from any adjoining residential property or public place. Under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided onsite.

98. Waste and Recycling Collection

All waste generated onsite must be removed at regular intervals. The collection of waste and recycling must not cause nuisance or interfere with the amenity of the surrounding area. Garbage and recycling must not be placed on public property for collection without the previous written approval of Council. Waste collection vehicles servicing the development are not permitted to reverse in or out of the site.

99. 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.

ATTACHMENT: DEVELOPMENT ADVISORY NOTES

Pursuant to Section 80A of the Environmental Planning and Assessment Act 1979, the reasons for the conditions imposed on this application are as follows:-

1. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act, 1979 and the aims and objectives of Council's planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 are maintained.

Should you require any further information please contact James McBride on 9843 0251.

Yours faithfully



Paul Osborne
MANAGER-DEVELOPMENT ASSESSMENT

APPENDIX A



Department of
Primary Industries
Water

Contact: Gina Potter
Phone: 02 8838 7566
Fax: 02 8838 7554
Email: Gina.Potter@dpi.nsw.gov.au
Our ref: 10 ERM2016/0217
Our file:
Your ref: DA206/1395/JP

The General Manager
The Hills Shire Council
PO Box 75
Castle Hill NSW 1765

Attention: James McBride

5 May 2016

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval

Dev Ref: DA206/1395/JP

**Description of proposed activity: Demolition & construction of mixed use buildings
16 & 19 storeys residential units and ground floor retail & 3 levels of
commercial**

Site location: 11-13 Solent Circuit Baulkham Hills

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find DPI Water's (formerly the NSW Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

www.water.nsw.gov.au

Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 | Locked Bag 5123, Parramatta NSW 2124 | I e

water.enquiries@dpi.nsw.gov.au

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- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

www.water.nsw.gov.au [Water licensing](#) > [Approvals](#) > Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely

Gina Potter
Water Regulation Officer
Water Regulatory Operations, WR Operations - Hunter, Sydney & South Coast
NSW Department of Primary Industries – DPI Water

General Terms of Approval

for work requiring a controlled activity approval
under s91 of the *Water Management Act 2000*

Number	Condition	File No:
Site Address:	11-13 Solent Circuit Baulkham Hills	
DA Number:	DA206/1395/JP	
LGA:	The Hills Shire Council	
Plans, standards and guidelines		
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA206/1395/JP and provided by Council:</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.</p>	
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>	
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Erosion and Sediment Control Plan</p> <p>(ii) Soil and Water Management Plan</p>	
4	N/A	
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.</p>	
6	N/A	
7	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.</p>	
8	<p>The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.</p>	
9-13	N/A	
14	<p>The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.</p>	
15-16	N/A	
17	<p>The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.</p>	

Number	Condition	File No:
Excavation		
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
19-27	N/A	
Groundwater		
28	The consent holder must ensure that any construction below ground level does not result in the need for permanent dewatering, other than in accordance with licence conditions approved by DPI Water.	
END OF CONDITIONS		

DEVELOPMENT ADVISORY NOTES**A. COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER HOME BUILDING ACT 1989**

(refer to Clause 98 of Environmental Planning & Assessment Regulation 2000)

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

B. NOTIFICATION OF HOME BUILDING ACT 1989 REQUIREMENTS

(refer to Clause 98B Notification of Home Building Act 1989 requirements)

- (1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

C. EXCAVATIONS AND BACKFILLING

- (1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

D. RETAINING WALLS AND DRAINAGE

If the soil conditions require it:

- (1) Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided as indicated on the plans, and
- (2) adequate provision must be made for drainage.
- (3) A separate Development Application and Construction Certificate Application are required for the retaining walls that are not indicated on the approved plans where such works cannot be carried out under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Structural Engineer's details are required to be submitted to Council as part of the application if the amount to be retained is over 1 m in height.

E. SUPPORT FOR NEIGHBOURING STRUCTURES AND SHORING AND ADEQUACY OF ADJOINING PROPERTY

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings and encroaches on the zones of influence of the footings of a building or retaining structure on an adjoining property (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must at the persons own expense:
 - (a) seek advice from a professional structural engineer, and
 - (b) preserve and protect the building, work or retaining structure from damage, and
 - (c) if necessary, must underpin and support the building or retaining structure in an approved manner, and
 - (d) must, at least 7 days before excavating below the level of the base of the footings of a building or retaining structure on an adjoining property, give notice of intention to do so and furnish particulars of the excavation to the owner of the adjoining property.
- (2) The owner of the adjoining property is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining property.
- (3) In this clause, adjoining property includes a public road and any other public place.
- (4) The condition referred to above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

F. PROTECTION OF PUBLIC SPACES

- (1) If the work involved in the erection or demolition of a building:
 - (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (b) involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

- (2) If necessary, a covered walkway is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (4) Any such hoarding, fence or covered walkway is to be removed when the work has been completed.
- (5) An application shall be lodged and approval is given by Council prior to the erection of any hoarding, fence, covered walkway or site shed on top of the covered walkway.

G. SIGNS TO BE ERECTED ON BUILDING AND DEMOLITION SITES

- (1) For the purposes of section 80A (11) of the Act, the requirements of sub clauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

Note. Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

H. TOILET FACILITIES

- (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
 - (a) must be a standard flushing toilet, and
 - (b) must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

I. DRIVEWAYS, FOOTPATHS ROAD AND OTHER PAVEMENT WORKS IN THE FOOTPATH VERGE

- (1) The provision and maintenance of a vehicular access driveway from the property boundary to the kerb and gutter or the edge of road seal is the responsibility of the property owner. However, any work undertaken by private owners within the public road area or footpath verge requires written approval from Council. Where new or replacement driveways and gutter crossings are proposed, the submission of an application for gutter and footpath crossings, accompanied by the current applicable fee as prescribed in Council's Schedule of Fees and Charges, must be submitted to Council.

This process is necessary to ensure the work complies with Australian Standards and Council policies and that all road users, including pedestrians and cyclists are protected both during and after construction. Work in the road reservation without Council approval may be removed if deemed to be a public liability or safety risk.

A copy of the "Footpath Crossing Application" form and Council's specifications relating such works be obtained from Council's website at www.thehills.nsw.gov.au or from Council's Customer Service Centre.

- (2) The removal of all disused driveways and gutter crossings and their replacement with full kerb and gutter together with the restoration and turfing of the adjacent footpath verge area is required.
- (3) Council must be notified in the event of any existing damage to road, pavement, footpaving, kerbing and guttering and street trees prior to the commencement of the work. This notification should include photographic evidence of the existing damage. If Council does not receive notification it will be assumed that no damage existed prior to the work commencing.

Adequate protection must be provided for Council road pavement footpaving, kerbing and guttering and existing street trees prior to commencing and during building operations.

Upon completion of the work, any damage to road pavement, footpaving, kerbing and guttering and street trees not previously reported in accordance with (3) above shall be reported to Council and the cost of repair paid for in full prior to final certification of the works. A cost can be obtained from the Restorations Coordinator (ph. 9843 0234).

DRIVEWAY LOCATIONS & LEVELS

Owners and/or applicants are responsible to ensure that proper connection with the roadway can be made whilst maintaining safe levels across the footpath verge and along the driveway. Driveways must also be located a minimum of 6m from kerb returns and splayed corners and are sufficiently clear of street trees, service utility infrastructure such as power poles and drainage structures such as kerb inlet pits. Council's Engineer can be contacted on 9843 0374 to assist with these matters. Driveway gradients must conform to Council's specifications which can be obtained from Council's website at www.thehills.nsw.gov.au or from Council's Customer Service Centre. The level of the garage floor is to be checked prior to pouring of concrete to ensure compliance with Council's requirements.

ROAD OPENINGS

Obtain a Road Opening Permit and pay relevant service restoration fees and charges prior to excavations within the road reserve. The Road Opening permit must be kept on site at all times while work is being carried out in the Road Reserve and must be produced upon request from a Council Officer. If the Permit is not able to be produced to the Council Officer the Works in the public way may be stopped.

Upon completion of excavation works in the public way Council's Restoration Coordinator (ph. 9843 0234) must be advised and the full cost of the final restoration paid prior to final certification. of those works

J. STREET NUMBER

A street number is to be prominently displayed in a conspicuous position on completion of the building.

K. HOUSEHOLD SERVICES

The householder is required to notify Council upon occupancy that the garbage service, which is mandatory, is to be commenced and pay the necessary charges upon receipt of an account.

- (1) No encroachment by any building or structure for private use will be permitted on a public reserve.
- (2) Soil and building materials are not to be deposited on any road, footpath or public reserve.
- (3) Building refuse or materials shall not be burnt on site.
- (4) No vehicular traffic or any drainage work is permitted on any public reserve without the prior approval of Council.
- (5) Council consent is required before the removal of any tree, except those approved by this consent, or that is exempt under the Tree & Bushland Management Provision.
- (6) Applicants are advised to consult with Telstra and Australia Post regarding the installation of telephone conduits and letter boxes respectively.
- (7) Unimpeded access must be available to the utilities supply authorities, during and after building, to the utilities metering equipment.
- (8) 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 receipt from Sydney Water Tap in must be submitted to the Principal Certifying Authority upon request prior to works commencing.
Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm>- Sydney Water Tap in, or telephone 13 20 92.
- (9) Persons with land holdings in areas of the Shire where no water reticulation system is available are to provide an adequate wholesome water supply and are encouraged to provide additional water storage for use during fire fighting operations, for fire fighting purposes. Further information regarding the provision of water storage for fire fighting purposes is available from the Rural Fire Service District Office on 9654 1244
- (10) Roof water connection across footways shall be a 100mm diameter, sewer grade UPVC pipe(s). Connection to kerb shall be made with a rectangular, hot dip galvanised, mild steel weephole shaped to suit the kerb profile and with a capacity equal to a 100mm pipe. The pipe shall be connected to the weephole with a UPVC profile adaptor.

L. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact *Dial before You Dig* at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig Service, an amendment to the development consent (or a new development application) may be necessary. *Individuals* owe asset

owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (*and its authorised contractors*) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's Infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact : Telstra's Network Integrity Team on Phone Number 18008 10443.

M. CONNECTION OF STORMWATER DRAINS

All roof stormwater drains connected to Council's kerb must comply with the levels advised at the street alignment, must cross the footpath at 90° to the kerb line and be connected to existing holes provided in the kerb. Any alternative arrangements must be approved by Council's engineer and must comply with Council's Standard Drawing SD.13 (Roofwater Outlet Connection) a copy of which can be obtained from Council's website at www.thehills.nsw.gov.au.

N. TREE MANAGEMENT PROVISIONS

Clause 5.9 (Preservation of trees or vegetation) of The Hills Local Environmental Plan 2012, requires the preservation of all trees and prohibits the ringbarking, cutting down, topping, lopping or wilful destruction of trees except with the prior approval of Council.

O. INSURANCE REQUIREMENTS

In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract must be in force.

THIS APPROVAL IN NO WAY VARIES COVENANTS, IF ANY, ATTACHING TO THE LAND NOR SHALL PREJUDICE ANY ACTION THAT MAY BE TAKEN BY ANY INTERESTED PARTY IN THIS REGARD.