

COUNCIL ASSESSMENT REPORT

Panel Reference	2018CCI028
DA Number	688/2019/JP
LGA	The Hills Shire Council
Proposed Development	Demolition of Existing Structures and Construction of four 8-10 storey Residential Flat Buildings comprising 296 units (69 x 1 bedroom, 167 x 2 bedroom and 70 x 3 bedroom) and 407 car parking spaces within a basement car park.
Street Address	3-9 Fishburn Crescent, 14-16 Middleton Avenue and 37-45 Dawes Avenue Castle Hill
Applicant	Bridgestone Projects Pty Ltd
Owners	Mr J M Parsons, Mrs G S Parsons, Mr P S Hinding, Mrs C M E Hinding, Mr P A Cross, Mrs D Cross, Mrs J A Tindale, Mr W G Tindale, Mrs N Bertrand, Mr D W Hall, Mrs S Hall, Mr S Sroba, Mrs Z Sroba, Mr M A Gilchrist, Mrs M G Gilchrist, Mr S J Armsworth, Mrs D A Armsworth, Mrs M Scuglia, Mr V Scuglia and Mr Z Liu
Consultant/s	<p>Town Planner: Willowtree Planning Pty Ltd</p> <p>Architect: PTW Architects</p> <p>Landscape Architect: RPS Group</p> <p>Aboriculture: Naturally Trees Arboricultural Consulting</p> <p>Engineers: Adams Engineering</p> <p>Surveyor: Rygate Surveyors</p> <p>Acoustic: Acoustic Logic</p> <p>Traffic: The Transport Planning Partnership</p> <p>Quantity Surveyor:</p> <p>Wind Assessment: Cermak Peterka Petersen</p> <p>Contamination: EI Australia</p> <p>Geotechnical: EI Australia</p> <p>Access: Design Confidence</p> <p>Waste: Elephants Foot and Westbourne Construction Pty Ltd</p> <p>BASIX Assessment: WG&E</p> <p>BCA: Blackett Maguire Goldsmith</p>
Date of DA lodgement	26 October 2018
Number of Submissions	Nil
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV exceeding \$30 million (\$89,951,418)

List of all relevant s4.15(1)(a) matters	<p>EPIs:</p> <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development 2011) State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy No 64 – Advertising and Signage State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 The Hills Local Environmental Plan 2012 <p>Draft EPIs:</p> <ul style="list-style-type: none"> Draft Environment SEPP <p>Relevant Development Control Plan/Guidelines</p> <p>The following sections of The Hills DCP 2012:</p> <ul style="list-style-type: none"> The following sections of The Hills DCP 2012: <ul style="list-style-type: none"> Part B Section 5 – Residential Flat Building Part C Section 1 – Parking Part C Section 3 – Landscaping Part D Section 19 – Showground Precinct Apartment Design Guide <p>Any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iiia):</p> <ul style="list-style-type: none"> Nil <p>Relevant regulations:</p> <ul style="list-style-type: none"> Demolition of buildings – <i>Environmental Planning and Assessment Regulation 2000</i> - Clause 92(1)(b)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Clause 4.6
Report prepared by	Cynthia Dugan Development Assessment Co-ordinator
Report date	Electronic Determination

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. *Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: *in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any*

comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

The key issues that need to be considered by the Panel in respect of this application are:

- This application is accompanied by a request to vary Clause 4.3 Building Height development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan. A Clause 4.6 written submission has been prepared and submitted with the application. It is considered that the variation can be supported.
- The application complies with the housing diversity and incentive FSR provisions under Clause 9.7 of The Hills Local Environmental Plan.
- The application was referred to Council's Design Review Panel on two occasions. On the second occasion, the Panel provided qualified support of the proposal. The Applicant has addressed the concerns raised by the Design Review Panel to the satisfaction of Council officers.
- Variations are proposed to the building separation, apartment size and balcony depth design criteria within the Apartment Design Guide. It is considered that subject to recommended conditions, the variations can be supported as adequate privacy mitigation measures have been implemented in the design to ensure negligible overlooking impacts occur to residents within the development and on adjacent properties and an acceptable level of residential amenity is provided to each unit.
- Variations are proposed to a number of controls within the DCP. These relate to site specific controls within the Showground Precinct including basement parking setback, site coverage, open space and landscaping, building façade lengths, tower floor plates. It is considered that despite these variations, the proposal provides for a high quality landscaping and design outcome for the site and meets the intent and desired future character for the Showground Station Precinct.
- The application was notified on two occasions, both for a period of 14 days. No submissions were received during the notification periods.

The application is recommended for approval subject to conditions.

BACKGROUND

The site is within the Showground Precinct which is one of four Precincts identified by the NSW Government to be planned as part of its 'Planned Precinct Program' along the Sydney Metro Northwest corridor.

The subject Development Application was lodged on 26 October 2018. The proposal was notified for 14 days between 31 October 2018 and 22 November 2018. No submissions were received following the notification period. The original application proposed 281 units and was accompanied by a request to vary development standards for the Height of Buildings pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). This original request included significant variations to the height standard (5.3m or 19.63%).

A request for additional information letter was sent to the applicant on 21 November 2018 raising concerns relating to height, design excellence, variations to SEPP 65 Apartment Design Guide including building separation, solar access, cross ventilation, ceiling heights, storage and DCP non-compliances including inconsistency with the structure plan, front setbacks, building length, open space, solar access and parking. Additional information

regarding engineering, waste management, landscaping and land and spatial information were also requested in this letter. Further detail regarding environmental health matters was requested on 22 November 2018.

Amended plans and additional information was submitted on 7 February 2019 which addressed some of the concerns raised.

Council's Design Review Panel reviewed the subject application on 27 February 2019. The Panel did not support the proposal, concluded that the proposal did not meet the requirements of design excellence and recommended the applicant address the issues identified in the minutes and provide a revised application to the Panel.

A request for additional information letter regarding outstanding landscape assessment officer concerns was issued to the applicant on 11 March 2019. The amended landscape plans did not reflect the correct verge details as required under Council's specifications.

Amended plans were received on 2 May 2019 to address the concerns raised by the Design Review Panel. These plans were reviewed by the Design Review Panel on 22 May 2019. The Design Review Panel made a number of suggestions to the amended design.

Amended plans were received on 16 December 2019. The amended Development Application proposed 296 units and was accompanied by an amended Clause 4.6 written request to amend the Height of Buildings standard. The amended Development Application was renofified to affected properties on 18 December 2019 to 22 January 2020. No submissions were received following the notification period.

Further information was requested by Council officers on 13 January 2020, 6, 7 and 24 February 2020 regarding outstanding Waste Management, Engineering and Landscaping concerns.

Amended plans were submitted on 13 March 2020 to address the outstanding concerns.

Further information was requested by Council officers on 27 March 2020 regarding outstanding Landscaping concerns.

Further information to clarify inconsistencies in the submitted documentation was requested by Council officers on 16 March 2020, 1 and 4 May 2020.

Amended plans were submitted on 8 May 2020.

DETAILS AND SUBMISSIONS

Owner:	Bridgestone Projects
Zoning:	R4 High Density Residential
Area:	10,577m ²
Existing Development:	Dwelling houses and ancillary structures
Section 7.11 Contribution	\$3,597,668.60
Exhibition:	Not required
Notice Adj Owners:	14 days on two occasions
Number Advised:	20 on both occasions
Submissions Received:	Nil

PROPOSAL

The Development Application seeks consent for demolition of existing structures, site preparation works, excavation, tree removal and construction of four 8 – 10 storey residential flat buildings comprising a total of 296 units with a mix of 69 x 1 bedroom units, 167 x 2 bedroom units and 60 x 3 bedroom units.

The proposal comprises four built forms known as Buildings A (9-10 storeys with a maximum height of 32.03m), B (8-9 storeys with a maximum height of 27.95m), C (9-10 storeys with a maximum height of 29.88m) and D (9 storeys with a maximum height of 28.48m). These buildings comprise frontages to Middleton Avenue, Fishburn Crescent and Dawes Avenue. Terrace style apartments are incorporated into the street frontages for Buildings A and B.

A basement car park comprising two and a half levels with a total of 407 car parking spaces is provided. 348 resident spaces, 57 visitor spaces and 2 car wash bays are proposed.

Vehicular access will be provided to the basement car park via a single driveway and ramp off Dawes Avenue.

Communal open space areas are provided on ground level between all buildings and on the roof top of Buildings A and southern side of Building C.

The Application is accompanied by a written Clause 4.6 request to vary the maximum height of 21m and 27m as required under Clause 4.3 of The Hills LEP 2012.

The proposal seeks to utilise the 'incentive' floor space ratio provision under Clause 9.7 of The Hills LEP 2012 which permits a maximum incentive FSR of 2.7:1 (maximum GFA of 28,554.84m²). The proposed total floor area of 28,554m² results in a floor space ratio of 2.7:1.

Building identification signage zones are proposed on the northern façade (Fishburn Crescent) with dimensions of 6m width x 1m height and a total area of 6m², and on the western façade (Middleton Avenue) with dimensions of 2.6m width x 1m height and a total area of 2.6m².

Land dedication required for road purposes (2m wide) is provided along Dawes Avenue.

ISSUES FOR CONSIDERATION

STRATEGIC CONTEXT

Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan, *A Metropolis of Three Cities* has been prepared by the NSW State Government to set a 40 year vision and established a 20 year plan to manage growth and change for Greater Sydney in the context of social, economic and environmental matters. The Plan sets a new strategy and actions to land use and transport patterns to boost Greater Sydney's liveability, productivity and sustainability by spreading the benefits of growth. The Plan seeks to integrate land use planning with transport and infrastructure corridors to facilitate a 30-minute city where houses, jobs, goods and services are co-located and supported by public transport (Objective 14). The subject site is located within 400m walking distance of the Showground Station which opened on 26 May 2019.

A key objective within the Greater Sydney Region Plan which is relevant to the subject Development Application is 'Objective 10 Greater housing supply'. The Greater Sydney

Region Plan highlights that providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population. The Plan also notes that 725,000 additional homes will be needed by 2036 to meet demand based on current population projections. To achieve this objective, planning authorities will need to ensure that a consistent supply of housing is delivered to meet the forecast demand created by the growing population.

The proposed development is considered to be consistent with this objective as it will assist in maximising housing supply within a Precinct which will have direct access to high frequency public transport services.

Central City District Plan

The Plan is a guide for implementing the Sydney Region Plan at a district level and is a bridge between regional and local planning. The plan requires integration of land use planning and transport to facilitate walkable 30-minute cities amongst the 34 strategic centres identified.

The relevant Planning Priority of the Central City District Plan is Priority C5 which seeks to provide housing supply, choice and affordability and ensure access to jobs, services and public transport. The proposed development will assist in increasing housing supply in a location which will have access to high frequency public transport services. The development proposal is considered to be consistent with the Central City District Plan.

ISSUES FOR CONSIDERATION

1. Compliance with SEPP (State and Regional Development) 2011

Schedule 7 of SEPP (State and Regional Development) 2011 specifies the referral requirements to a Planning Panel:

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

The proposed development has a Capital Investment Value of \$89,951,418 and therefore requires referral to, and determination by, the Sydney Central City Planning Panel.

2. Compliance with SEPP No. 55 – Remediation of Land

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

Clause 7 of the SEPP states:

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

it has considered whether the land is contaminated, and

if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Council's Environmental Health Officer has reviewed the Preliminary Site Investigation prepared by EI Australia, report number E24007.E01_Rev0 dated 26 September 2018. The investigation revealed that there is potential for soil contamination to be present on site. In this regard a hazardous materials survey on existing structures as well as intrusive investigation to verify the quality of the soil is warranted. However, the report considers that the conditions of the site soil are unlikely to constrain the site from being redeveloped as a residential flat building development and the site can be made suitable for its intended use, subject to recommended conditions.

In this regard, subject to appropriate conditions, it is considered that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP 55.

3. Compliance with SEPP No. 65 – Design Quality of Residential Apartment Development

The required Design Verification Statement was prepared by Simon Parsons, registration number 6098 of PTW Architects.

a. Design Quality Principles

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

Principle 1: Context and neighbourhood character

The proposal is compatible with the desired context and neighbourhood character of the Showground Station precinct. The subject development is located within a R4 High Density Residential zone. The future desired character for residential areas are to be green and walkable, reinforcing the garden shire character and lifestyle, provide a lifestyle alternative to the traditional suburban context, focused highly on an appropriate scale and an attractive environment for pedestrians. The proposal has addressed comments made by Council's Design Review Panel and it is considered that the amended proposal provides an attractive streetscape presentation within a landscaped setting which reinforces the garden shire character and lifestyle. A shared pedestrian link through the site will provide for a more walkable and well connected development to the Sydney Metro station. In this regard, the proposal is compatible with the desired neighbourhood character of the Showground Station precinct.

Principle 2: Built form and scale

The proposal is consistent with the requirements of the Hills Council LEP, and is appropriately designed by modulation of the built form, generous front setbacks and stepping in scale to minimise the perceived scale. The height transition of the buildings provides an appropriate response to the location of the site which provides for taller buildings to the north which is closest to the Metro Station. The podium level setback and street setbacks provide an appealing scale to pedestrians with ground floor units provided with direct access from the street. A break and offset in the linear nature of the through site link provides for a visual connection between Sexton Avenue to the north and Hughes Avenue to the south. The interface between the development and the public open space area has been duly considered with appropriate setbacks and façade treatments to ensure a high level of amenity is provided.

Principle 3: Density

The subject proposal provides for 296 dwellings for the site. The proposal complies with the incentivised FSR provision under Clause 9.7 of LEP 2012. The density is consistent with the site's strategic location and the surrounding character of adjoining development as Council's strategic vision for the Showground Station Precinct is to locate highest density development closest to the station and local centre and reduce the densities further from the station. In this regard, the proposal is appropriate for the site and future Showground Station precinct.

Principle 4: Sustainability

The design achieves natural ventilation and solar access as required by the Apartment Design Guide. The proposal includes a BASIX certificate which provides the required targets for energy and water commitments. The commitments proposed will minimise the dependency on energy resources in heating and cooling. The achievement of these commitments would contribute significantly to the reduction of energy consumption, resulting in a lower use of valuable resources, the reduction of costs and thus a more sustainable development.

Principle 5: Landscape

The landscape plan indicates that all open spaces will be appropriately landscaped with native trees and shrubs to provide a high quality finish. The proposed landscaping integrates with the overall appearance of the development and provides for deep soil to 15% of the site area. Generous setbacks are provided with high quality landscaping along Fishburn Crescent, Middleton Avenue and Dawes Avenue. Each ground floor unit comprises substantial soft landscaping within the front courtyards and communal open space areas are located on the rooftops of Buildings A and C and on the ground floor in the form a 'zen garden' in the central courtyard and a pocket park to the north western corner of the site. It is considered the proposal results in a high quality landscape outcome for the site.

Principle 6: Amenity

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

Principle 7: Safety

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

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

Principle 8: Housing diversity and social interaction

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development complies with the unit mix and internal floor areas as required under the Apartment Design Guide and The Hills DCP 2012. The

application includes 69 x 1 bedroom units, 167 x 2 bedroom units and 60 x 3 bedroom units where 23% of the units are 1 bedroom units and 20% of the units are three bedroom units. 60 of the 2 bedroom units (40%) have a minimum area of 110m² and 24 of the 3 bedroom units (42%) have a minimum area of 135m². The larger unit sizes would encourage appropriate housing diversity and family friendly units within the Showground Station precinct.

Principle 9: Aesthetic

The proposed buildings provide a visually interesting and modern built form with a variety of buildings elements including terrace style apartments fronting the streets (Buildings A and B), an upper floor setback for the forth storey and a transition of building heights ranging from 8 – 10 storeys. The built form is well integrated with the landscape open areas. The stepping roof form and materials palette introduces human scale and provides for housing diversity. The modulation and diversity in balcony forms include dark grey powder coated finished aluminium, high performance glass, white and grey render and timber look aluminium. This is juxtaposed with vertical louvred blades and curved slabs of other balconies which provide an elegant outlook of the building. Council's Design Review Panel noted in minutes dated 27 February 2019 that "*in general the scheme demonstrates a well-considered approach to its architectural form, articulation, detail and materiality...the finer grain detail of the podium elements and the relative simplicity of the upper levels presents as a restrained, elegant building that effectively mitigates its apparent mass*". In this regard, the aesthetics of the proposal is appropriate for the site.

b. Apartment Design Guide

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

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Yes. 30% of the development site area (3,174m ²). The principal communal open space area is located on the rooftop of Building A and C and will receive at least 50% direct sunlight for 2 hours during midwinter.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes. Approximately 15% of the development site area is true deep soil zones as defined within the ADG.
Separation	For habitable rooms, 12m (6m to boundary) for 4 storeys, 18m (9m to boundary) for 5-8 storeys and 24m (12m to boundary) for 9+ storeys	No. Refer to discussion below. Variations to the building separation between habitable rooms and balconies have been identified as follows: <u>Buildings A and B</u> Units 307/311:

	<p>10m (12m required) Units 408/412, 508/513, 511/513, 608/613, 611/613, 708/713 and 710/713: 6.5m - 9m (18m required)</p> <p><u>Buildings A and D</u></p> <p>Units 204/229 and 206/229: 6m – 10m (12m required)</p> <p>Units 304/329, 305/329, 406/430, 505/532, 506/532 605/631 and 606/631: 9m – 12m (18m required)</p> <p>Units 710/731, 711/731, 808/824 and 809/824: 10m – 22m (24m required)</p> <p><u>Buildings C and D</u></p> <p>Units 526/536 and 625/635 and 725/734: 11m - 16m (18m required)</p> <p>Units 811/827 and 813/826: 11m - 18m (24m required)</p> <p><u>Building C to eastern property boundary</u></p> <p>Unit 529, 530 628, 629, 728, 729, 821, 822 (5th to 8th storey): 7.5m-8m (9m required)</p> <p>Unit 810 (9th storey): 9.5m (12m required)</p> <p>Unit 901 (9th storey): 7.5m – 9.5m (12m required)</p> <p>Unit 905 (9th storey) 9.5m (12m required)</p>
Visual privacy	<p>Visual privacy is to be provided through use of setbacks, window placements, screening and similar.</p> <p>Yes. The visual privacy of the development has been considered with the placement of windows and balconies. Screening devices and blade walls set at oblique angles, full height privacy screens and louvres have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties.</p>
Car parking	<p>Car parking to be provided based on proximity to public transport in metropolitan Sydney. For sites within</p> <p>Yes. The site is located within 300m of the future Showground Station. 335 spaces would be required in accordance with the</p>

	<p>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. 41.4</p> <p>0.9 spaces per 2 bedroom unit. 150.3</p> <p>1.40 spaces per 3 bedroom unit. 84</p> <p>1 space per 5 units (visitor parking). 59.2</p>	RMS rate. 407 spaces provided.
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 mid-winter.</p>	<p>Yes.</p> <p>The proposed development will achieve two hours solar access for 70% (209 of 296) of apartments between 9am and 3.00pm.</p> <p>Yes.</p> <p>There are 12.5% (37 of 296) of apartments that will not receive any solar access between 9.00 am and 3.00 pm.</p>
Natural ventilation	<p>1. At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Yes.</p> <p>A total of 60% (177 of 296) of units will meet the cross ventilation requirements or can be naturally ventilated.</p> <p>Yes.</p> <p>The maximum overall depth is 18 metres for a cross through apartment, measured glass line to glass line.</p>
Ceiling heights	<p>For habitable rooms – 2.7m.</p> <p>For non-habitable rooms – 2.4m.</p> <p>For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where its area does not exceed 50% of the apartment area.</p>	<p>Yes.</p> <p>Floor to ceiling height 2.7 metres for all apartments including two storey apartments.</p>

	<p>For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope.</p> <p>If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p>	<p>NA.</p> <p>NA.</p>
Apartment size	<p>1. Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p>Yes.</p> <p>1 bedroom 50 - 68m² 2 bedroom 75 - 119m² 3 bedroom 95 - 149m²</p> <p>Where additional bathrooms are proposed, an additional 5m² has been provided.</p> <p>No four bedroom units proposed.</p> <p>No, the following bedroom sized rooms are enclosed and labelled study or storage and do not contain windows: G22, G23, G28, 106, 108, 119, 121, 122, 127, 131, 211, 212, 213, 218, 219, 228, 229, 233, 303, 309, 310, 311, 313, 314, 328, 331, 334, 401, 406, 411, 421, 429, 501, 506, 512, 606, 612, 631, 701, 710, 711, 728, 730, 731, 820, 821, 823 and 824. A condition is recommended that the walls/door to these rooms are deleted to ensure appropriate amenity is provided for residents (refer condition No. 1).</p> <p>The plans do not indicate a window is provided to a bedroom Unit G26. A condition is recommended in the consent that a window be provided in all bedrooms that have a total minimal glass area of not less than 10% of the floor area of each bedroom in the unit (refer condition No. 1).</p> <p>Subject to conditions, all habitable rooms have windows greater than 10% of the floor area of the dwelling.</p>
Apartment	Habitable rooms are limited	Yes.

layout	<p>to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts.</p>	<p>Yes.</p> <p>Yes.</p>
Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m² with no minimum depth</p> <p>1 bedroom – 8m² with a minimum depth of 2m</p> <p>2 bedroom – 10m² with a minimum depth of 2m</p> <p>3 bedroom – 12m² with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.</p>	<p>No, variation required.</p> <p>All balcony sizes comply however the depths do not comply for the following units: Units 128, 129, 230, 231, 330, 333, 431, 533, 536, 622, 632, 635, 722, 732, 733, 734, 817, 825, 826 and 827,</p> <p>Yes.</p>
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight. However, where the design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>Yes.</p> <p>Maximum of 11 units provided off a circulation core in Building A.</p> <p>Yes.</p>
Storage	<p>Storage is to be provided as follows:</p> <p>Studio – 4m³</p> <p>1 bedroom – 6m³</p> <p>2 bedroom – 8m³</p> <p>3+ bedrooms – 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>Yes.</p> <p>Each unit contains the minimum storage area.</p>
Apartment mix	<p>A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and</p>	<p>Yes.</p> <p>The apartment mix accords with the Clause 9.7 of The Hills LEP 2012 and is considered satisfactory.</p>

stages of life.

i. Building Separation

The Apartment Design Guide requires that habitable rooms provide a 12m building separation (6m to property boundary) for 4 storeys, 18m (9m to property boundary) for 5-8 storeys and 24m (12m to property boundary) for over 9 storeys.

The proposal includes variations to the internal building separation between Buildings A/B, Buildings A/D and Buildings C/D. Variations occur to upper level balconies facing the eastern property boundary.

The Applicant has provided the following justification to the variation:

The proposal incorporates angled blade walls and louvres to the eastern walls of Buildings B and D. These design elements facilitate views to the adjacent building to be offset resulting in the distance between balconies, and balcony to habitable rooms, to be increased. The angled blade walls are oriented to the north which not only provides adequate privacy, also allow direct sunlight into the living room of the corner units. The building separation between Towers A and B, and A and D proposed a variation to the minimum building separation requirements for Level 5 and above. The building separation fronting Fishburn Crescent and Dawes Avenue have been reconfigured so that for every floor between Buildings A and B and A and D, are now connected via a secondary balcony for units from Building A. These 'links' now eliminate the non-compliance in relation to building separation, as the buildings would be technically considered one building, whilst retaining considerable articulation and permeability to the site; reducing the appearance of the overall length of the building, and providing compliance with the building separation controls of the ADG. From the streetscape perspective, overhanging and vertical greenery from these cantilevered balconies will contribute to an improved façade. The internal building separation between level 8 and level 9 (9th and 10th storey) has been revised to achieve a building separation between Building B and D of 24m, between two balconies.

The Apartment Design Guide provides the following objectives relating to building separation:

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

Comment:

Whilst the separation distance between balconies and habitable room windows to Building A and Building B do not meet the design criteria of the Apartment Design Guide, the balconies/windows are angled to prevent direct overlooking and fixed louvres are provided to the bedroom windows in Building B to further minimise directly overlooking. Similarly, the separation distances between balconies and habitable room windows in Buildings A and D have been angled to prevent direct overlooking and include screening devices to bedroom windows and balconies which would minimise direct overlooking.

The separation distance to balconies between Buildings C and D do not comply with the minimum separation distances recommended by the Apartment Design Guide, however the primary orientation of the balconies front Dawes Avenue and privacy screens are proposed on balconies within Building D to further mitigate overlooking impacts. East facing habitable room windows within Building D have been designed with blade walls set at oblique angles to direct views to minimise direct overlooking. West facing balconies and habitable room

windows in Building C have been designed with vertical louvres to further mitigate overlooking impacts.

Whilst variations occur to upper level balconies facing the eastern property boundary, the adjoining eastern sites consist of residential flat buildings approved or currently under assessment by Council staff. Development Consent 320/2019/JP for an eight storey residential flat building fronting Dawes Avenue was approved by the Sydney Central City Planning Panel on 30 July 2019. This development is currently under construction. Development Application 1392/2019/JP for a residential flat building fronting Fishburn Crescent was lodged on 19 March 2019 and is currently under assessment. The western elevation of the approved building included a 6m – 9m side setbacks with the inclusion of privacy screens to all upper level balconies and high sill or narrow windows to habitable rooms. In this regard, the subject proposal would not result in overlooking impacts to the adjoining development. Notwithstanding, as the development fronting Fishburn Crescent is still under consideration, a condition is recommended that a 1.8m high privacy screen be installed to balconies in Units 901 and 905 which face this development site. Subject to this condition, the variations are considered acceptable and a reasonable level of external visual amenity will be provided.

The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties and the visual privacy and amenity to adjoining developments will not be unduly compromised. The proposal still provides for a development that is consistent with the desired future character of the Showground precinct, assists in providing residential amenity, natural ventilation and solar access and provides for suitable areas for communal open spaces, deep soil zones and landscaping.

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

ii. Apartment size

The Apartment Design Guide requires every habitable room 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.

The submitted plans include a number of rooms labelled “study” or “storage” which are equivalent to the size of bedrooms, are enclosed and do not contain windows.

To ensure the proposal achieves compliance with the design criteria, provides an acceptable level of amenity and study/storage areas are not converted to additional bedrooms, a condition is recommended in the consent (refer condition No. 1) requiring the deletion of walls/doors to the study/storage for the following units: G22, G23, G28, 106, 108, 119, 121, 122, 127, 131, 211, 212, 213, 218, 219, 228, 229, 233, 303, 309, 310, 311, 313, 314, 328, 331, 334, 401, 406, 411, 421, 429, 501, 506, 512, 606, 612, 631, 701, 710, 711, 728, 730, 731, 820, 821, 823 and 824.

In addition, Unit G26 includes a bedroom that does not contain a window. To ensure compliance to the recommended design criteria, a condition is recommended in the consent requiring that all bedrooms in this unit have a total minimal glass area of not less than 10% of the floor area of each bedroom. Refer condition No. 1.

Subject to the above conditions, all habitable rooms have windows greater than 10% of the floor area of the dwelling and would provide an acceptable level of amenity for future residents.

iii. Balcony depth

The Apartment Design Guide recommends 1 bedroom units be provided with an area of 8m² with a minimum depth of 2m, 2 bedroom units be provided with an area of 10m² with a minimum depth of 2m and 3 bedroom units to be provided with an area of 12m² with a minimum depth of 2.4m. The proposal does not meet the minimum balcony depth criteria for 20 units within the development (units 128, 129, 230, 231, 330, 333, 431, 533, 536, 622, 632, 635, 722, 732, 733, 734, 817, 825, 826 and 827).

Comment:

The proposed balconies in 20 out of the 296 apartments (6.7%) result in a variation to the balcony depth of the Apartment Design Guide design criteria. It is noted that these balconies comply with the minimum depth requirement for the majority of the balcony area however have a shortfall for a portion of each balcony. Notwithstanding, each balcony exceeds the Apartment Design Guide size requirements and the areas will allow for sufficient space to accommodate outdoor furniture to ensure a usable space for future occupants.

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

4. Compliance with SEPP (Building Sustainability Index: BASIX) 2004

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

A BASIX assessment has been undertaken and indicates that the development will achieve the required targets for water reduction, energy reduction and measures for thermal performance. The commitments as detailed in the amended BASIX Certificates are required to be complied with. Refer condition No. 81.

5. SEPP 64 – Advertising and Signage

SEPP No. 64 aims to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of a high quality design and finishes. Schedule 1 of the SEPP provides assessment criteria including character of the area, special areas, views and vistas, streetscape, setting or landscape, site and building, associated devices and logos within advertisements, illumination and safety. The Policy does not regulate the content of signage and does not require consent for a change in the content of signage. Clause 8 of the SEPP prescribes the following:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3 (1), and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The proposal includes two signage zones for building identification signs on the northern and western facades. The building identification sign on the northern façade (Fishburn Crescent) has a dimension of 6m width and 1m height with a total area of 6m². The building identification sign on the western façade (Middleton Avenue) has a dimension of 2.6m width and 1m height with a total area of 2.6m².

Schedule 1 of the SEPP requires assessment against the character of the area, special uses, views and vistas, streetscape, setting or landscape, site and building, associated devices and logos with advertisements and advertising structures, illumination and safety.

The only relevant criteria to be considered for the subject signage zones relate to an assessment against the character of the area, streetscape, setting and landscape and site and building.

The site is located within the Showground Station precinct and has been rezoned from R2 Low Density Residential to R4 High Density Residential. Whilst building identification signs are permissible within the residential zones, signage is a prohibited land use. It is considered that the business identification signage zone on the northern frontage is excessive in size for a residential zone and a condition has been recommended that the size of the building identification signage be reduced in scale to a maximum 2.6m width and 1m height, resulting in a total signage area of 2.6m². The signage zone on the western frontage is considered to be of a suitable size however the location of the sign within the frontage of a residential unit is considered inappropriate. A condition is recommended that the signage zone on the western frontage be relocated so that it is attached to the proposed car park louvre screening element. Refer condition No. 1.

In this regard, the signage zones themselves would not compromise the residential amenity of future residents on the site and adjoining properties and is of a scale and proportion that would be compatible with the existing and desired future character of the R4 zoned land within the Showground Station Precinct. Subject to a reduction in size and appropriate placement of the building identification signs, it is considered the signs would be consistent with the residential streetscape and setting within the locality and is compatible with the desired amenity and visual character of the Showground Station Precinct. The content and design and finish of the signs would be subject to assessment under a future application.

In this regard, subject to conditions, the proposed signage zones would be consistent with the objectives of the Policy and could satisfy the assessment criteria specified in Schedule 1 and cannot be used as a reason for refusal of the subject Development Application.

6. Compliance with LEP

a. Permissibility

The Hills Local Environmental Plan 2019 came into force on 6 December 2019. Notwithstanding, Clause 1.8A 'Savings provision relating to development applications' states as follows:

1.8A Savings provision relating to development applications

(1) If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

As the Development Application was lodged before the commencement of THLEP 2019, the application must be determined as if this Plan had not commenced. In this regard, the Development Application is determined under The Hills LEP 2012 (LEP 2012).

The subject site is zoned R4 High Density Residential under LEP 2012. The proposed residential flat building and building identification signs is permissible with consent. The proposal satisfies LEP 2012 in this regard.

b. Zone Objectives

The objectives of the R4 High Density Residential zone are:

- To provide for the housing needs of the community within a high density residential environment.*

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

The proposal is consistent with the stated objectives of the zone, in that the proposal will provide for housing needs of the community, and provide a variety of housing types within a high density residential environment. As such, the proposal is satisfactory in respect to the LEP 2012 objectives.

c. LEP 2012 – Development Standards

The following addresses the relevant principal development standards of the LEP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Building Height	27 metres	Building A 32.03m Building B 27.948m Building C 29.875m Building D 28.47m	No, refer to discussion below.
4.4 Floor Space Ratio	1.9:1	N/A	N/A as the proposal seeks to utilise the 'incentivised' floor space ratio provision under Clause 9.7 of LEP 2012. Refer to discussion below.
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment	A variation to Clause 4.3 Height of Buildings and Clause 9.7 Incentive FSR development standard is proposed and addressed below.	Yes, refer to discussion below.
9.1 Minimum Lot Sizes for Residential Flat Buildings and Shop Top Housing	Residential flat building with a height of 11 metres or more – R4 High Density Residential – 3,600m ²	10,577m ²	Yes
9.2 Site Area of Proposed Development includes dedicated land	Road dedication included as part of the site area for the purpose of calculating FSR.	Land dedication area of 266m ² included in FSR calculation.	Yes
9.3 Minimum Building Setbacks	Front Building Setbacks to be	Fishburn Crescent: 10m	Yes

	equal to, or greater than, the distances shown for the land on the Building Setbacks Map – Fishburn Crescent and Middleton Ave are mapped requiring a 10m setback.	Middleton Ave: 10m	
9.5 Design Excellence	Development consent must not be granted unless the development exhibits design excellence	Proposal referred to Design Review Panel on two occasions. The proposal has been amended to address concerns raised by the Panel.	Yes, refer to discussion below.
9.7 Residential development yield on certain land	If the development is on a lot that has an area of 10,000m ² within the Showground Precinct and provides a specific mix, family friendly unit sizes and parking, the following incentivised Floor Space Ratio can be applied as identified on the FSR Mapping instrument: 2.7:1 (28,555.79m ² GFA)	Site Area: 10,577m ² <u>Proposed FSR</u> 2.7:1 (28,555m ² GFA)	Yes, refer to discussion below.
9.8 Maximum Number of Dwellings	Development Consent must not be granted to development that results in more than 5,000 dwellings on land within the Showground Precinct	296 units proposed under the subject Development Application. If this development application is approved, the total number of dwellings approved within the Showground Precinct would be 860 units.	Yes

i. Variation to Clause 4.3 Height of Buildings

Clause 4.3 of LEP 2012 limits the height of the development site to 27 metres. The proposed maximum building heights of Buildings A, B, C and D are 32m, 27.95m, 29.9m and

28.5m. This represents a variation of 5m (18.5%), 0.95m (3.5%), 2.9m (10.7%) and 1.5m (5.5%) to the height standard.

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

Clause 4.6 Exceptions to Development Standards states:

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

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

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

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

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

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

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

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

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

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

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

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

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

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

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

- The proposed development is consistent with the underlying objectives or purposes of the standard.
- The proposed development is consistent with the underlying objective of the R4 High Density Zone.
- Strict compliance with the standard would not result in a better planning outcome for the land as it would prevent the development of a better considered proposal.
- The proposed development is considered to be key in meeting the housing targets of the Showground Station Precinct.
- The proposal achieves the incentive FSR and minimum unit size and mix of Clause 9.7 of THLEP 2012.
- The majority of non-compliance results from the inclusion of lift overruns and plant services, and light weight fence. All lift overruns and plant services are positioned in a centralised location to not be viewed from street level. The elements which protrude are significantly setback from the street edge.
- There are no adverse impacts in terms of overshadowing, views, visual and acoustic privacy to adjacent sites resulting from the proposed variation to the height development standard. A comparative analysis has been previously prepared by PTW and issued to Council showing the differences between a compliant height and the proposed development. The comparative analysis confirmed a compliant scheme has no benefit with respect to solar access and/or overshadowing improvements, both on-site and adjoining properties.
- The building mass over the height limit equates to 1.58% (previously 4.2%) of the overall building mass. In terms of gross floor area, 0.43% of the total GFA of the development is located in the area which exceeds the maximum building height. The proposed development comprises a GFA of 28,557.91m² with approximately 122.79m² being located above the building height.
- The height of building standard does not reflect the incentivised maximum Floor Space Ratio control. Therefore, it is considered that compliance with the development standard

would hinder the achievement of the objectives of both the R4 High Density Residential zone and the Clause 4.3 – Height of Buildings standard.

- *The proposed building height delivers a diverse scale and built form which generates a high level of visual interest with modulation to the skyline.*
- *The proposed development would lead to a superior public domain outcome as a result of the through-site link connecting Fishburn Crescent and Dawes Avenue and superior ESD outcome for the Site.*
- *The sloping topography is a unique constraint which affects the site.*

Comment:

The specific heights for the proposed buildings are summarised in the below table:

Building	Maximum LEP Height	Height from Natural Ground Level (NGL)	Extent of Variation
Building A	27m	<i>North West Corner</i> 31.4m (lift overrun) 30.48 (communal roof) 27.15 (slab) <i>South West Corner</i> 32m (lift overrun)	4.43m (16.4%) 3.49m (12.9%) 0.15m (0.57%) 5m (18.6%)
Building B	27m	27.95m (POS stair roof)	0.95m (3.5%)
Building C	27m	<i>North East</i> 29.13m (lift overrun) <i>South East</i> 29.88m (lift overrun)	2.13m (7.9%) 2.88m (10.6%)
Building D	27m	28.47m (lift overrun)	1.47m (5.45%)

The objective of Clause 4.3 ‘Building Height’ is to ensure that the height of buildings is compatible with that of adjoining development and the streetscape. Additionally, the building height development standard aims to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas. As such, the development standard for building height and the development controls for building setbacks, building design, solar access and overshadowing have been considered with respect to the merits of a variation pursuant to Clause 4.6.

The proposed departure to the building height development standard will not cause adverse impacts on the amenity of adjoining properties with respect to overshadowing, privacy, view loss and perceived bulk and scale. The largest variation to the height standard occurs to Building A with a 5m (18.6%) variation to the south western corner and 4.43m (16.4%) variation to the north western corner. This relates to lift overruns/plant services and communal roofs to house a gym and pool. Similarly, the variations to Buildings B, C and D also relate to lift overruns, stair roofs or service plants which are centrally located on the roof. This, together with the generous 10m and 7.5m front setbacks and 4m upper level setbacks ensure that the lift overrun and roof form would not be a source of significant shadow cast and is considered to integrate well with the form of the building when viewed from the streetscape. The edge of the roof slab of the units marginally exceeds the height development standard by 0.15m (0.57%), is considered to integrate effectively into the design of the built form given the modulation and angle of the roof which reflects the predominant building lines of the façade.

The Applicant has provided a comparative analysis of shadow diagrams demonstrating that the proposal does not exacerbate overshadowing impacts to that of a compliant scheme both on-site and to adjoining properties. In particular, the lift overruns on Building C would

result in negligible overshadowing impacts to the adjoining communal open space area of the residential flat building approved under development consent 320/2019/JP.

The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints, being 300m south east from the Showground Station, complies with FSR standards for the site and is compatible with the future scale and character envisaged for the Showground Station Precinct. This is consistent with the objectives of the R4 High Density zone which encourages high density residential development in locations that are close to population centres and public transport routes.

The site has a steep topography with a north easterly to south westerly fall of approximately 8.65m. The development has been designed to respond to this gradient, ensuring all street edges are appropriately addressed and the internal ground floor is functional. The podium level setback and street setbacks provide an appealing scale to pedestrians with ground floor units provided with direct access from the street. The interface between the development and the public open space area provides for a high level of amenity with appropriate setbacks and façade treatments to ensure modulation of the built form reducing the perceived bulk and mass of the development. The building mass over the height limit equates to 1.58% (previously 4.2%) of the overall building mass and 0.43% of the total Gross Floor Area located above the height standard. The variations to the height standard are not evident from the street level. In this regard, there are sufficient environmental planning grounds to justify the contravention.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.3 'Building Height' and the R4 High Density Residential zone. The variation to building height will not create buildings of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining residential properties. A variation to the building height in this instance is considered to be satisfactory and can be supported.

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

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R4 High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance and there are sufficient environmental grounds to justify the contravention; and
- The proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

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

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

ii. Clause 9.7 Residential development yield on certain land

Clause 9.7 of LEP 2012 enables the application of an increased FSR that does not exceed the FSR identified on the Floor Space Ratio Incentive Map to development that contain dwellings on a lot that is within the Showground Station Precinct and has an area of 10,000m², if the development meets a certain unit mix, diversity and car parking requirements.

The proposal meets the minimum site area requirements, is within the Showground Station Precinct and meets the unit mix and diversity and car parking requirements as demonstrated in the below table:

Apartment Mix	LEP Development Standard	Proposal	Compliance
One bedroom dwellings	25% (Maximum) (74 units)	23.3% (69 units)	Yes
Three or more bedroom dwellings	20% (Minimum) (60 units)	20.27% (60 units)	Yes

Apartment Diversity	LEP Development Standard	Proposal	Compliance
Minimum internal floor area of 2 Bedroom dwellings is 110m ²	≥40% (≥67 units)	40.11% (67 units)	Yes
Minimum internal floor area of 3 Bedroom dwellings is 135m ²	≥40% (≥24 units)	40.7% (24 units)	Yes

Parking Type	LEP Development Standard	Proposal	Compliance
1, 2, 3 & 4 Bedroom	1 car space per dwelling and 1 space per 5 units	296 residents spaces and 60 visitors spaces required. 377 residents car spaces and 60 visitor spaces provided	Yes

It is considered that the proposal meets the required provisions under Clause 9.7 and the FSR incentive of 2.7:1 can be applied to the site. The proposal provides for an FSR of 2.7:1 (Gross Floor Area of 28,555m²) which is consistent with the mapping instrument.

iii. Clause 9.5 – Design Excellence

Clause 9.5 of LEP 2012 states the following:

- (1) *The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.*
- (2) *This clause applies to development involving the erection of a new building or external alterations to an existing building on land within the Showground Station Precinct.*
- (3) *Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*

(4) 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 in the development control plan referred to in clause 9.4,
- (e) the requirements of the development control plan referred to in clause 9.4,
- (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 impact on any special character area,
 - (xii) achieving appropriate interfaces at ground level between the building and the public domain,
 - (xiii) excellence and integration of landscape design.

(5) In addition, development consent must not be granted to development to which this clause applies unless:

- (a) if the development is in respect of a building that is, or will be, higher than 21 metres or 6 storeys (or both) but not higher than 66 metres or 20 storeys (or both):
 - (i) a design review panel reviews the development, and
 - (ii) the consent authority takes into account the findings of the design review panel, or
- (b) if the development is in respect of a building that is, or will be, higher than 66 metres or 20 storeys (or both):
 - (i) an architectural design competition is held in relation to the development, and
 - (ii) the consent authority takes into account the results of the architectural design competition.

(6) Subclause (5) (b) does not apply if:

- (a) the NSW Government Architect certifies in writing that an architectural design competition need not be held but that a design review panel should instead review the development, and
- (b) a design review panel reviews the development, and

(c) the consent authority takes into account the findings of the design review panel.

As the proposed residential flat building exceeds 21 metres and 6 storeys, but not higher than 66 metres or 20 storeys, the proposal is required to be reviewed by the design review panel, and the consent authority is required to take into account the findings of the design review panel.

Comment:

The design excellence of the proposal was considered at a Design Review Panel meeting on 27 February 2019. The meeting minutes of the Design Review Panel are included at Attachment 17. The Panel concluded that the proposal did not meet design excellence and recommended the following:

“The Panel does not support the proposal in its current form as the proposal does not presently demonstrate the requirements of design excellence. It is recommended that the applicant addresses the issues identified in this report and presents a revised application to the Panel.

The following concerns/recommendations were made by the Panel:

- A “dog-leg” offset along the southern boundary will require careful interface and resolution with future adjacent development.
- The proposed design, location and character and treatment of the cross though site link will further reduce its legibility and sense of open accessibility to the public. Relocate the cross site link to align DCP location and adjust built form to suit.
- Courtyard landscape is crucial to the sustainability of the new precinct. The Panel recommends 15% deep soil planting is provided for the development.
- The Panel does not generally support height non-compliance that includes GFA. Lift overruns and vertical access elements to well-designed communal open space on roof tops may be considered acceptable for residential amenity.
- Concern raised regarding overshadowing to ground level central common open space area.
- Compliance to building separation must be achieved across the courtyard. Concerns raised regarding acoustic and visual privacy between the buildings. Provision for large trees in the courtyard is recommended. Confirm plant species in central court will survive in shade.
- The density sought compromises the overall amenity of the development. The scheme has some good qualities, however the design should be reviewed to suit the site's constraints rather than maximising development yield. All ADG minimum separations and DCP boundary setbacks should be complied with (including basements and balconies).
- The façade lengths set out in the DCP should be reviewed and built form articulated to satisfy the objective.
- Removal all encumbrances from street and side setbacks including basement car parking. Minimise all paved courtyards in setback areas. Paved courtyards are not to encroach into setback area by more than 2m. 6m minimum width deep soil widths are to be maintained to all setbacks.
- Provide more substantial trees in all setbacks.
- Ensure required soil volumes for the proposed tree sizes are being achieved to deep soil and on structure in accordance with ADG.
- Provide lowered deep planting beds for large trees in the courtyard and cross-site link.
- Provide correct apartment mix and sizes to meet incentive FSR provisions.

- Remove subterranean units and terraces. Apartments with courtyards below ground level addressing the street are not supported.
- Building services such as fire hydrant and fire sprinkler booster valves are to be integrated into landscape and built forms.

Significant design changes were made to address the concerns raised by the Design Review Panel. A concept design was presented to the Panel at a second meeting. At this meeting, the Panel offered qualified support of the proposal on the basis that all of the comments made in the minutes were addressed to the satisfaction of Council. In this regard, the recommendations have been implemented in the proposal and addressed as follows:

- The southern corner has been designed to both the immediate site and surrounding development. The building corner has been reshaped to open up the through-site link and include 'public art' on the corner element to further increase the articulation and provide an improved interface with the future adjacent development. An improved interface with the adjoining development to the east has been provided with 6m wide deep soil podium planting.
- The cross through site link has a varying width of 12m to 13.7m exceeding the generally provisions of the DCP which require a width of 4-5m. The cross-though link provides a visually permeable, clearly identifiable, publically accessibly pedestrian through-site link. Whilst the pedestrian link is a slight deviation to the location identified in Figure 8 Indicative Street Network and Hierarchy plan in the Showground Precinct DCP, the proposal still provides for a safe and direct pedestrian connection from Hughes Avenue to the south and Sexton Avenue to the north and is consistent with the DCP. The resulting urban design outcome is consistent with the Showground Precinct Public Domain Plan.
- The buildings have been rearranged so that the through-site link more accurately aligns with the DCP alignment as well as the future front setback/verges along the western edges of Sexton and Hughes Avenue. This provides improvements to the legibility from the northern and southern approaches.
- 15% deep soil planting has been provided for the development.
- A Clause 4.6 written submission has been included with the Development Application. Refer to section 6c(i) above.
- The central courtyard has been amended to include more shade tolerant species. Low scale plant species have been selected that will achieve the 'zen' communal garden whilst reducing the perceived density of the communal open space. The ground level communal open space areas provides for a shaded environment which is suitable for the summer months and could be used for informal gathering and nature play for children. Council's Landscape Assessment Officer has reviewed the amended landscape plan and raises no objections to the proposal.
- Compliance with the Building Separation requirements are addressed under Section 3b(i) of this report.
- Whilst the overall yield has increased, the proposal meets the incentive FSR provisions under Clause 9.7 of the LEP.
- The facade lengths are considered acceptable as the elevations have been designed with recessed elements within the podium, distinct breaks within the modulated built form. The roof elements have been further setback within the northern building element of Building A appearing as two distinct elements.
- The proposal has been revised to remove seven 'sunken units' from the original design.
- Council's Landscape Assessment Officer has reviewed the amended landscape design and raised no objections to the proposal. More substantial landscaping has been provided within the front setbacks, the extent of paved courtyard areas has

been reduced, planters have been lowered and services have been screened and integrated to the landscaping.

The other matters required to be addressed under Clause 9.5 have been assessed as satisfactory by the Design Review Panel or addressed in other sections of this report. It is considered that the proposal satisfies Clause 9.5 of the LEP.

7. Compliance with DCP 2012

The proposed development has been assessed against the relevant development controls under Part D Section 19 Showground Station Precinct of The Hills Development Control Plan 2012 and Part B Section 5 Residential Flat Buildings.

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

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Structure Plan	The structure plan indicates the subject site is for residential development up to 8 storeys in height.	8 - 10 storeys in height.	No, refer to discussion below.
Site Coverage	The site coverage should not exceed 50% of the site area (excluding land to be dedicated or acquired for a public purpose). Note: The Determination of site cover includes driveways, footpaths and other impervious surfaces	55% (including through-site link) 50% (not including through-site link).	No, however a through-site link is provided on the site. Refer to discussion below.
Underground Car Parking Front setbacks	Underground car parking shall not intrude into the primary setback Fishburn Crescent 10m Middleton Avenue 10m	8m (2m intrusion) 8m (2m intrusion)	No, basement car parking intrudes into the front for Fishburn Crescent and Middleton Avenue and is not within the footprint of the building above. Refer to discussion below.
Parking location	Parking is to be underground and within the footprint of the building above.	Parking exceeds the building footprint.	
Open Space and Landscaping	A minimum of 50% of the site area (excluding building footprint, roads, access driveways and parking) shall be landscaped. Site Area excluding land dedication is 10,311m ² Minimum of 50% site area (5,175.5m ²) is required.	46% (4,720m ² landscaped open space provided)	No, however a through-site link is provided on the site. Refer to discussion below.

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Façade and Building length	<p>On road reserves less than 20m in width, the length of the façade shall not exceed 40m.</p> <p>On streets with a road reservation of 20m or greater in width the street frontage shall not exceed 65m.</p> <p>Buildings are to have a maximum length of 65m. Where a building has a length greater than 30m it is to be separated into at least two parts by a significant recess or projection.</p>	<p>Dawes Avenue (17m road width) Building A & D 58m</p> <p>Fishburn Avenue (17m road width) Building A & B 53m</p> <p>Middleton Ave (24 road width) Building A 68m (lower levels) 58m (upper levels)</p>	No, however the design of the building has been assessed as exhibiting design excellence in accordance with Clause 9.5 of the LEP. Refer to discussion below.
Tower Plate Floor	Floors above 8 th storey are limited to 750m ² gross floor area per storey	9 th storey of Building A (north) 816m ² 10 th storey of Building A (south) comprises gross floor area of 940m ²	No. Refer to discussion below.
Adaptable Housing	For more than 30 dwellings, 10% of all dwellings units are to be adaptable or accessible. For 296 dwellings, 30 adaptable or accessible dwellings required.	15 adaptable dwellings provided.	No, however proposal complies with the 5% requirement that applied when the Development Application was lodged.

a. Showground Precinct Structure Plan

The DCP requires development to comply with the Showground Precinct Structure Plan which indicates residential development of up to 6-8 storeys for the subject site.

The proposal includes residential development of up to 10 storeys for the subject site.

The DCP provides the following objectives relating to the control:

- *To ensure that development occurs in a coordinated manner consistent with the Precinct vision and the development principles of housing diversity, employment opportunities, transit oriented development, quality infrastructure and open space and place making.*
- *To provide a mix of housing, retail, employment and services in appropriate and logical locations within the Precinct.*
- *To local higher scale residential apartments and commercial use closest to the station, the Castle Hill Showground and Cattai Creek corridor to optimise access to station facilities as well as outlook and natural amenity.*

Comment:

The Showground Station Structure Plan is indicative only and has not taken into consideration the additional heights required if the incentive FSR is applied to sites which meet the provisions under Clause 9.7 of LEP 2012. The site has a steep topography with a north easterly to south westerly fall of approximately 8.65m. The development has been designed to respond to this gradient, ensuring all street edges are appropriately addressed and the internal ground floor is functional. The proposal meets the provisions for housing diversity as required under the Clause and seeks to utilise the incentive FSR. The proposal provides for development that consists of a height transition that is consistent with the principles of transit oriented development. A Clause 4.6 written variation to the height development standard has been submitted and is supported as the variation is consistent with the LEP objectives of Clause 4.3 Height of Building and the R4 High Density zone objectives; compliance with the standard is unreasonable in this instance and there is sufficient environmental grounds to justify the contravention; and the proposal is in the public interest. Refer to Section 6c(i) for detailed discussion.

In this regard, the variation to the structure plan is considered satisfactory.

b. Site Coverage

The DCP requires site coverage should not exceed 50% of the site area (excluding land to be dedicated or acquired for a public purpose) and notes that determination of site cover includes driveways, footpaths and other impervious surfaces. The proposal provides for a site coverage of 55% of the site area (including the pedestrian cross through link).

The DCP provides the following objectives relating to the control:

- *To provide sufficient space for landscaping that will complement the building form and enhance the landscape character of the street.*
- *Development sites have sufficient area to provide adequate access, parking, landscaping and building separation.*

The Applicant has provided the following justification for the variation:

The site coverage area has been calculated as the following:

- *Exclude through-site link 5,277m² (49.9%) or*
- *Include through-site link 5,733m² (54.6%)*

The proposal is able to achieve a site coverage across the site of 54.6% which represents a minor non-compliance with the site coverage requirements. However, given the requirement to provide a paved though-site link within the site for use by the public, if this were to be excluded from the site coverage calculation, a site coverage of 49.9% would be achieved...this marginal departure from the DCP is not considered to result in any measureable impact and the proposal will still satisfy the objectives of the control and provides for sufficient space for landscaping that complements the built form and enhances the landscape character of the street.

Comment:

The DCP requires footpaths to be included in the site coverage calculation. If the pedestrian through site link (5% of the site coverage) was not included in the calculation, the proposal would comply with the control. The proposal provides for an appropriate landscape outcome for the site with 15% deep soil landscaping which is 8% more than the design criteria of the

Apartment Design Guide. In addition, the amount and quality of soft landscaping has been substantially increased as recommended by the Design Review Panel. It is considered that the proposal provides sufficient space for landscaping that will complement the building form and enhance the character of the street frontages.

In this regard, the variation to the site coverage control is considered satisfactory.

c. Open Space and Landscaping

The DCP requires a minimum of 50% of the site area shall be landscaped. The proposal provides for 46% of the site area (4,720m²).

The DCP provides the following objectives relating to the control:

- *To maximise opportunities for landscaping, including the retention and/or planting of trees within deep soil areas to ensure a high level of amenity.*
- *To assist with the management of water quality.*
- *To provide communal open space areas for the enjoyment of residents.*
- *To ensure development sites have sufficient space for landscaping that will complement the building form and enhance the landscape character of the street.*

Comment:

Whilst the Applicant and Council officers agree that the proposal provides for 4,720m² landscaped area, the Applicant submits that 92% of the site area is provided with landscaping. This is attributed to a different interpretation of what constitutes site area under the DCP definition.

The DCP requires the following:

A minimum of 50% of the site area (excluding building footprint, roads, access driveways and parking) shall be landscaped. Terraces and patios within 1m of natural ground level shall be included in the calculation of landscaped open space.

The Applicant has excluded the building footprint, roads, access driveways and parking to the site area rather than excluding them for the landscaped area.

Notwithstanding, the 4% shortfall to the landscape area control, the proposal provides for a high quality landscape outcome with 15% deep soil provided for the development. In accordance with the Design Review Panel's recommendations, more substantial landscaping has been provided within the front setbacks, the extent of paved courtyard areas has been reduced, planters have been lowered and services have been screened and integrated to the landscaping. In addition, a 'gravel swale' along the southern boundary is 100mm deep x 300mm wide will direct stormwater run-off and does not preclude substantial planting within the Dawes Avenue frontage. A Ground floor 'zen garden' and rooftop communal open space areas providing a variety of active uses including a swimming pool, gym and BBQ area is provided for the enjoyment of residents.

It is considered that the proposal provides sufficient space for landscaping that will complement the building form and enhance the landscape character of the street. To ensure sufficient landscaping is maintained for areas designated as deep soil, a condition is recommended that all paths above deep soil zones are to be of pervious material (refer condition No. 13).

Subject to the recommended condition, the variation to the landscaping control is considered satisfactory.

d. Front Setbacks to Underground Car Parking

The DCP requires that underground car parking shall not intrude into the primary setback. The front setbacks for the site are 10m on Fishburn Avenue, 10m on Middleton Avenue and 7.5m on Dawes Avenue. The DCP also requires underground parking to be within the footprint of the building above.

The proposal results in a basement carpark setback of 8m to Fishburn Avenue, 8m to Middleton Avenue and 7.5m to Dawes Avenue. The basement car park encroaches within the front setbacks of Fishburn Avenue and Middleton Avenue and exceeds the building footprint.

The DCP provides the following objectives relating to the controls:

- *To provide strong definition to the public domain and create a consistent streetscape.*
- *To ensure that car parking is appropriately located and visual impacts of access and parking facilities on the public realm are minimised.*

The applicant has submitted the following justification:

A deep soil zone of 6m along Fishburn Crescent, Middleton Avenue and Dawes Avenue will be achieved. As a result of the generous deep soil zones along these street frontages, the proposal provides a total of 1,682.13m² (15.9%) deep soil planting, exceeding the requirements of the ADG (7%).

The 2m basement encroachment into the setback zone will incorporate ground level permeable paving to each separate courtyard area therefore providing no additional opportunity for deep soil zones within these areas. The proposal would not give rise to any visual amenity impacts within the public realm resulting from the location of parking.

Comment:

Whilst the basement car park encroaches within the front setbacks by 2m on Fishburn Avenue and Middleton Avenue, the landscape plan indicates that permeable paving with a 300mm set down will be provided above these areas which adjoin terraces to residential units. The 300mm set down would allow for water filtration and tree root growth.

The visible impact from the public realm is considered negligible as the proposal would still provide for 10m landscaped front setbacks to Middleton Avenue and Fishburn Crescent and 7.5m deep soil to Dawes Avenue. Despite this variation, the basement is still setback 8m from the front property boundaries which would allow for adequate deep soil planting for large canopy trees. The proposal would still provide for a good quality landscape outcome with substantial planting within all frontages.

The underground parking is considered to be appropriately located and visual impacts of parking facilities on the public realm are minimised.

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

e. Façade Length and Maximum Building Length

The DCP requires that on road reserves of less than 20m in width, the length of the facade shall not exceed 40m. The DCP also requires that buildings are to have a maximum length of 65m. Where a building has a length greater than 30m it is to be separated into at least two parts by a significant recess or projection. Dawes Avenue and Fishburn Crescent are local roads with a road width of 17m. Middleton Avenue is a minor collector road with a road width of 24m.

The proposal includes a total building facade length for Buildings A/D of 58m on Dawes Avenue, 53m for Buildings A/B on Fishburn Crescent and 68m for Building A on Middleton Avenue.

The DCP provides the following objective relating to the control:

- *To ensure development creates a positive streetscape and achieves a high quality architectural design.*

The applicant has provided the following justification for the variation:

The proposed development (as modified) presents a façade fronting Middleton Avenue that has been further recessed by 2.5m, resulting in a 6.4m – 8.5m recess to create a clear delineation between the two building facades. The recess maintains the width of 5.8m.

The significant recess has ensured that the buildings will be read as two distinct building elements with individual architectural expression and features, as opposed to one elongated building. The recess has been extending down through the podium level and has been highlighted by material selection, providing individual architectural expression and features. The intent of the increased setback design is to improve visual permeability and maximise ventilation. The recess will reduce the bulk and scale of the buildings as viewed from Middleton Avenue and the neighbouring properties to the west. Considerable landscaping and larger tree selections along Middleton Avenue will soften the built form along the frontage.

Architectural modulation and variations in façade articulation is an integral component of the proposal. This is most evident in the provision of recessed elements within the podium. The distinct break corresponds to the modulated balconies within the façade of each building and provides a clear delineation between two building elements. To further enhance the articulation and separation of built form fronting Middleton Avenue, the roof elements have been setback and contained within the northern building element of Building A, appearing as two distinct building elements.

Comment:

Whilst the western façade of Building A facing Middleton Avenue comprises a length of 68m, this is only contained within the lower four storeys of the podium. The levels above the podium comprise a maximum building length of 59.5m. The lower storeys comprise of terrace style apartments with a number of indents and projections creating a well-articulated lower façade. The front façade is broken into two distinct building elements with a 6.5m – 8.5m deep x 5.8m wide high recess for all levels above the podium. The built form is further broken into two distinct elements by the stepping roof form including individual elements to accommodate activities for rooftop communal open space. The upper level setbacks further break up the building mass and the use of a moderation of horizontal and vertical building elements, openings and fenestration as well as varying materials and colours differentiate between a distinct base, middle and top results in a high-quality architectural façade. The modulation and diversity in balcony forms include dark grey powder coated finished

aluminium, high performance glass, white and grey render and timber look aluminium. This is juxtaposed with vertical louvred blades and curved slabs of other balconies which provide an elegant outlook of the building.

The proposal has been reviewed by Council's Design Review Panel. It is noted that the Panel commented that "*in general the scheme demonstrates a well-considered approach to its architectural form, articulation, detail and materiality...the finer grain detail of the podium elements and the relative simplicity of the upper levels presents as a restrained, elegant building that effectively mitigates its apparent mass*".

Whilst Buildings A/B and A/D exceed the 40m total façade length, these buildings are only joined by balcony linkages on the upper levels. It is considered that each building element is 25m – 32m which complies with the maximum length of façade requirements.

The proposal has been amended to provide for further modulation and indentation to Building A fronting Middleton Avenue and is considered to exhibit design excellence (refer Section 6c(iii)). In this regard, the proposal meets the intent of the control and the variation is considered satisfactory.

f. Tower Floor Plate

The DCP requires floors above 8th storey are limited to 750m² gross floor area per storey. The 9th storey of Building A (north west portion) and 10th storey of Building A (south west portion) comprise a gross floor area of 1000m² and does not comply with this control.

The relevant objectives of the control are:

- *To ensure development creates a positive streetscape and achieves a high quality architectural design.*
- *To ensure that towers:*
 - *Include slender design so as to not overwhelm the bulk and scale;*
 - *Allow for solar access to units within the development and on adjoining sites;*
 - *Create an open, attractive and distinct skyline;*
 - *Create small, fast moving shadows;*
 - *Allow for view corridors between nearby towers.*

The Applicant has provided the following justification for the variation:

A more appropriate design outcome has been achieved, with the uppermost storey recessed and two lift cores which separate the building in two distinct parts, whilst providing a design outcome that is compatible with the proposed built form. The proposal will continue to meet the relevant objectives and controls of the DCP providing a built form that is unique when compared to nearby and existing proposed development. The built form has been designed to reduce the bulk and scale of the building, through articulation and materials selection.

Comment:

The proposal comprises 9th and 10th storey elements to Buildings A and C. Whilst Building C complies with the tower controls, Building A exceeds the control by 250m² for the uppermost floor. Notwithstanding, the overall development complies with the incentive FSR provisions under Clause 9.7 of the LEP and is considered to exhibit design excellence. The variation to the tower control would still provide for a development that would achieve high quality design, creating a positive streetscape and architectural design, create an open, attractive skyline and results in a development that achieves the solar access requirements of the Apartment Design Guide.

The rooftop also provides for a useable communal open space area provides a high level of residential amenity including a swimming pool, gymnasium and BBQ areas. The reduction of 250m² of floor area on the 9th and 10th storey of Building A to ensure full compliance to the control is not considered appropriate in this instance as this would reduce the amenity afforded to future residents of the site.

In this regard, the variation to the tower control is considered satisfactory.

g. Adaptable Housing

The DCP requires that for residential flat buildings with more than 30 dwellings, 10% adaptable or accessible dwellings are to be provided.

The proposal provides 15 adaptable dwellings (5%) which does not comply with this control.

The DCP provides the following objectives relating to Access and Adaptability:

- *To ensure that developments provide appropriate and improved access and facilities for all persons (consistent with the provisions of Australian Standard AS1428.1).*
- *To encourage designers/developers to consider the needs of people who are mobility impaired and to provide greater than minimum requirements for access and road safety.*
- *To ensure that building design does not prevent access by people with disabilities.*
- *Incorporate design measures that are appropriate to people with disabilities. To ensure adequate separation between buildings on different sites to alleviate amenity impacts, including privacy, daylight access, acoustic control and natural ventilation.*

Comment:

Section 6.8 Adaptable Housing of Part D Section 19 Showground Precinct DCP requires the following:

1. *Residential flat buildings and multi dwelling housing are to meet the requirements for adaptable housing within Part B Section 5 Residential Flat Buildings of The Hills DCP 2012.*

DCP amendments to Access and Adaptability controls came into force on 21 May 2019 following Council resolution on 30 April 2019 to adopt the draft amendments as a response to requirements of The Hills Disability Inclusion Action Plan. The amendments include an increase in the percentage of adaptable/accessible housing from 5% to 10% under Part B Section 5 Residential Flat Buildings.

The proposal was lodged prior to the newly adopted DCP controls for Access and Adaptability coming into force. Whilst there is a shortfall of 15 adaptable/accessible units to the newly adopted control, it is considered that the proposal meets the intent of the Access and Adaptability control which is to provide for the needs of disabled people and the aging population by incorporating design measures that improve accessibility.

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

8. Submissions

The application was notified for 14 days on two occasions. No submissions from adjoining property owners were received during the notification periods.

9. External Referrals

The application was referred to the following external authorities:

NSW POLICE COMMENTS

The proposal was referred to the NSW Police. No objections were raised to the proposal. A number of Crime Prevention Through Environmental Design (CPTED) conditions of consent have been recommended to ensure that the site is appropriately protected (refer Condition No. 5).

ENDEAVOUR ENERGY COMMENTS

The proposal was referred to Endeavour Energy. No objections were raised to the proposal. Endeavour Energy's recommendations have been incorporated into conditions of consent (refer Condition No. 6).

SYDNEY WATER COMMENTS

The proposal was referred to Sydney Water. No objections were raised to the proposal. Standard conditions have been imposed (refer Condition Nos. 56, 75 and 104).

10. Internal Referrals

The application was referred to the following sections of Council:

SUBDIVISION ENGINEERING COMMENTS

No objections to the proposal subject to conditions.

ENVIRONMENTAL HEALTH COMMENTS

No objection is raised to the proposal subject to conditions.

RESOURCE RECOVERY COMMENTS

No objections to the proposal subject to conditions.

TRAFFIC COMMENTS

No objection is raised to the proposal.

TREE MANAGEMENT COMMENTS

No objections to the proposal subject to conditions.

FORWARD PLANNING (SECTION 7.11 CONTRIBUTIONS) COMMENTS

No objection is raised to the proposal subject to conditions.

LAND INFORMATIONS SYSTEMS COMMENTS

No objection is raised to the proposal subject to conditions.

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, SEPP 65, SEPP 64, SEPP 55, LEP 2012 and The Hills Development Control Plan and is considered satisfactory.

The variation to the LEP Height control is addressed in the report and considered satisfactory.

In relation to the Clause 4.6 Variation request, it is considered that the Applicant's request is well founded, and the proposed variations result in a development that is consistent with the relevant objectives, and compliance with the standard is unnecessary in this instance as outlined in this report. It is considered that there are sufficient environmental grounds to justify the contravention to the height standard and the development is in the public interest as it is consistent with the objectives of the standard and R4 high density zone objectives.

The variations to DCP with respect to the Structure Plan, site coverage, open space and landscaping, front setbacks and location of parking, façade and building lengths, tower floor plates and adaptable housing have been assessed on merit and are considered worthy of support.

It is considered that the proposal exhibits design excellence, is consistent with the desired future character of the Showground Station Precinct, follows transit oriented development principles, provides for a high quality architectural design incorporating transitions in heights and substantial landscaping within the frontages and provides appropriate residential amenity for future occupants of the site and adjoining properties.

No submissions were received objecting to the proposed development.

Accordingly approval subject to conditions is recommended.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

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

The Hills Local Strategic Planning Statement

The Hills Future 2036 Local Strategic Planning Statement was made on 6 March 2020. The proposal has been considered against the outcomes planned within the Local Planning Strategic Planning Statement and Implementation Plan. In particular, Planning Priority 8 seeks to plan for a diversity of housing with access to jobs and services. It is envisaged that the Showground Station Precinct would provide approximately 9,000 additional dwellings by 2036. The Showground Station Precinct provides for a housing diversity clause under The Hills LEP which promotes family friendly dwellings within the Precinct. The proposal meets this housing diversity clause by providing larger apartment sizes and mix and would provide for an additional 296 dwellings to the emerging precinct. In this regard, the proposal is considered to be consistent with the outcomes planned under the The Hills Local Strategic Planning Statement.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

Amendments in red are to include the following:

- To ensure habitable rooms are not enclosed without the provision of a window, the walls or door to each of the study or storage rooms within the apartments are to be deleted from the following units:
G22, G23, G28, 106, 108, 119, 121, 122, 127, 131, 211, 212, 218, 219, 228, 229, 233, 303, 309, 310, 313, 328, 331, 334, 401, 406, 411, 421, 429, 501, 506, 512, 606, 612, 631, 701, 710, 711, 728, 730, 731, 820, 821, 823 and 824.
- Windows provided in all bedrooms are required to have a total minimal glass area of not less than 10% of the floor area of each bedroom in the unit.
- To ensure a reasonable level of visual amenity is provided, a 1.8m high privacy screen is to be installed to the eastern side of the balconies in Units 901 and 905.
- The business identification signage zones fronting Middleton Avenue and Fishburn Crescent is to both be limited to the following dimensions: 1m height x 2.6m width and a maximum area of 2.6m². Both signage zones are to be attached to the car park louvre screening element. The content and design of the signage is subject to separate approval.
- All services and service provision visible from the street, public domain and nearby taller buildings are required to be carefully and substantially screened in a manner to match the aesthetic of the approved development.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA-003	Demolition Plan	H	8/11/2019
DA-001	Location and Site Plan	H	8/11/2019
DA-100	Basement B2 Floor Plan	L	6/05/2020
DA-101	Basement B1 Floor Plan	L	6/05/2020
DA-110	Ground Floor Plan	L	6/05/2020
DA-111	Level 1 Floor Plan	L	6/05/2020
DA-112	Level 2 Floor Plan	N	19/05/2020
DA-113	Level 3 Floor Plan	P	28/05/2020
DA-114	Level 4 Floor Plan	L	6/05/2020
DA-115	Level 5 Floor Plan	L	6/05/2020
DA-116	Level 6 Floor Plan	L	6/05/2020
DA-117	Level 7 Floor Plan	L	6/05/2020

DA-118	Level 8 Floor Plan	L	6/05/2020
DA-119	Level 9 Floor Plan	L	6/05/2020
DA-120	Roof Plan	L	6/05/2020
DA-210	Elevations 1 (North) & 2 (South)	L	6/05/2020
DA-211	Elevations 3 (West) & 4 (East)	L	6/05/2020
DA-212	Elevations 5 & 6 (Through Site Link)	L	6/05/2020
DA-213	Elevations 7 & 8 (Central Courtyard)	L	6/05/2020
DA-300	General Sections A & B	L	6/05/2020
DA-301	General Sections C & D	L	6/05/2020
DA-302	General Sections E	L	6/05/2020
DA-310	Driveway Profile Ramp 1	H	8/11/2019
DA-311	Driveway Profile Ramp 2 & 3	H	8/11/2019
DA-400	DA Adaptable Apartment Type Plan	L	6/05/2020
DA-700	DA Colour Sample Board & Façade Elevations	H	8/11/2019
DA-800	DA Coloured Perspective	H	8/11/2019
DA-801	DA Coloured Perspective	H	8/11/2019
142491-1	Landscape Design Report including Vegetation Management Plan, Masterplan, Ground Floor, Private Communal Courtyard, Private Courtyard Terrace, Cross-block link, typical lower level, roof levels, planting strategy, material colour, soil plans, tree plan and canopy cover	M	14/04/2020

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. External Finishes

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

3. Building Work to be in Accordance with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

4. Construction Certificate

Before any works are carried out a Construction Certificate must be obtained and a Principal Certifying Authority appointed. The plans and accompanying information submitted with the Construction Certificate must comply with the conditions included with this consent.

As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifying Authority for subdivision works.

5. Compliance with NSW Police Requirements

The following is required or as otherwise agreed by NSW Police and Council in writing:

Surveillance:

- Installation of a security intercom system is required to access the basement car park and main lobbies. Each unit is to contain an intercom system to enable access for visitors to the basement car park and lobby. Security access is to be utilised at the entrance of the basement.
- CCTV coverage is required to be installed to monitor all common areas and entry/exits points. Use of height indicator stickers on entrance/exit doors is required on entry/exit doors.
- Vegetation to be kept trimmed at all times.

Lighting:

- Lighting is to meet minimum Australian Standards. Special attention is to be made to lighting at entry/exit points from the building, the car park and driveways.

Territorial Reinforcement:

- All public access points are to be well marked.

Environmental Maintenance:

- Use of anti-graffiti building materials.

Access Control:

- Warning signs should be strategically posted around the building to warn intruders of what security treatments have been implemented to reduce opportunities for crime e.g. "Warning, trespasser will be prosecuted" or "Warning, these premises are under electronic surveillance". This should be visible from all restricted areas (not open to the public).
- Ensure improved strength and better quality locking mechanism to security roller shutters/garage doors.
- Fire doors are to be alarmed and a magnetic strip is required so that the door will shut closed.
- Caged storage units are to be built up to the ceiling with a door with better quality locking mechanisms to be used.
- Ensure there are no outer ledges capable of supporting hands/feet and balustrades cannot provide anchor points for ropes.
- Any fencing proposed is to be placed vertically. If spacing is left between each paling, it should be at a width that limits physical access.
- High quality letter boxes that meet AS ISO9001:2008 are required. The letterboxes are to be under CCTV surveillance.
- Park smarter signage to be installed around the car park.
- Signage to be installed in the car park warning residents to watch those who come in the entry/exit door behind them.

6. Compliance with Endeavour Energy requirements

• Network Capacity / Connection

The submission of documentary evidence from Endeavour Energy confirming that satisfactory arrangements have been made for the connection of electricity and the design requirements for the substation, prior to the release of the Construction Certificate / commencement of works.

The applicant will need to submit an application for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined. Depending on the outcome of the assessment, any required indoor / chamber or padmount substation/s will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Further details are available by

contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

<http://www.endeavourenergy.com.au/>

Advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch. Alternatively the applicant should engage a Level 3 ASP approved to design distribution network assets, including underground or overhead. The ASP scheme is administered by NSW Planning & Environment and details are available on their website via the following link or telephone 13 77 88:

<https://www.energy.nsw.gov.au/energy-supply-industry/pipelines-electricity-gas-networks/network-connections/contestable-works>

- **Location of Electricity Easements / Prudent Avoidance**

Whenever reasonably possible, easements are to be entirely incorporated into public reserves and not burden private lots (except where they are remnant lots or not subject to development). Where easements are incorporated into private lots Endeavour Energy's preference is to have access by the most direct and practicable route with the easement area kept to a minimum eg. padmount substations are located at the front boundary to avoid the need to have the associated cables extend into the property which then also require an easement.

The location of electricity infrastructure should also avoid the creation of easements or restrictions on the adjoining site.

- **Vegetation Management**

The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure. Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant. Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

- **Dial Before You Dig**

Before commencing any underground activity the applicant is required to obtain advice from the **Dial Before You Dig 1100** service in accordance with the requirements of the Electricity Supply Act 1995 (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- **Asbestos**

Endeavour Energy's G/Net master facility model indicates that the site is in a location identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network. Whilst Endeavour Energy's underground detail is not

complete within G/Net in some areas, in older communities, cement piping was regularly used for the electricity distribution system and in some instances containing asbestos to strengthen the pipe; for insulation; lightness and cost saving.

When undertaking works on or in the vicinity of Endeavour Energy's electricity network, asbestos or ACM must be identified by a competent person employed by or contracted to the applicant and an asbestos management plan, including its proper disposal, is required whenever construction works has the potential to impact asbestos or ACM.

The company's potential locations of asbestos to which construction / electricity workers could be exposed include:

- customer meter boards;
- conduits in ground;
- padmount substation culvert end panels; and
- joint connection boxes and connection pits.

Further details are available by contacting Endeavour Energy's Health, Safety & Environment via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm.

- **Demolition**

Demolition work is to be carried out in accordance with Australian Standard AS2601: The demolition of structures (AS 2601). All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected ie. the existing customer service lines will need to be isolated and/or removed during demolition. Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. street light columns, power poles, overhead and underground cables etc.

- **Public Safety**

Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

<http://www.endeavourenenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/commun itynav/safety+safety+brochures>

If the applicant has any concerns over the proposed works in proximity of the electricity infrastructure, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of multiple stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is:

Construction.Works@endeavourenenergy.com.au .

- **Emergency Contact**

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours/7 days.

7. Air Conditioner Location

Any air conditioning unit on the property must be designed so as not to operate:

- (i) During peak time-at a noise level that exceeds 5 dB above the ambient background noise level measured at any property boundary, or
- (ii) During off peak time-at a noise level that is audible in habitable rooms of adjoining residences.

8. Tree Removal

Approval is granted for the removal of fifty five (55) trees within the site boundaries numbered 1, 4 - 17, 21, 24 - 34, 38 - 48, 50, 51, 53 - 55, 60, 64 - 70, 72 - 74, and 77 and located on Tree Management Plan within Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees dated 15/04/20.

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

See Tree Removal on Public Land condition for street tree removal.

9. Planting Requirements

All trees, shrubs and groundcovers planted as part of the approved landscape plan are to be provided in quantity and pot sizes in accordance with Planting Schedule within Landscape Design Report prepared by RPS dated 14/04/20.

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

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

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

10. Retention of Trees

All trees not specifically identified on the approved plans for removal, or approved by council under Tree Removal or Tree Removal on Public Land conditions are to be retained with remedial work to be carried out in accordance with the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees dated 15/04/20.

11. Irrigation

Automatic watering system to be installed as a minimum to all common areas and roof top terrace raised garden beds. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or Private Certifier prior to issue of the construction certificate.

12. Street Trees

Street trees must be provided for the sections of Middleton Avenue, Fishburn Crescent and Dawes Avenue fronting the development site. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. This includes the Showground Precinct Public Domain Plan. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

The establishment of street tree planting is included in the maintenance bond required to be paid.

13. Permeable paving

Permeable paving is to be used for paths and paved areas within deep soil zones within proposed landscaping.

14. Protection of Public Infrastructure

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

15. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.
- Due to inconsistency in public domain works, vehicular crossing within the public road reserve will be approved under separate application, inclusive of all works within the public domain (Refer to Showground Precinct Verge Treatment details)

16. Vehicular Crossing Request

Each driveway requires the lodgement of a separate vehicular crossing request accompanied by the applicable fee as per Council's Schedule of Fees and Charges. The vehicular crossing request must be lodged before an Occupation Certificate is issued. The vehicular crossing request must nominate a contractor and be accompanied by a copy of their current public liability insurance policy. Do not lodge the vehicular crossing request until the contractor is known and the driveway is going to be constructed.

17. 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 within an existing or proposed public road, or works within an existing or proposed public reserve can only be approved, inspected and certified by Council. The application form for a minor engineering works approval is available on Council's website and the application and inspection fees payable are included in Council's Schedule of Fees and Charges.

a) Driveway Requirements

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

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

A separate vehicular crossing request 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. Specifically, this includes the removal of any existing laybacks, regardless of whether they were in use beforehand or not.

c) Site Stormwater Drainage

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

18. 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.

19. Subdivision Works Approval

Before any works are carried out a Subdivision Works Certificate must be obtained and a Principal Certifier appointed. The plans and accompanying information submitted with the Subdivision Works Certificate must comply with the conditions included with this consent.

As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifier for subdivision works.

20. Contamination

Any new information, that may come to light during construction works, which has the potential to alter previous conclusions about site contamination, shall be immediately notified to Council's Manager – Environment and Health.

21. Litter Control

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

22. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic Pty Ltd, referenced as DA Acoustic Assessment 16 Middleton Avenue, Castle Hill, dated 25th October 2018 and submitted as part of the Development Application are to be implemented as part of this approval.

23. Contamination Assessment & Site Remediation

The recommendations of the Preliminary Site Assessment and Report prepared by Eiaustralia Pty Ltd, referenced as Report E24007.E01_Rev0, dated 26th September 2018 and submitted as part of the Development Application are to be implemented as part of this approval.

24. 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.

25. Control of Noise from Trucks

The number of trucks waiting to remove fill from the site must be managed to minimise disturbance to the neighbourhood. No more than one truck is permitted to be waiting in any of the streets adjacent to the development site.

26. Secure Properties and Maintain Vegetation

The houses that are currently located on the development site are to be made secure so that the public cannot access the house or dump rubbish on the land. The vegetation (excluding live trees, live shrubs and plants under cultivation) on the properties is to be maintained and controlled so that the properties do not become overgrown and thus creating an unsafe and / or unhealthy environment.

27. Imported 'Waste Derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); or
- any other waste-derived material the subject of a resource recovery exemption under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifier on request.

28. Provision of Kitchen Waste Storage Cupboard

Waste storage facility must be provided in each unit/dwelling to enable source separation of recyclable material from residual garbage. Each unit/dwelling must have a waste storage cupboard provided in the kitchen with at least 2 removable indoor bins with a minimum capacity of 15 litres each. The bins provided should allow convenient transportation of waste from the kitchen to the main household bins or waste disposal point. The Principal Certifying Authority must visually confirm in person, or receive photographic evidence validating this requirement, prior to the issue of any Occupation Certificate.

29. Adherence to Waste Management Plan

All requirements of the Waste Management Plan submitted as part of the Development Application must be implemented except where contrary to other conditions of consent. The information submitted regarding construction and demolition wastes 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.

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.

30. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2-2002 for the standard 12.5m long Heavy Rigid Vehicle (minimum 4.5m clear vertical clearance). The following requirements must also be satisfied.

- All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 4.5m. Any nearby areas where the clear headroom is less than 4.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.
- All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
- Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
- The requirement for reversing on site must be limited to a single reverse entry into the designated waste service bay (typical three point turn).
- The designated waste service bay must allow additional space servicing of bins (wheeling bulk bins to the back of the waste collection vehicle for rear load collection).
- The loading area must have a sufficient level of lighting and have appropriate signage such as “waste collection loading zone”, “keep clear at all times” and “no parking at any time”.
- Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of heavy rigid vehicles, remote access or alternative solution which ensures there is no requirement for waste collection contractors to exit the cab. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

31. Communal Composting Areas

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

32. Provision of Bulky Goods Storage Area

A separate room or caged area for unwanted bulky goods must be provided that opens directly onto the designated waste service bay. The area must be designed and constructed in accordance with the following requirements.

- The area must have a minimum floor area of 4m² per 50 apartments. Floor space must be rounded up to the nearest 50 apartments for best operational outcome
- The floor of the area must be constructed of concrete with a smooth non-slip finish.
- The area must have a suitable access door, with a minimum clear floor width of 2m (to allow access for large items). Suitable access doors are single or double swinging doors.
- The access door, when fully open, must be flush with the outside wall and must not block or obstruct car park aisles or footways. The door must be able to be fixed in position when fully opened.
- The area must be provided with lighting, such as automatic sensor lights.

33. Provision of Waste Chute System

The development must incorporate a dual chute system with a total of 6 x chutes for garbage and 6 x chutes for recyclables. Chute openings must be provided on every residential floor within the building corridors. The waste chutes must terminate into the Waste Discharge Rooms. Garbage must discharge into 1100 litre bins housed on 2-bin linear track system with compactor (2:1 compaction ratio) and recyclables must discharge into 1100 litre bins housed on a 2-bin linear track system. No compaction for recyclables. The waste chute system must be maintained in accordance with manufactory standards.

34. Provision of Bin Cupboards

A separate bin cupboard must be provided next to chute openings on every residential floor to allow for the disposal of items unsuitable for chute disposal or a third waste stream. The cupboards must be sized to store at least a single 240 litre bin. The dimensions of a 240 litre bin are 735mm deep, 580mm wide and 1080mm high.

35. Management of Construction and/or Demolition Waste

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

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

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

36. Disposal of Surplus Excavated Material

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

37. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council and its Contractor. The service must be arranged no earlier than two days prior to occupancy and no later than seven days after occupancy of the development. All requirements of Council's domestic waste management service must be complied with at all times. Contact Council's Resource Recovery Team on (02) 9843 0310 to commence a domestic waste service.

38. Construction of Waste Storage Areas (Bin Holding Room & Waste Discharge Rooms)

The waste storage areas must be designed and constructed in accordance with the following requirements. The Bin Holding Room must provide minimum storage facility for 40 x 1100

litre bins. The Waste Discharge Rooms must provide minimum storage facility for 1 x 2-(1100 litre) bin linear track system with compaction unit for garbage and 1 x 2-(1100 litre) bin linear track system for recyclables.

- The waste storage areas must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins and associated waste infrastructure as specified above.
- The layout of the waste storage areas must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage areas must be constructed of brickwork.
- The floor of the waste storage areas must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The Bin Holding Room 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 (preferred).
- The Bin Holding Room must have a resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door can double up as the waste servicing door provided the clear floor width is at least 1.5m and not a roller door.
- All doors of the waste storage areas, when fully opened, must be flush with the outside walls and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The waste storage areas must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- The waste storage areas must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage areas, it is not to conflict with the space designated for the placement of bins.
- The waste storage areas must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage areas must have appropriate signage (Council approved designs), mounted in a visible location on internal walls and are to be permanently maintained by the Owners Corporation.
- Finishes and colours of the waste storage areas are to complement the design of the development.

Example Bin Measurements (mm)

240L: 735 (d) 580 (w) 1080 (h) 660L: 850 (d) 1370 (w) 1250 (h) 1100L: 1245 (d) 1370 (w) 1470 (h)

39. Property Numbering and Cluster Mail Boxes for Multi Dwelling Housing, Residential Flat Buildings, Mixed Use Development, Commercial Developments and Industrial Developments

The responsibility for property numbering is vested solely in Council under the *Local Government Act 1993*.

The property addresses for this development are: - 16 Middleton Ave Castle Hill

Alternate Addresses - 39 Dawes Ave and 5 Fishburn Cres Castle Hill

Further subdivision application is to be lodged to strata each building separately, therefore approved unit numbering is as per plans marked up within consent documentation; and as follows:

Level	Building A	Building B	Building C	Building D
Ground	G01 – G14	G15 – G17	G18 – G22	G23 – G27
One	101 – 107	108 – 113	114 – 126	127 - 131
Two	201 – 211	212 – 216	217 – 227	228 - 233
Three	301 – 309	310 – 315	316 – 327	328 - 334
Four	401 – 410	411 – 415	416 – 428	429 - 434
Five	501 – 511	512 – 516	517 – 530	531 - 536
Six	601 – 611	612 – 616	617 – 629	630 - 635
Seven	701 – 711	712 – 716	717 – 729	730 - 734
Eight	801 – 809	N/A	810 – 822	823 – 827
Nine	N/A	N/A	901 – 905	N/A

These addresses shall be used for all correspondence, legal property transactions and shown on the final registered Deposited Plan/Strata Plan lodged with Land Registry Services NSW as required.

Under no circumstances can unit numbering be repeated or skipped throughout the development regardless of the building name or number.

Approved numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances including stairwells, lift and lobby entry doors.

External directional signage is to be erected on site at driveway entry points and on buildings to ensure that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination easily & quickly.

Mail Boxes

One Cluster mail box is to be located as shown on plans submitted marked as DWG No DA-110; Rev H; Dated 28/11/2019 marked up within consent documentation.

Cluster mail boxes are to be located within the site on the public footpath boundary within easy reach from a public road for the postal delivery officer. The number of mail boxes to be provided is to be equal to the number of flats/units/townhouses etc. plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietors additional mail box is to be located within the cluster located at Building A - 16 Middleton Ave.

The applicant is to obtain approval for mail delivery from Australia Post and provide a copy to Council prior to issue of Construction Certificate. Australia Post Seven Hills Delivery Centre – phone 02 9674 4027.

Strata Developments

All approved developments that require subdivision under a Strata Plan, must submit a copy of the final strata plan to Council's Land Information Section before it is registered for the approval and allocation of final property and unit numbering. This applies regardless of whether the PCA is Council or not.

It is required that Lot numbers within the proposed strata plan all run sequentially within the same level, commencing from the lowest level upwards to the highest level within the development.

Please call 9843 0555 or email a copy of the final strata plan before it is registered to council@thehills.nsw.gov.au for the allocation of final Property and Unit numbering required to be included within the registered Strata Administration sheet.

40. 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.

41. Parking Spaces

The development is required to be provided with 407 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

The development includes a large number of stacked parking spaces. These spaces are to be allocated/ used for resident parking only (not visitor parking) and each set of two stacked/ tandem parking spaces must be allocated to the same unit without exception.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

42. Section 7.11 Contribution

The following monetary contributions must be paid to Council in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development.

Payments comprise of the following:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 69	No. of 2 Bedroom Units: 168	No. of 3 Bedroom Units: 59	Sum of Units	No. of Credits: 11	Total S7.11
Open Space - Land	\$4,180.59	\$5,852.81	\$7,246.34	\$9,475.66	\$ 288,460.71	\$ 983,272.08	\$ 427,534.06	\$ 1,699,266.85	\$ 104,232.26	\$ 1,595,034.59
Open Space - Capital	\$2,113.14	\$2,958.40	\$3,662.78	\$4,789.63	\$ 145,806.66	\$ 497,011.20	\$ 216,104.02	\$ 858,921.88	\$ 52,685.93	\$ 806,235.95
Transport Facilities - Land	\$1,039.74	\$1,455.63	\$1,802.21	\$2,356.66	\$ 71,742.06	\$ 244,545.84	\$ 106,330.39	\$ 422,618.29	\$ 25,923.26	\$ 396,695.03
Transport Facilities - Capital	\$1,617.97	\$2,265.16	\$2,804.48	\$3,667.27	\$ 111,639.93	\$ 380,546.88	\$ 165,464.32	\$ 657,651.13	\$ 40,339.97	\$ 617,311.16
Water Management - Capital	\$422.44	\$591.42	\$732.24	\$957.51	\$ 29,148.36	\$ 99,358.56	\$ 43,202.16	\$ 171,709.08	\$ 10,532.61	\$ 161,176.47
Administration	\$55.60	\$77.85	\$96.38	\$126.02	\$ 3,836.40	\$ 13,078.80	\$ 5,686.42	\$ 22,601.62	\$ 1,386.22	\$ 21,215.40
Total	\$9,429.48	\$13,201.27	\$16,344.43	\$21,372.75	\$ 650,634.12	\$ 2,217,813.36	\$ 964,321.37	\$ 3,832,768.85	\$ 235,100.25	\$ 3,597,668.60

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are updated quarterly.

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

This condition has been imposed in accordance with Contributions Plan No 19.

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

43. 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.

44. Design Verification

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

45. Protection of Internal Noise Levels (Residential Unit Development)

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

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

46. Internal Pavement Structural Design Certification

Prior to a Construction Certificate being issued, a Certified Practicing 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 12.5m long heavy rigid waste collection vehicle (i.e. 28 tonne gross vehicle mass) from the boundary to the waste collection point including any manoeuvring areas.

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

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

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

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

- Sediment fencing.

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

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

An SWMP is required for this development.

48. Onsite Stormwater Detention – Hawkesbury River Catchment Area

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 for the site storage requirement and permissible site discharge.

The stormwater concept plan prepared by Adams Drawing C022 and C023 Revision \$ and 3 respectively dated 05/03/2020 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and the following necessary changes:

- a) OSD tank must be designed to ensure suitable storage is achieved based on the maximum head available in the HED. Design of HED to be in accordance with Upper Parramatta River Catchment Trust.
- b) More detailed plans are required to ensure suitable spill ways from HED to WSUD storage to OSR storage and Rainwater Tank. Calculations to represent plans (i.e. values for maximum to orifice)
- c) Additional access points to ensure suitable and safe access for maintenance of OSD Tank

Water sensitive urban design elements, consisting of PSORB Storm filter Cartridges, enviropods and swales, 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.

The design and construction of the stormwater management system must be approved by either Council or an accredited certifier. A Compliance Certificate certifying the detailed design of the stormwater management system can be issued by Council. The following must be included with the documentation approved as part of any Construction Certificate:

- Design/ construction plans prepared by a hydraulic engineer.
- A completed OSD Drainage Design Summary Sheet.

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

49. Stormwater Pump/ Basement Car Park Requirements

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

50. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$337,064 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 per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side (363m) multiplied by the width of the road (8m). For low scale, low impact residential development a reduced amount based on a rate of \$5,000.00 per unit/ dwelling is instead used.

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.

51. Security Bond – External Works

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded amount must be based on 150% of the tendered value of providing all such works. The bond amount must be confirmed with Council prior to payment. The tendered value of the work must be provided for checking so the bond amount can be confirmed.

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 completed to Council's satisfaction.

52. 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 or Subdivision Works Certificate is issued.

53. 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.

Engineering works can be classified as either "subdivision works" or "building works".

Works within an existing or proposed public road, or works within an existing or proposed public reserve can only be approved, inspected and certified by Council.

Works within the Road reserve are to be approved under the Roads Act 1993 and must be done prior to the release of any construction certificate

Depending on the development type and nature and location of the work the required certificate or approval type will differ. The application form covering these certificates or approvals is available on Council's website and the application fees payable are included in Council's Schedule of Fees and Charges.

The concept engineering plan C022 and C023 prepared by Adams Revision 4 and 3 respectively is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Dawes Avenue – Indented Parking Bays/ Road Widening

The entire site frontage to Dawes Avenue must be reconstructed including footpath paving and other ancillary work to make this construction effective.

The existing footpath verge measured from the face of kerb must be widened by 2m to 5.62m approximately (and this road widening dedicated to the public as road at no cost to Council as conditioned separately). Within this widened verge the required formation must be in accordance with Showground Precinct Verge Treatment Detail as available on Councils Website.

With respect to the civil works plans by Adams (and all architectural plans) Revision 2, Dated 05/03/2020:

- Plans submitted as part of development application are incorrect. Kerb alignment in Dawes Avenue is to remain, however replaced with v-drain where parking is to be provided. Applicant is to refer to approved plans for public domain works for 320/2019/JP for direction.
- The existing street drainage in Dawes Avenue will need to be adjusted to match, not relocated as per plan C040 states. Kerb line is not changing so where required modification of pit to butterfly grate may be required.
- The stormwater calculations provided with the detailed design must demonstrate that the amended pit has sufficient inlet capacity according to the above documents, which may require additional (or larger) pits.
- The pipework on either side needs to be surveyed and replaced as necessary to connect to this new pit.
- No blind/ junction pits under the road carriageway will be supported.
- The grading, trimming, topsoiling and turfing of the widened footpath verge fronting the development site is required to ensure a gradient between 2% and 4% falling from the boundary to the top of kerb is provided. This work must include the construction of any retaining walls necessary to ensure complying grades within the footpath verge area. All retaining walls and associated footings must be contained wholly within the subject site. Any necessary adjustment or relocation of services is also required, to the requirements of the relevant service authority. All service pits and lids must match the finished surface level.

The driveway long-section must be amended to match.

b) Indented Parking Bays/ Road Widening (Showground Precinct)

The entire site frontage to Dawes Avenue must be reconstructed including footpath paving, stormwater drainage adjustments and any other ancillary work to make this construction effective.

The existing 3.62m (approx.) wide footpath verge measured from the face of kerb must be widened by 2m to 5.62m approx. (and this road widening dedicated to the public). Within this widened verge the required formation must generally be in accordance with Council's Showground Precinct Public Domain Plan, Council's Showground Precinct Verge Treatment Detail/ Plans dated 15 February 2019, the above documents and Council's standard drawings/ details relating to these works.

The pedestrian pavement type and street lighting category must match the Showground Precinct Public Domain Plan.

c) Signage and Line Marking Requirements/ Plan

A signage and line marking plan must be submitted with the detailed design. This plan needs to address street name signs and posts, regulatory signs and posts (such as no parking or give way signs), directional signs and posts (such as chevron signs), speed limit signs and posts and line marking, where required.

Thermoplastic line marking must be used for any permanent works. Any temporary line marking must be removed with a grinder once it is no longer required, it cannot be painted over.

Details for all signage and line-marking must be submitted to Council's Construction Engineer for checking prior to works commencing. For existing public roads, signs and line marking may require separate/ specific approval from the Local Traffic Committee.

Street name signs and posts must be provided in accordance with the above documents and Council's Standard Drawing 37. With respect to street name signs specifically, all private roads must include a second sign underneath which reads "private road".

d) Disused Layback/ Driveway Removal

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

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

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

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

In particular the acoustic statement shall detail that all recommendations contained within the DA Acoustic Assessment 16 Middleton Avenue, Castle Hill prepared by Acoustic Logic PTY LTD, with reference number 20180942.1 and dated 25th October 2018, have been included in the construction plans of the development.

55. Tree Removal on Public Land

Approval is granted for the removal of eleven (11) trees numbered 2, 3, 22, 23, 35, 36, 37, 52, 62, 63 and 71 as located on Tree Management Plan within Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees dated 15/04/20. The trees are located on the Council nature strip and will be impacted by works associated with the development.

All tree works must be undertaken by the owner/applicant at their cost. Prior to any works commencing on site, the owner/applicant must provide the following details to The Hills Shire Council's Manager – Environment & Health:

- Time and date of when the tree works will occur;
- Full details of the contractor who will be undertaking tree works (Minimum AQF level 3 Arborist);
- Current copy of the contractors Public Liability Insurance (Minimum \$10,000,000).

Note: The owner/applicant is to keep a photographic record pre and post tree removal works of the tree and surrounding Council infrastructure (e.g. concrete footpath, kerb & gutter) and provide these to Council upon request. The grass verge must be reinstated with any holes filled to existing natural ground level.

56. Notice of Requirements

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

57. Construction Management Plan

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

PRIOR TO WORK COMMENCING ON THE SITE

58. 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.

59. Separate OSD Detailed Design Approval

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

60. 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 offsite 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 must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the SafeWork NSW, 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.

61. Discontinuation of Domestic Waste Services

Council provides a domestic waste service to the properties subject to this Development Application. This service must be cancelled prior to demolition of the existing dwellings or where the site ceases to be occupied during works, whichever comes first. You will continue

to be charged where this is not done. No bins provided as part of the domestic waste service are to remain on site for use by construction workers, unless previous written approval is obtained from Council. To satisfy this condition, the Principal Certifying Authority must contact Council on (02) 9843 0310 at the required time mentioned above to arrange for the service to be discontinued and for any bins to be removed from the property by Council.

62. Erosion and Sediment Control

Erosion and sedimentation controls shall be in place prior to the commencement of site works and maintained throughout construction activities, until the site is landscaped and/or suitably revegetated. These requirements shall be in accordance with *Managing Urban Stormwater – Soils and Construction (Blue Book)* produced by the NSW Department of Housing.

This will include, but not be limited to a stabilised access point and appropriately locating stockpiles of topsoil, sand, aggregate or other material capable of being moved by water being stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

63. Site Water Management Plan

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

64. Erosion & Sediment Control Plan Kept on Site

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and available to Council on request.

65. Notification of Asbestos Removal

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

66. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. In order of precedence the location of fencing shall be a) As per Tree Protection Plan as per Arborist report for project or b) Tree Protection Zone (TPZ) as calculated under AS4970 (2009) Protection of trees on development sites c) A minimum of 3m radius from trunk.

The erection of a minimum 1.8m chain-wire fence to delineate the TPZ is to stop the following occurring:

- Stockpiling of materials within TPZ;
- Placement of fill within TPZ;
- Parking of vehicles within the TPZ;
- Compaction of soil within the TPZ;
- Cement washout and other chemical or fuel contaminants within TPZ; and
- Damage to tree crown.

67. Tree Protection Signage

Prior to any works commencing on site a Tree Protection Zone sign must be attached to the Tree Protection Fencing stating "Tree Protection Zone No Access" (The lettering size on the sign shall comply with AS1319). Access to this area can only be authorised by the project arborist or site manager.

68. Mulching within Tree Protection Zone

Prior to any works commencing on site all areas within the Tree Protection Zone are to be mulched with composted leaf mulch to a depth of 100mm.

69. Trenching within Tree Protection Zone

Any trenching for installation of retaining walls, basement carpark, drainage, sewerage, irrigation, or any other services shall not occur within the Tree Protection Zone of trees identified for retention and trees within adjoining properties without prior notification to Council (72 hours notice) or under supervision of a project arborist.

If supervision by a project arborist is selected, certification of supervision must be provided to the Certifying Authority within 14 days of completion of trenching works.

Root pruning should be avoided, however where necessary, all cuts shall be clean cuts made with sharp tools such as secateurs, pruners, handsaws, chainsaws or specialised root pruning equipment. Where possible, the roots to be pruned should be located and exposed using minimally destructive techniques such as hand-digging, compressed air or water-jetting, or non-destructive techniques. No roots larger than 40mm diameter to be cut without Arborist advice and supervision. All root pruning must be done in accordance with Section 9 of Australia Standard 4373-2007 Pruning of Amenity Trees.

70. Details and Signage - Principal Contractor and Principal Certifying Authority

Details

Prior to work commencing, submit to the Principal Certifying Authority (PCA) notification in writing of the principal contractor's (builder) name, address, phone number, email address and licence number.

No later than two days before work commences, Council is to have received written details of the PCA in accordance with Clause 103 of the Environmental Planning and Assessment Regulations 2000.

Signage

A sign is to be erected in accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000. The sign is to be erected in a prominent position and show –

- a) the name, address and phone number of the PCA for the work,
- b) the name and out of working hours contact phone number of the principal contractor/person responsible for the work.

The sign must state that unauthorised entry to the work site is prohibited.

71. Management of Building Sites

The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number.

72. 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.

73. 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.

74. 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).

75. Sydney Water Building Plan Approval

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

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

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

76. Contractors Details

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

77. Erection of Signage – Supervision of Work

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

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

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

As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifying Authority for subdivision works.

78. Property Condition Report – Public Assets

A property condition 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.

DURING CONSTRUCTION

79. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work.

Upon receipt of justified complaint/s in relation to local traffic impacts arising from roadworks being carried out on existing public roads those roadworks will be restricted to between the hours of 9:00am and 3:00pm, Monday to Friday or as otherwise directed by Council staff. Requests to carry out roadworks on existing public roads during the night in order to avoid local traffic impacts will also be considered based on the circumstances of the site and must be approved in writing by Council's Manager – Subdivision and Development Certification.

80. Survey Report and Site Sketch

A survey report and site sketch signed and dated (including contact details) by the registered land surveyor may be requested by the Principal Certifying Authority during construction. The survey shall confirm the location of the building/structure in relation to all boundaries and/or levels. As of September 2018 the validity of surveys has been restricted by legislation to 2 years after issue.

81. 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. 967311M_07 is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate. A Section 4.55 Application **may** be required should the subsequent version of this BASIX Certificate necessitate design changes to the development. However, a Section 4.55 Application **will** be required for a BASIX Certificate with a new number.

82. Critical Stage Inspections and Inspections Nominated by the PCA

Section 6.5 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Clause 162A of the Environmental Planning and Assessment Regulation 2000. Prior to allowing building works to commence the PCA must give notice of these inspections pursuant to Clause 103A of the Environmental Planning and Assessment Regulation 2000.

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

83. Standard of Works

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

84. Stockpiles

Stockpiles of topsoil, sand, aggregate or other material capable of being moved by water shall be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

85. Asbestos Removal

Asbestos containing material, whether bonded or friable, shall be removed by a licenced asbestos removalist. A signed contract between the removalist and the person having the benefit of the development application is to be provided to the Principle Certifying Authority, identifying the quantity and type of asbestos being removed. Details of the landfill site that may lawfully receive the asbestos is to be included in the contract.

Once the materials have been removed and delivered to the landfill site, receipts verifying the quantity received by the site are to be provided to the Principle Certifying Authority.

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.

86. Dust Management Plan

Due to the size of the area being disturbed by the works, a site specific Dust Management Plan (DMP) must be prepared by a suitably qualified and experienced construction management consultant in conjunction with the civil contractor to proactively address this issue. This DMP must be approved prior to work commencing and shall address/ include the following matters:

- Water carts must be used to regularly wet down exposed areas. The number of water carts on site at all times (and additional carts available on demand) must be nominated and justified.
- Additives that can be mixed with the water to aid dust suppression.
- A dust cloth must be installed along the perimeter of the site.
- A sprinkler/ misting system along the perimeter of the site.
- Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- Vehicle speed control on access routes.
- Stockpile management such as location, orientation, volume and height must be carefully considered to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- Final topsoil placement and planting or seeding exposed areas as soon as possible.
- Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- Education of all site personnel on reducing dust.
- Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to.
- The DMP must also demonstrate how the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.

87. Project Arborist

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

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

88. 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.

89. Rock Breaking Noise

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

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

90. 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)*.

91. 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.

92. Construction Noise Management

The recommendations of the Preliminary Construction Noise Vibration Management Plan, prepared by Acoustic Logic Pty Ltd, referenced as Project Number 20180942.2/1112A/R1/MF and dated 11th December 2018 are to be implemented as part of this approval.

93. Construction Management Plan

The recommendations of the Construction Management Plan, prepared by Westbourne Constructions Pty Limited, referenced as Fishburn Crescent Castle Hill and dated 5th October 2018 are to be implemented as part of this approval.

PRIOR TO THE ISSUE OF A FINAL OCCUPATION AND/OR SUBDIVISION CERTIFICATE

94. Regulated Systems

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- a) Australian/New Zealand Standard AS/NZS 1668.1:1998 – The use of ventilation and air conditioning in buildings – fire and smoke control in multi-compartment buildings;
- b) Australian Standard AS 1668.2 – 2002 - The use of ventilation and air conditioning in buildings – ventilation design for indoor air contaminant control;
- c) Australian/New Zealand Standard AS/NZS 3666.1:2011 – Air handling and water systems of buildings – Microbial control – Design, installation and commissioning;
- d) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control - Operation and maintenance;
- e) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control – Performance based maintenance of cooling water systems; and
- f) Public Health Regulation 2012.

The regulated system is to be registered with Council by submitting an Application for Registration of Regulated Water Cooling/Warm Water Systems, available on Council's website www.thehills.nsw.gov.au prior to commissioning.

95. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled DA Acoustic Assessment 16 Middleton Avenue, Castle Hill prepared by Acoustic Logic Pty Ltd dated 25th October 2018. Certification is to be provided.

96. Clearance Certificate

On completion of the asbestos removal works a Clearance Certificate in accordance with clause 474 of the Work Health and Safety Regulation 2017 shall be provided to the Principal Certifying Authority.

97. Validation report

A validation report shall be submitted to Council's Manager – Environment and Health and the Certifying Authority (if not Council). The validation report must include the following:

- The degree of contamination originally present;
- The type of remediation that has been completed; and
- A statement which clearly confirms that the land is suitable for the proposed use.

98. Internal Pavement Construction

Prior to any 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 12.5m long waste collection vehicle when fully laden (i.e. 28 tonnes gross vehicle mass).

99. Final Inspection of Waste Storage Area(s)

Prior to any Occupation Certificate being issued, a final inspection of the waste storage area(s) and associated management facilities must be undertaken by Council's Resource Recovery Project Officer. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for domestic waste collection by Council and its Domestic Waste Collection Contractor. The time for the inspection should be arranged at least 48 hours prior to any suggested appointment time.

100. Provision of Signage for Waste Storage Areas

Prior to any Occupation Certificate being issued, a complete full set of English and traditional Chinese waste education signage (garbage, recycling and no dumping) must be installed in a visible location on every internal wall of all waste storage areas (Bin Holding Room and Waste Discharge Rooms). Additionally, one set of English and Chinese garbage and recycling signage must be provided above every chute opening on every floor. The signage must meet the minimum specifications below and must be designed in accordance with Council's approved artwork. Contact Council's Resource Recovery Education Officer to obtain artwork designs.

- Flat size: 330mm wide x 440mm high
- Finished size: 330mm wide x 440mm high. Round corners, portrait
- Material: Aluminium / polyethylene composite sheet 3.0mm, white (alupanel)
- Colours: Printed 4 colour process one side, UV ink
- Finishing: Over laminated gloss clear. Profile cut with radius corners and holes.

101. Domestic Waste Collection Risk Assessment

Prior to any Occupation Certificate being issued, a risk assessment must be undertaken on site by Council's Coordinator Resource Recovery. The time for the assessment must be arranged when clear unobstructed circulation in and out of the site is available for Council's Domestic Waste Contractor to perform a mock collection run at the site.

102. Waste Chute System Installation Compliance Certificate

Prior to any Occupation Certificate being issued, a letter of compliance must be submitted to and approved by the Principal Certifying Authority. The letter must be prepared by the equipment supplier/installer confirming that the Council approved waste chute system, including all associated infrastructure, has been installed to manufacture standards and is fully operational and satisfies all relevant legislative requirements and Australian standards.

103. Landscaping Prior to Issue of any Occupation Certificate

Landscaping of the site shall be carried out prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plan by an

Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

104. 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.

The only other exception to this is for services other than potable water supply, in which case the requirements of Flow Systems/ Box Hill Water as a network operator under the Water Industry Competition Act 2006 would apply. A separate certificate of compliance would need to be issued for those works.

105. Provision of Electrical Services

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

106. Provision of Telecommunication Services

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

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

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

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

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

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

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

107. 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.

108. Pump System Certification

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

109. Stormwater Management Certification

The stormwater management system must be completed to the satisfaction of the Principal Certifier prior to the issuing of an Occupation Certificate. The following documentation is required to be submitted upon completion of the stormwater management system and prior to a final inspection:

- Works as executed plans prepared on a copy of the approved plans;
- For Onsite Stormwater Detention (OSD) systems, a certificate of hydraulic compliance (Form B.11) from a hydraulic engineer verifying that the constructed OSD system will function hydraulically;
- For OSD systems, a certificate of structural adequacy from a 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;
- Records of inspections; and
- An approved operations and maintenance plan.

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

110. Road Widening Dedication

An Occupation Certificate must not be issued until the proposed 2m of road widening across the Dawes Avenue site frontage has been dedicated to the public as road at no cost to Council in accordance with the undertaking submitted relating to dedication.

111. Creation of Restrictions/ Positive Covenants

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

a) Restriction/ Positive Covenant – Onsite Stormwater Detention

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

b) Restriction/ Positive Covenant – Water Sensitive Urban Design

The subject site must be burdened with a positive covenant that refers to the water sensitive urban design elements referred to earlier in this consent using the "water sensitive urban design elements" terms included in the standard recitals.

c) Positive Covenant – Stormwater Pump

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

112. 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.

113. Consolidation of Allotments

- All allotments included in this consent must be consolidated into a single allotment before an Occupation Certificate is issued. A copy of the registered plan must be submitted to Council.

114. Design Verification Certificate

Prior to the release of the Occupation Certificate design verification is required from a qualified designer to confirm that the development has been constructed in accordance with approved plans and details and has satisfied the design quality principles consistent with that approval.

USE OF THE SITE

115. 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*.

116. Offensive Noise - Acoustic Report

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

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

117. Offensive Noise

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provisions of the *Protection of the Environment Operation Act 1997*.

118. Dust Control

The emission of dust must be controlled to minimise nuisance to the occupants of the surrounding premises.

The emission of dust must be controlled and monitored for on-going effectiveness to minimise nuisance in accordance with the Dust Management Plan (DMP) referred to in Condition 86.

119. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area(s), which must include 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. A caretaker must be appointed to manage waste operations on site including undertaking all instructions issued by Council to enable waste collection. Waste storage area(s) must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

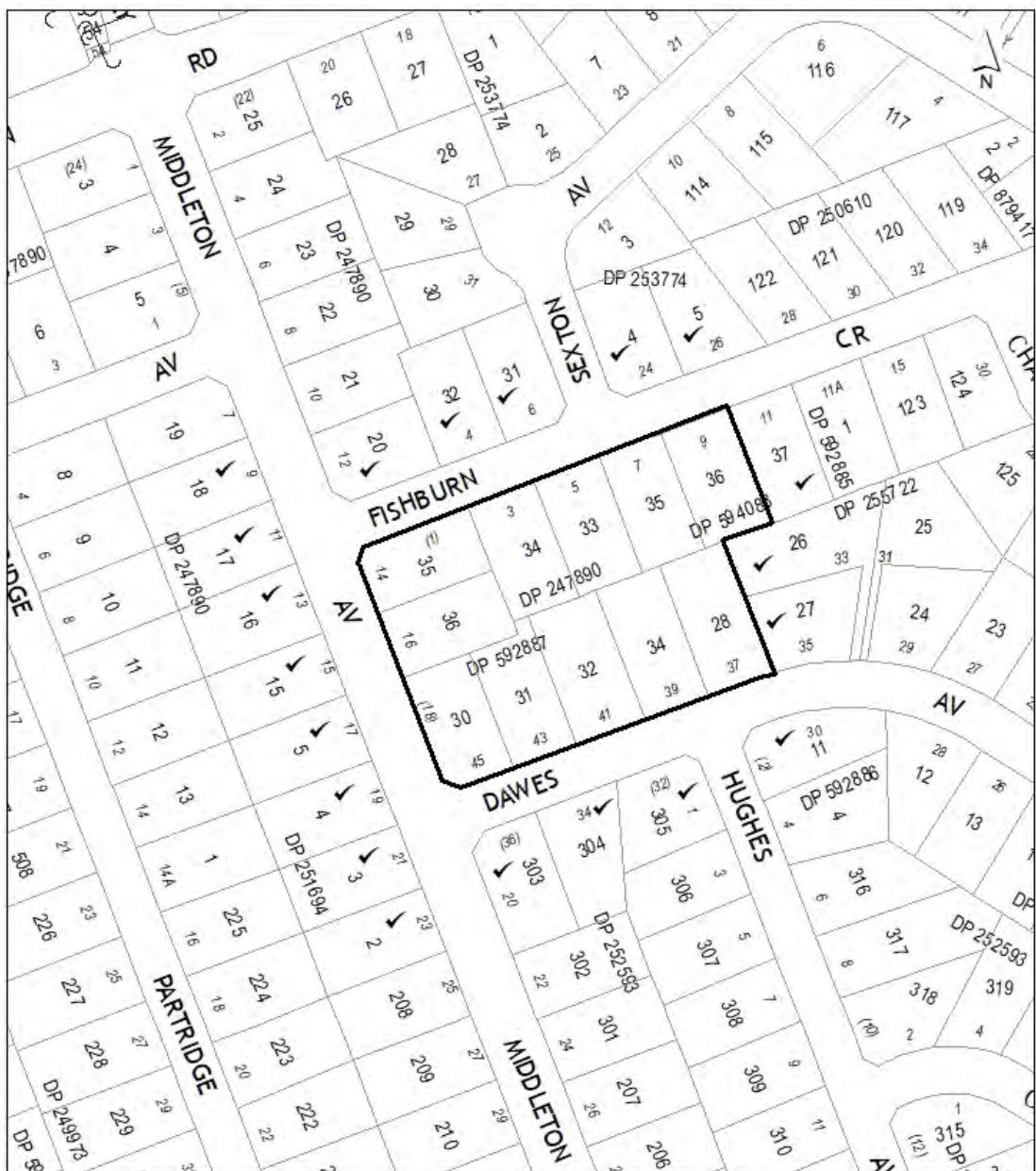
120. Lighting

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*.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map
4. LEP Height Map
5. LEP Floor Space Ratio (Base) Map
6. LEP Floor Space Ratio (Incentive) Map
7. Site Plan
8. Floor Plans
9. Elevations
10. Sections
11. Shadow Diagrams
12. Sun Eye Diagrams
13. Landscape Plan
14. Finishes Schedule
15. Perspectives
16. Clause 4.6 Variation Request
17. Design Review Panel Minutes

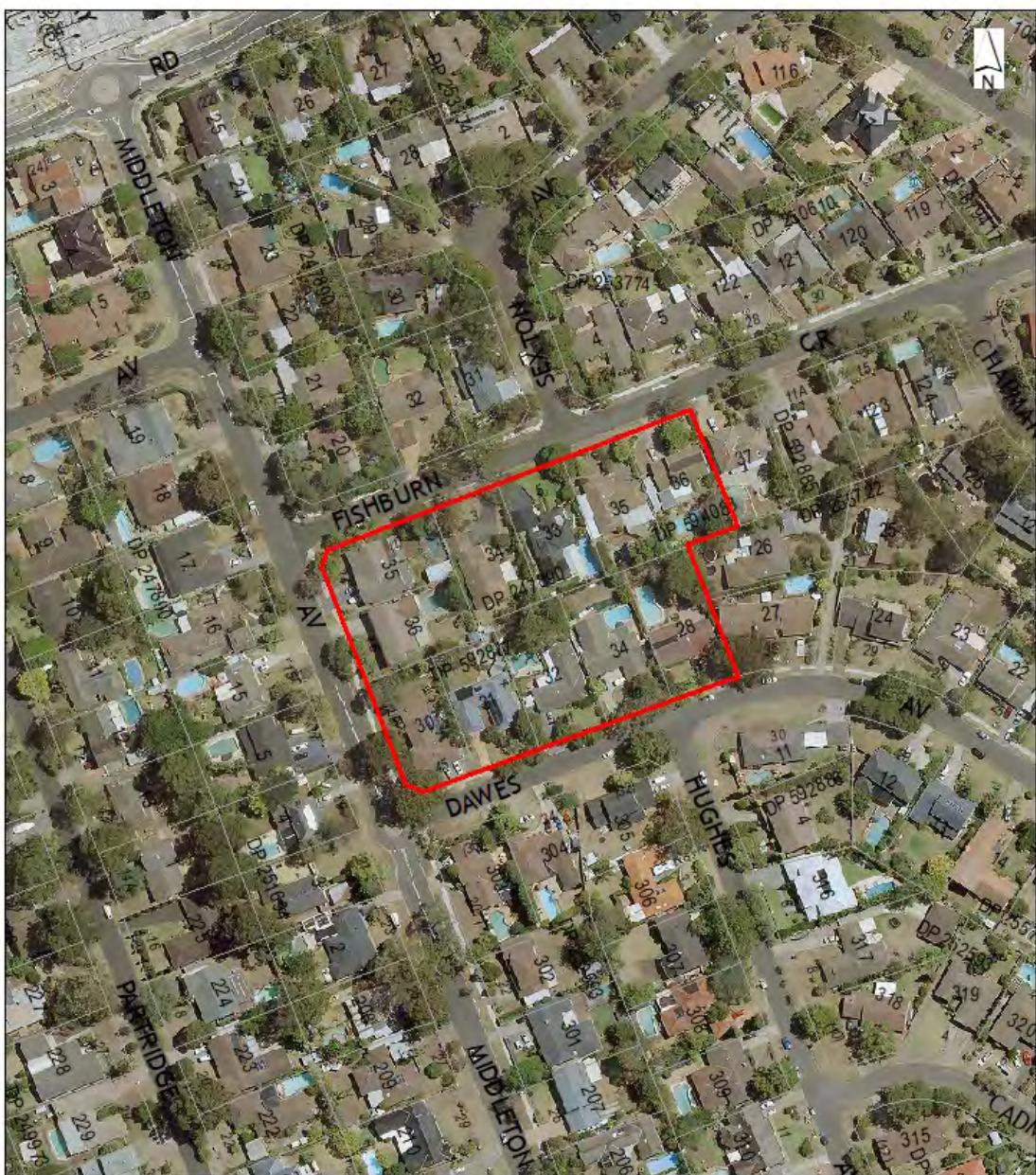
ATTACHMENT 1 – LOCALITY PLAN



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ATTACHMENT 2 – AERIAL MAP



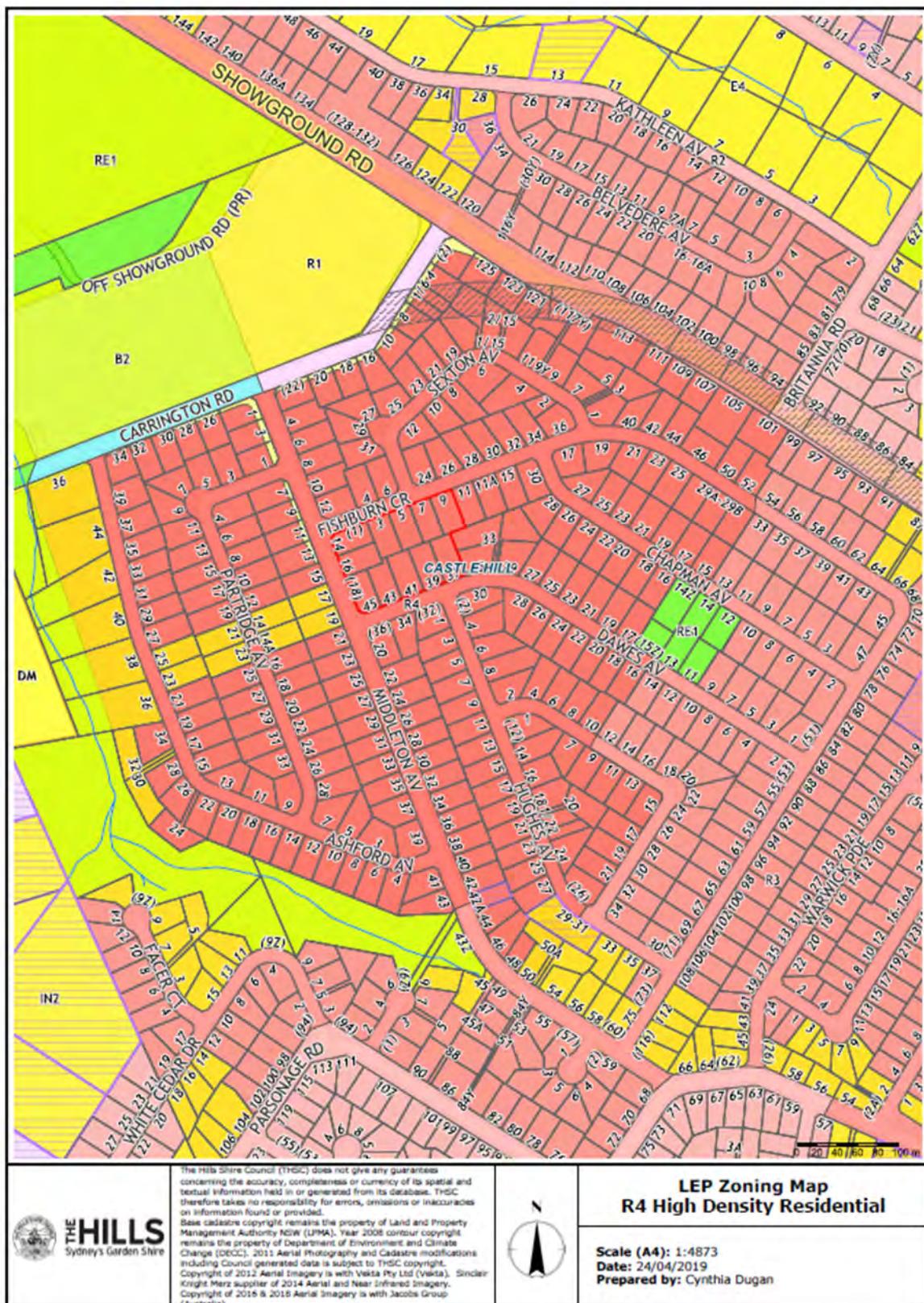
SUBJECT SITE



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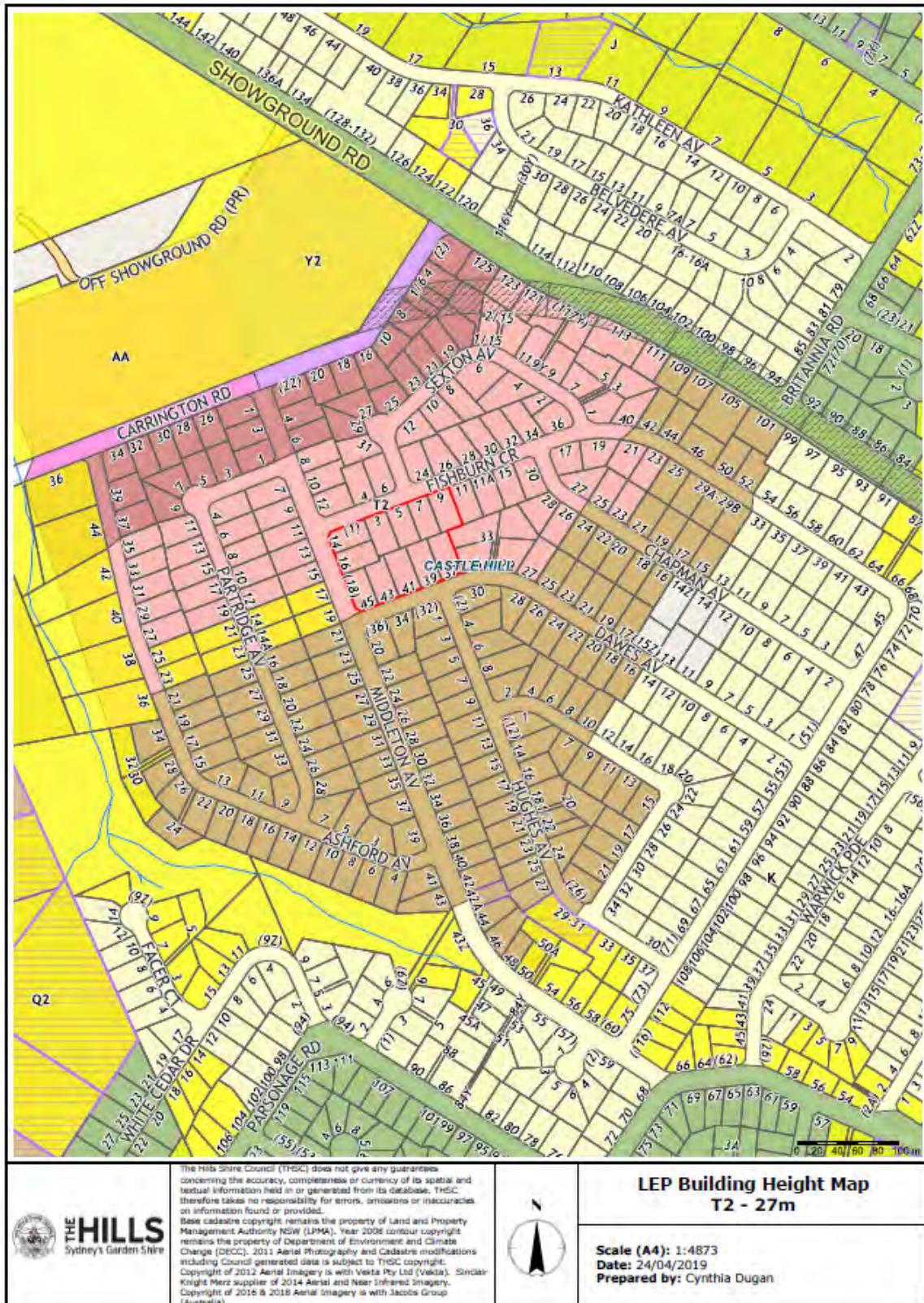
ATTACHMENT 3 – LEP ZONING MAP



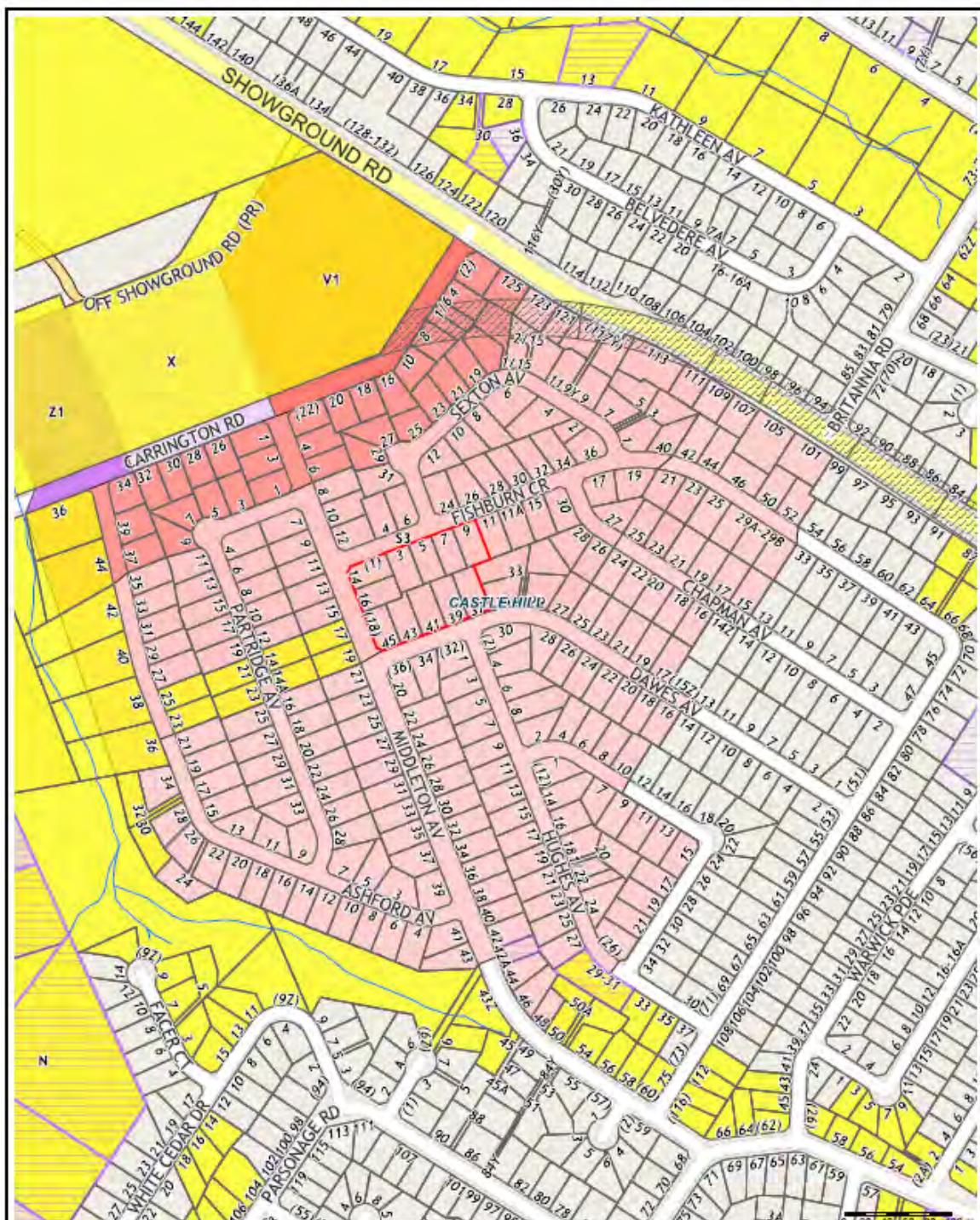
THE HILLS
Sydney's Garden Shire



ATTACHMENT 4 – LEP BUILDING HEIGHT MAP

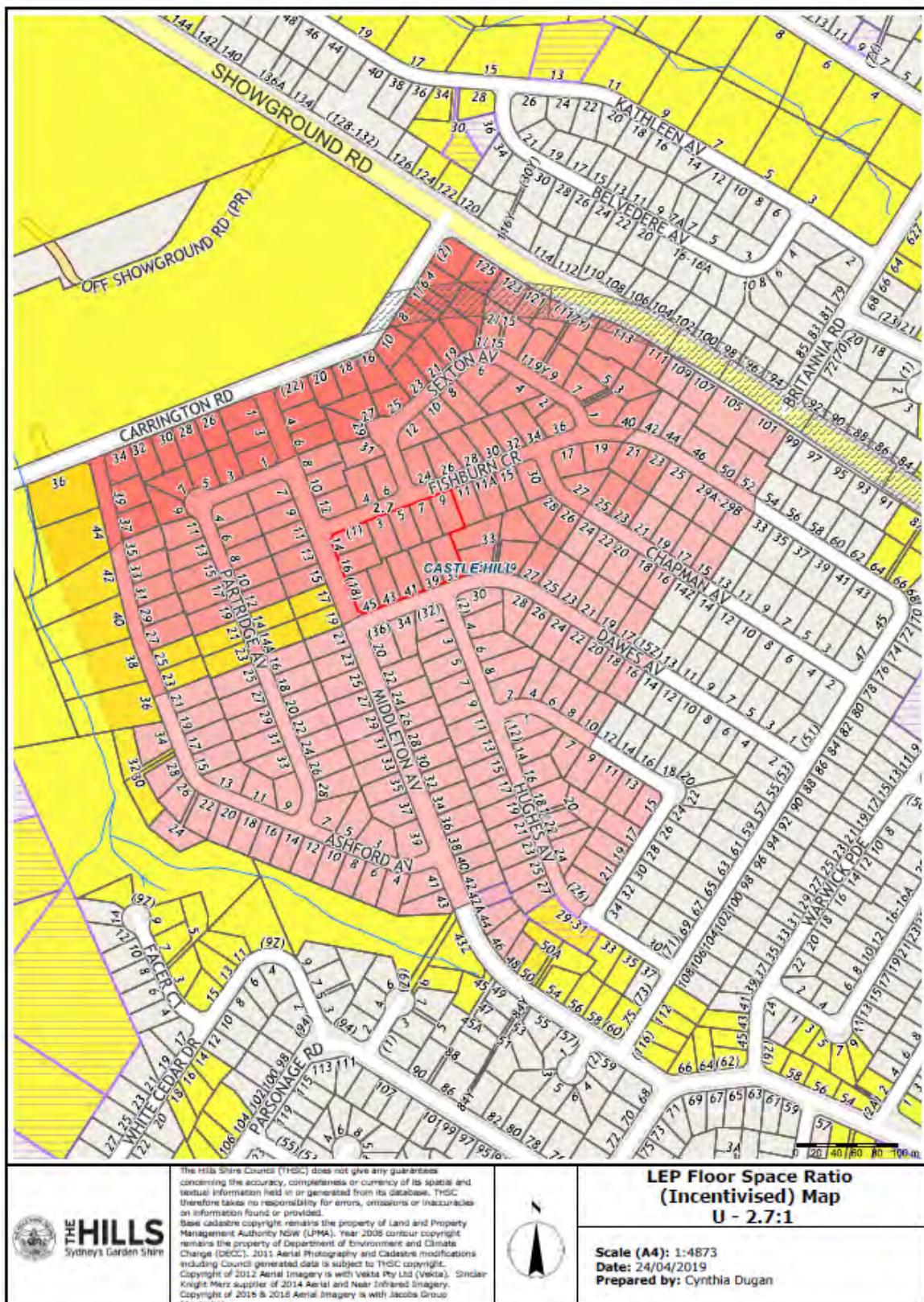


ATTACHMENT 5 – LEP FLOOR SPACE RATIO (BASE) MAP



 THE HILLS Sydney's Garden Shire	<p>The Hills Shire Council (THSC) does not give any guarantees concerning the accuracy, completeness or currency of its spatial and textual information held in or generated from its database. THSC therefore accepts no responsibility for errors, omissions or inaccuracies in the information found on this map.</p> <p>Base cadastre copyright remains the property of Land and Property Management Authority NSW (LPPMA). Year 2008 contour copyright remains the property of Department of Environment and Climate Change (DECC). 2011 Aerial Photography and Cadastre modifications including Council generated data is subject to THSC copyright.</p> <p>Copyright of 2012 Aerial Imagery is with Vekta Pty Ltd (Vekta). Sinclair Knight Merz supplier of 2014 Aerial and Near Infrared Imagery. Copyright of 2016 & 2018 Aerial Imagery is with Jacobs Group (Australia).</p>	 <p>LEP Floor Space Ratio (Base) Map S3 - 1.9:1</p>
		<p>Scale (A4): 1:4873 Date: 24/04/2019 Prepared by: Cynthia Dugan</p>

ATTACHMENT 6 – LEP FLOOR SPACE RATIO (INCENTIVISED) MAP



ATTACHMENT 7 - SITE PLAN

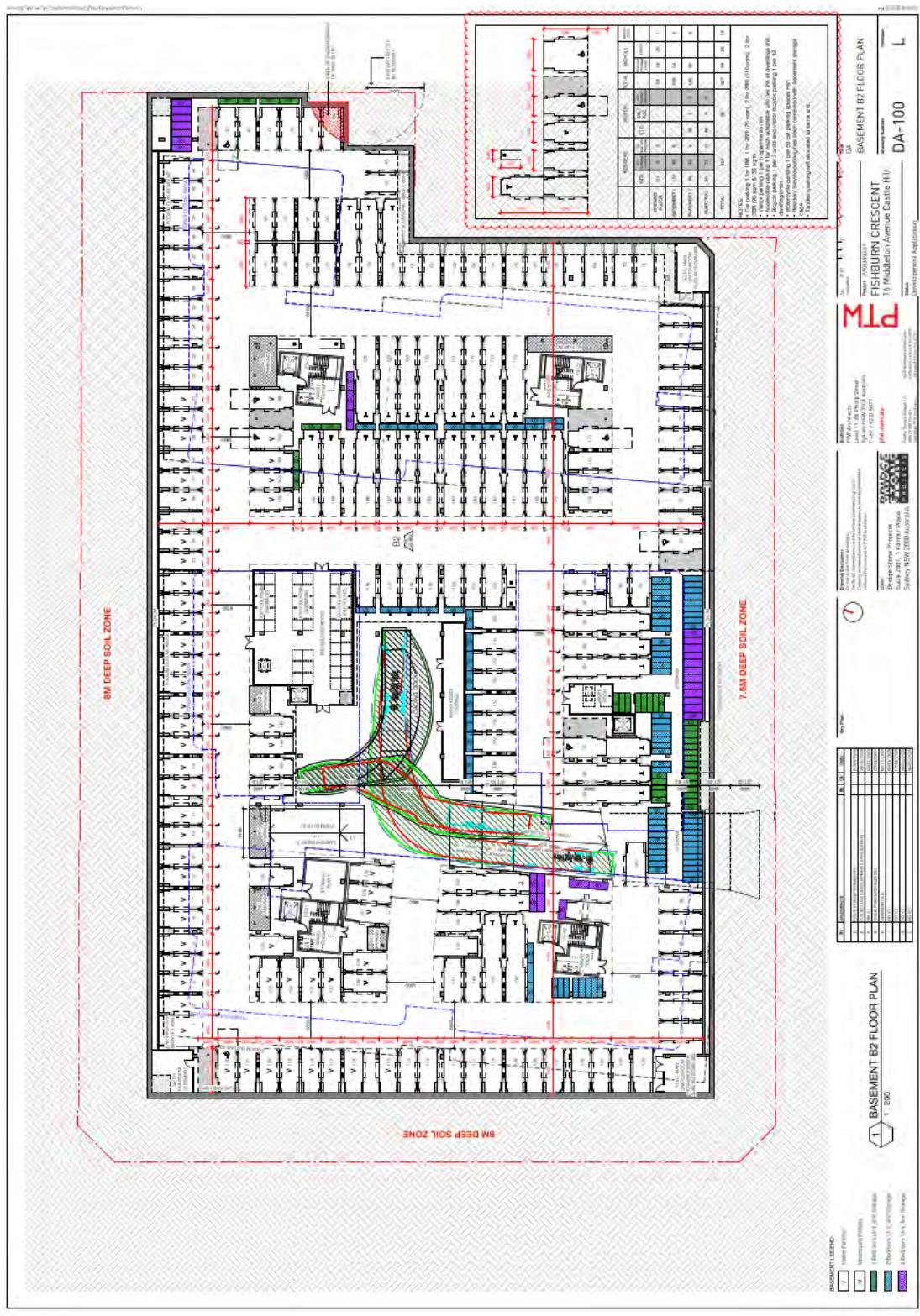


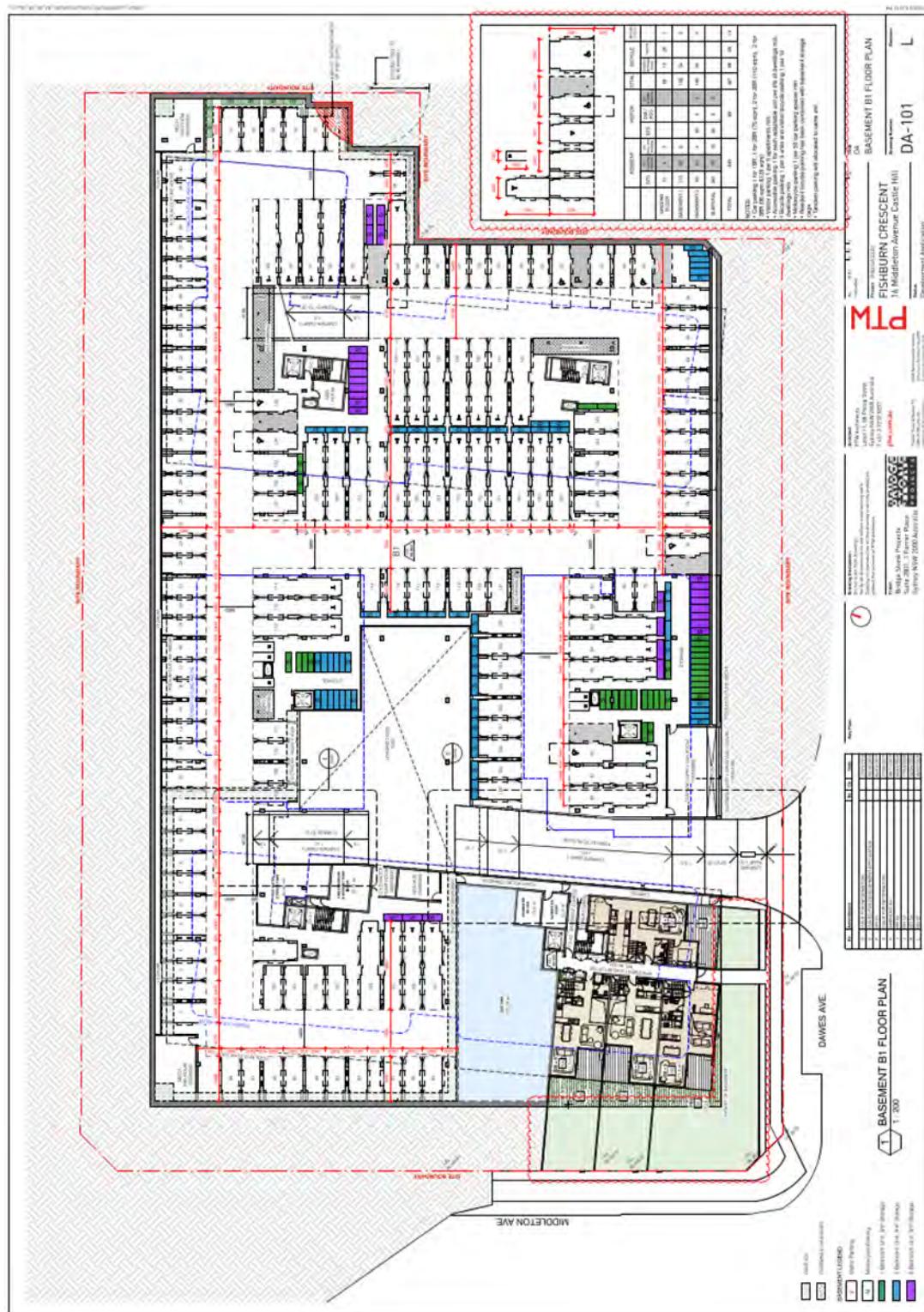
FISHBURN CRESCENT

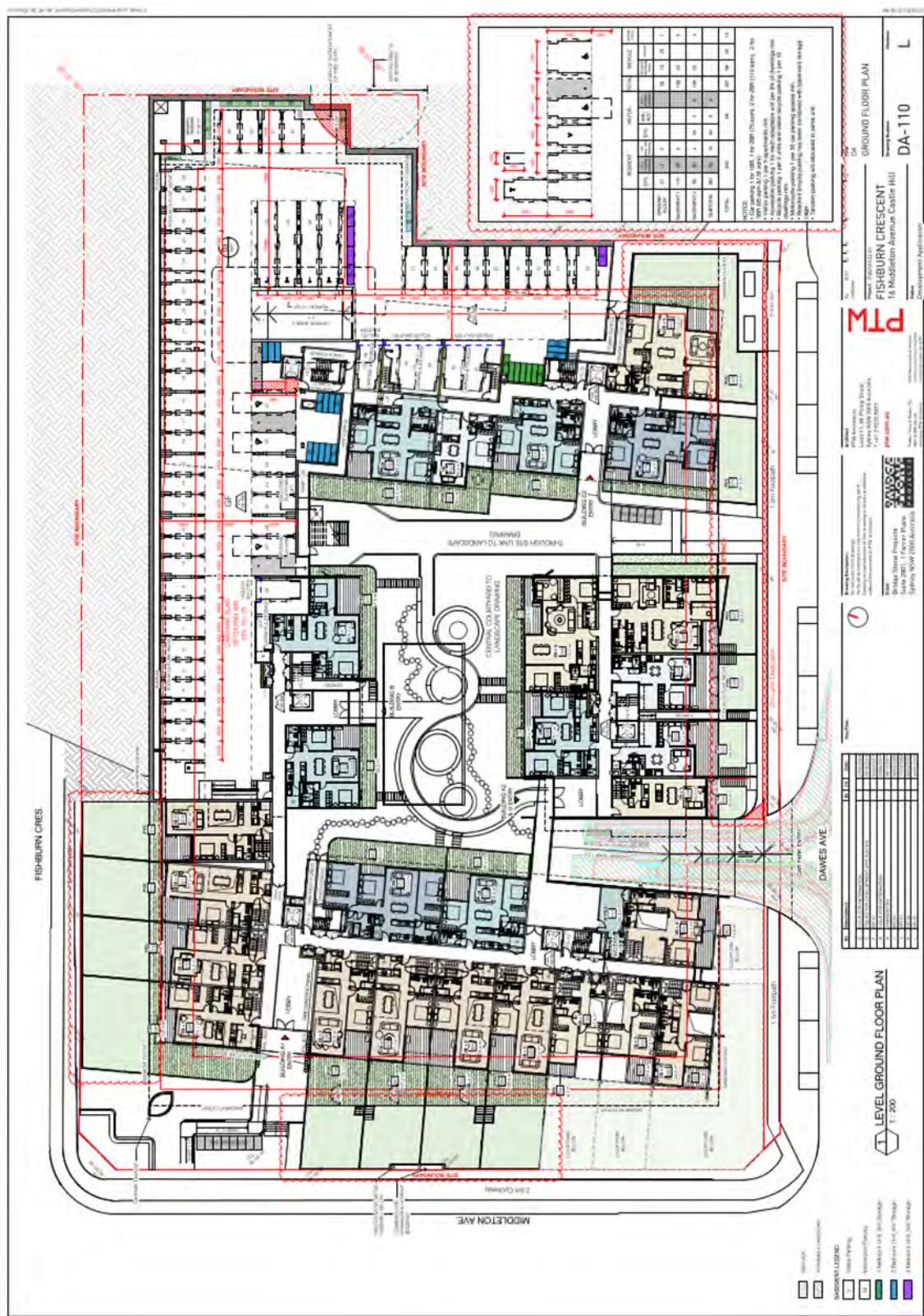
3.2 Masterplan
Plan 00000000000000000000000000000000

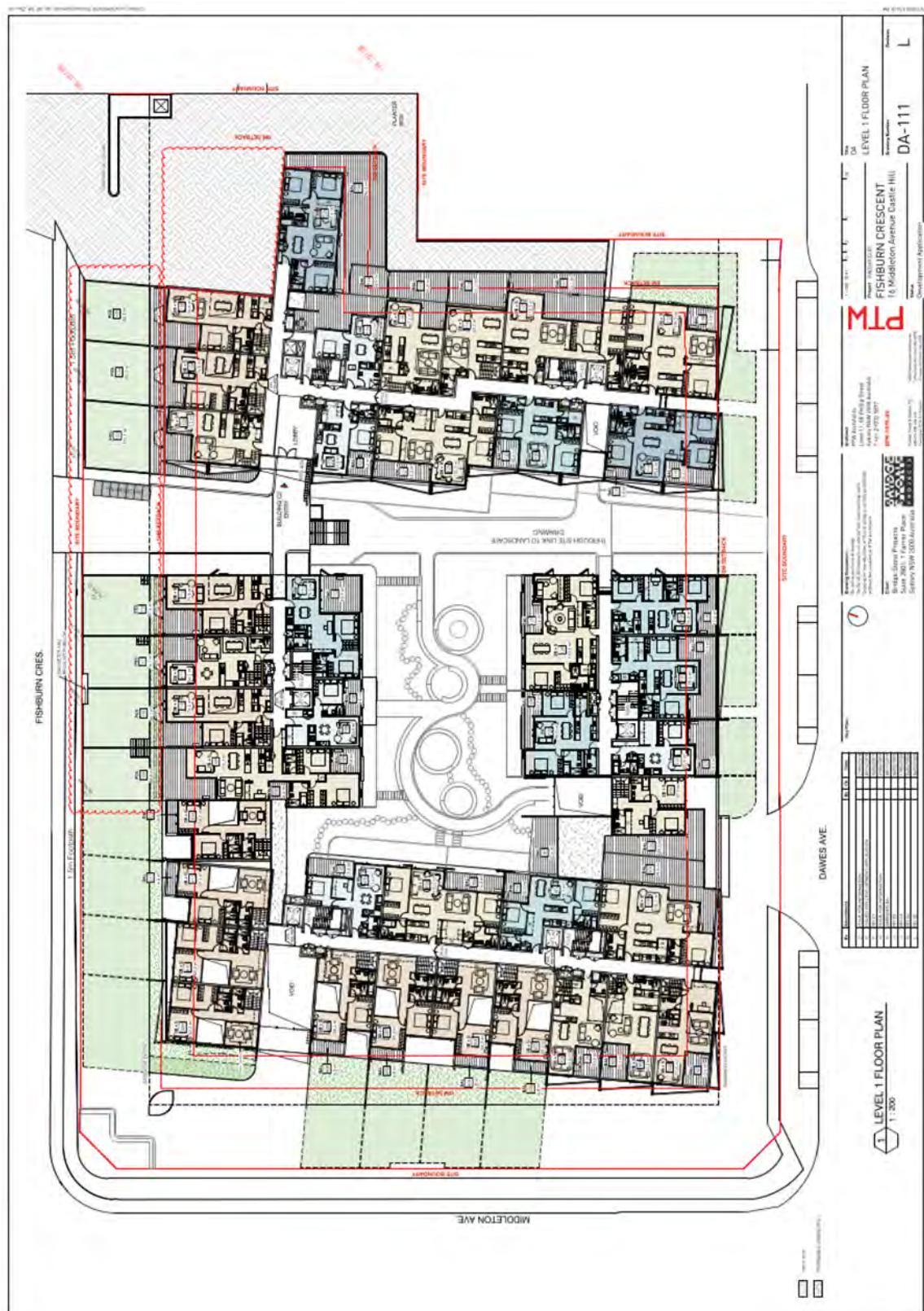


ATTACHMENT 8 – FLOOR PLANS

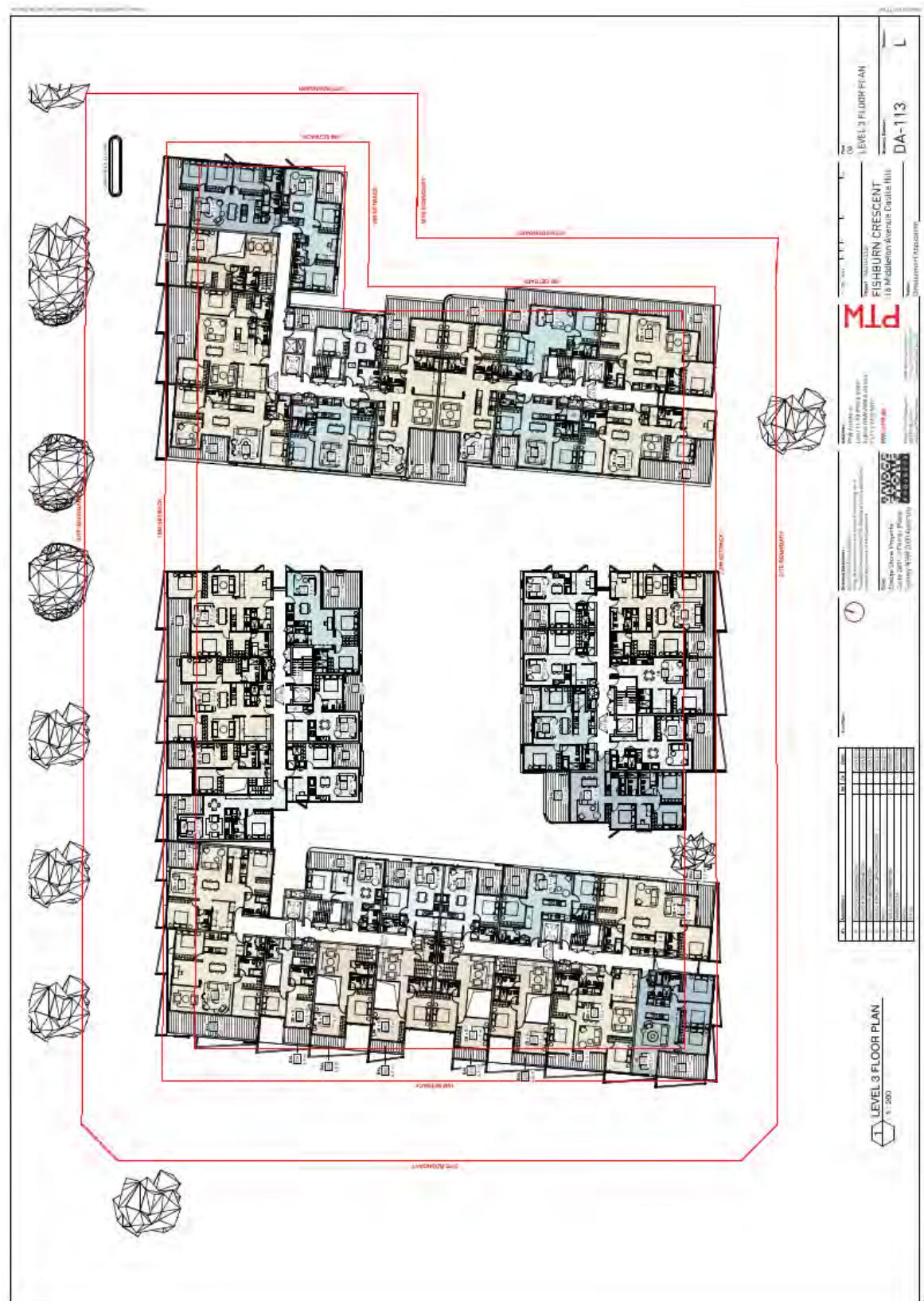




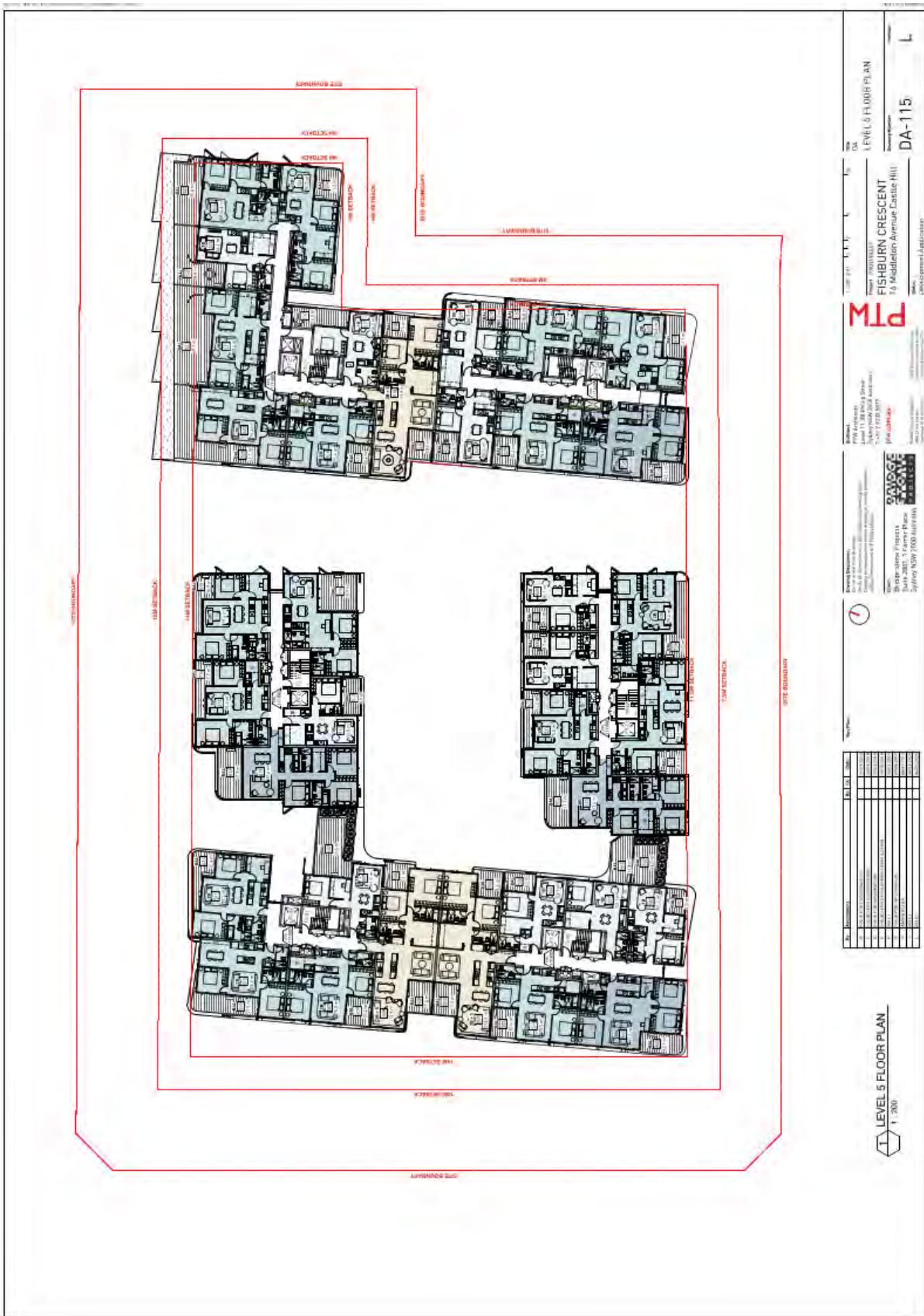


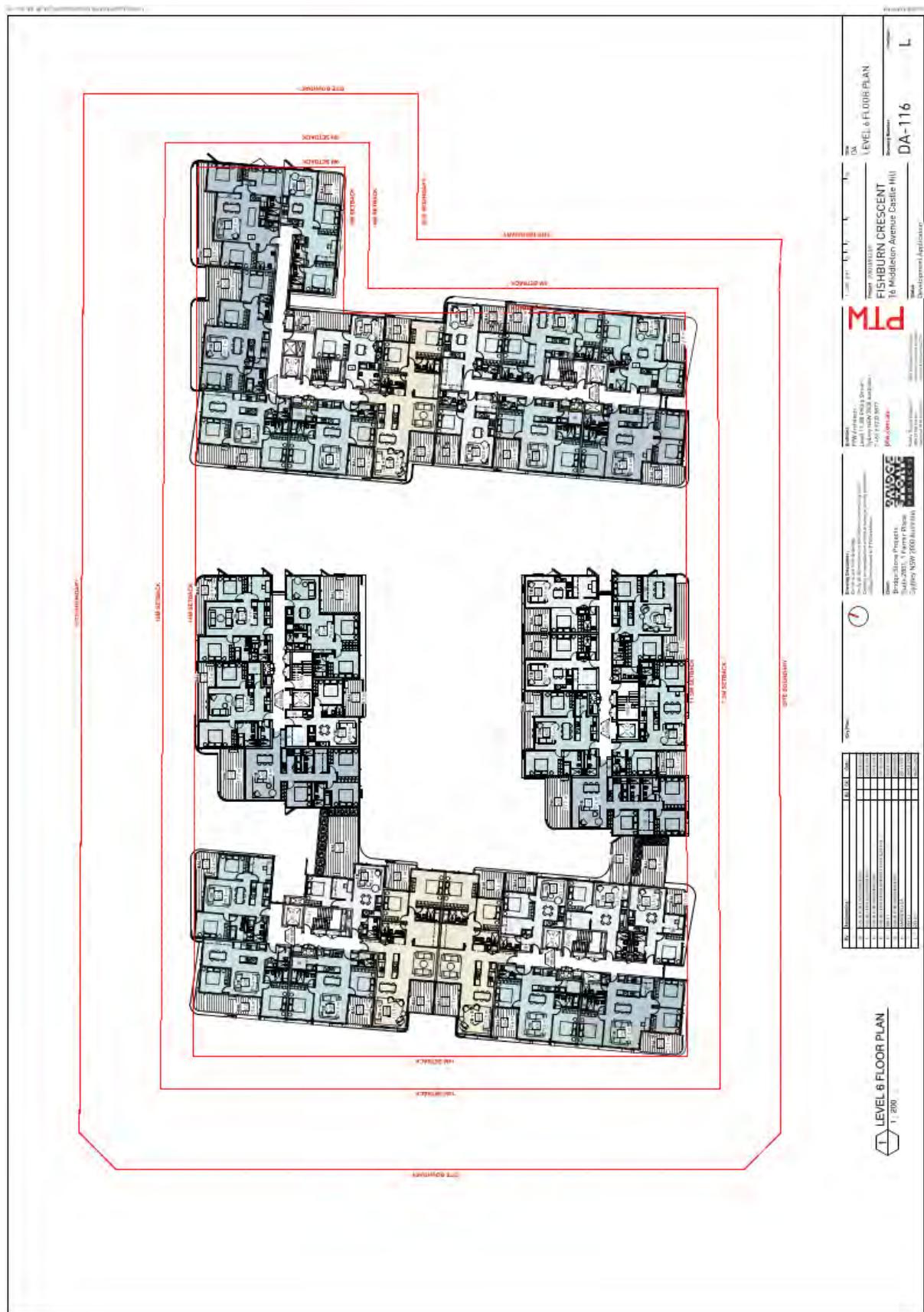


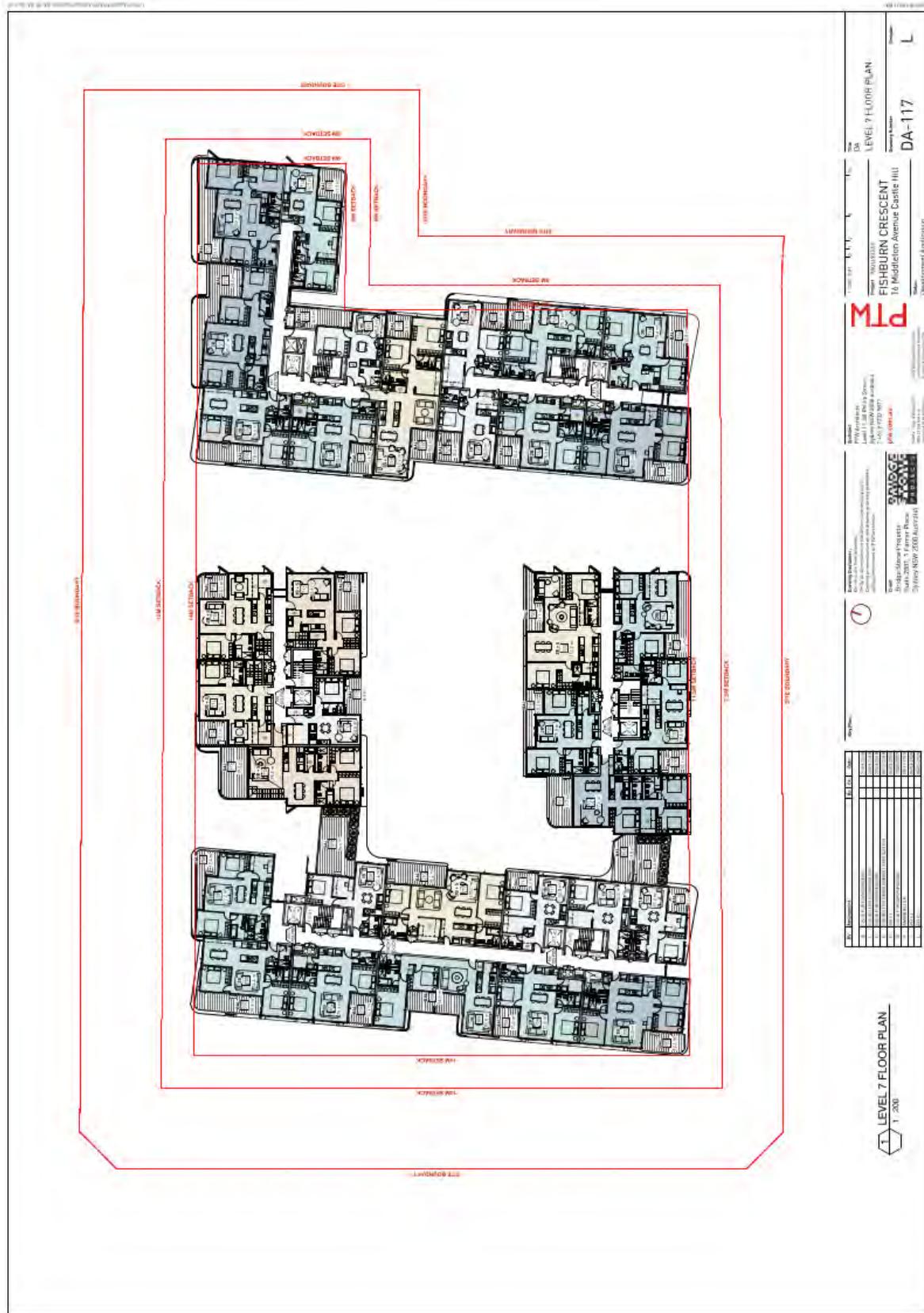


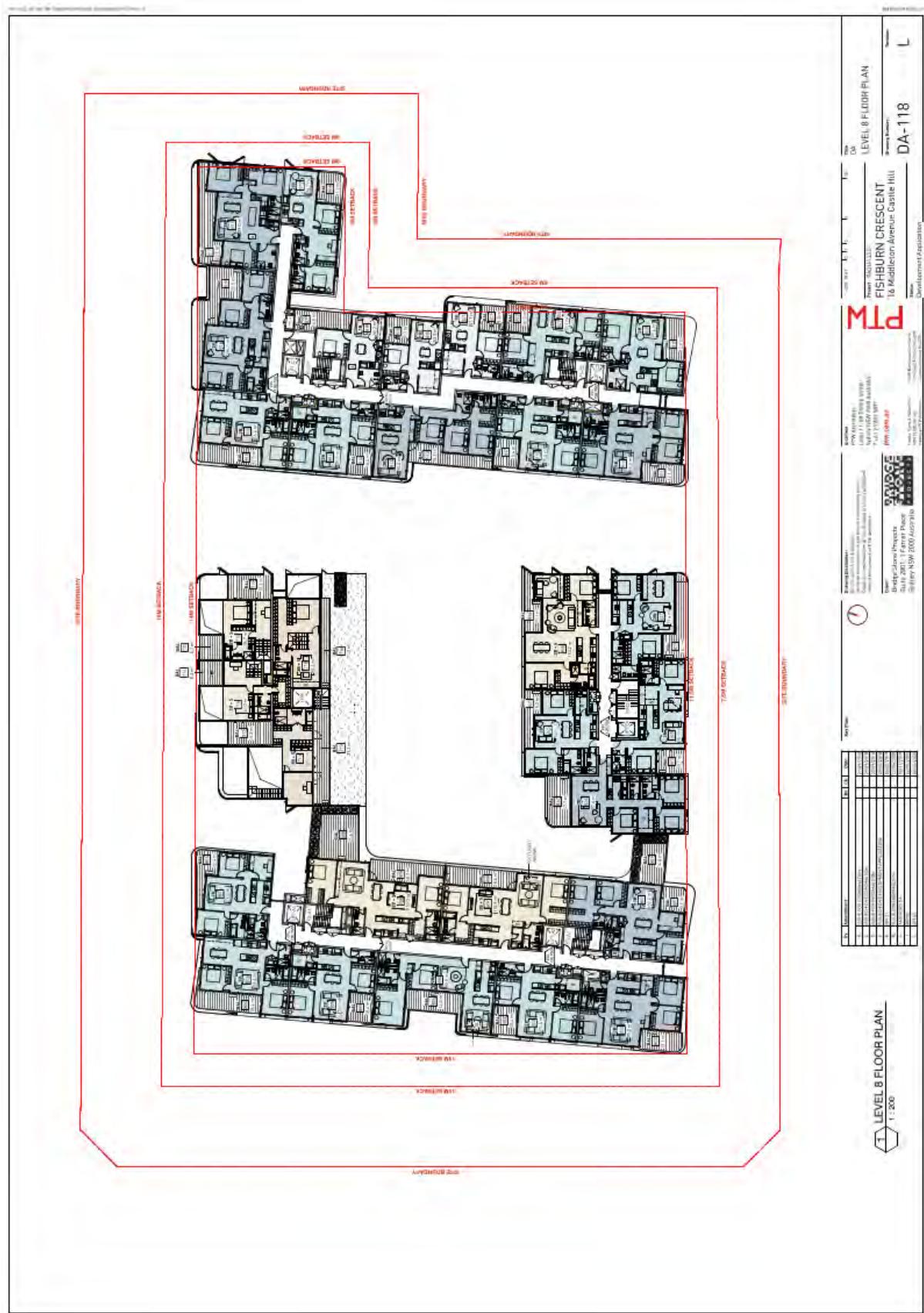


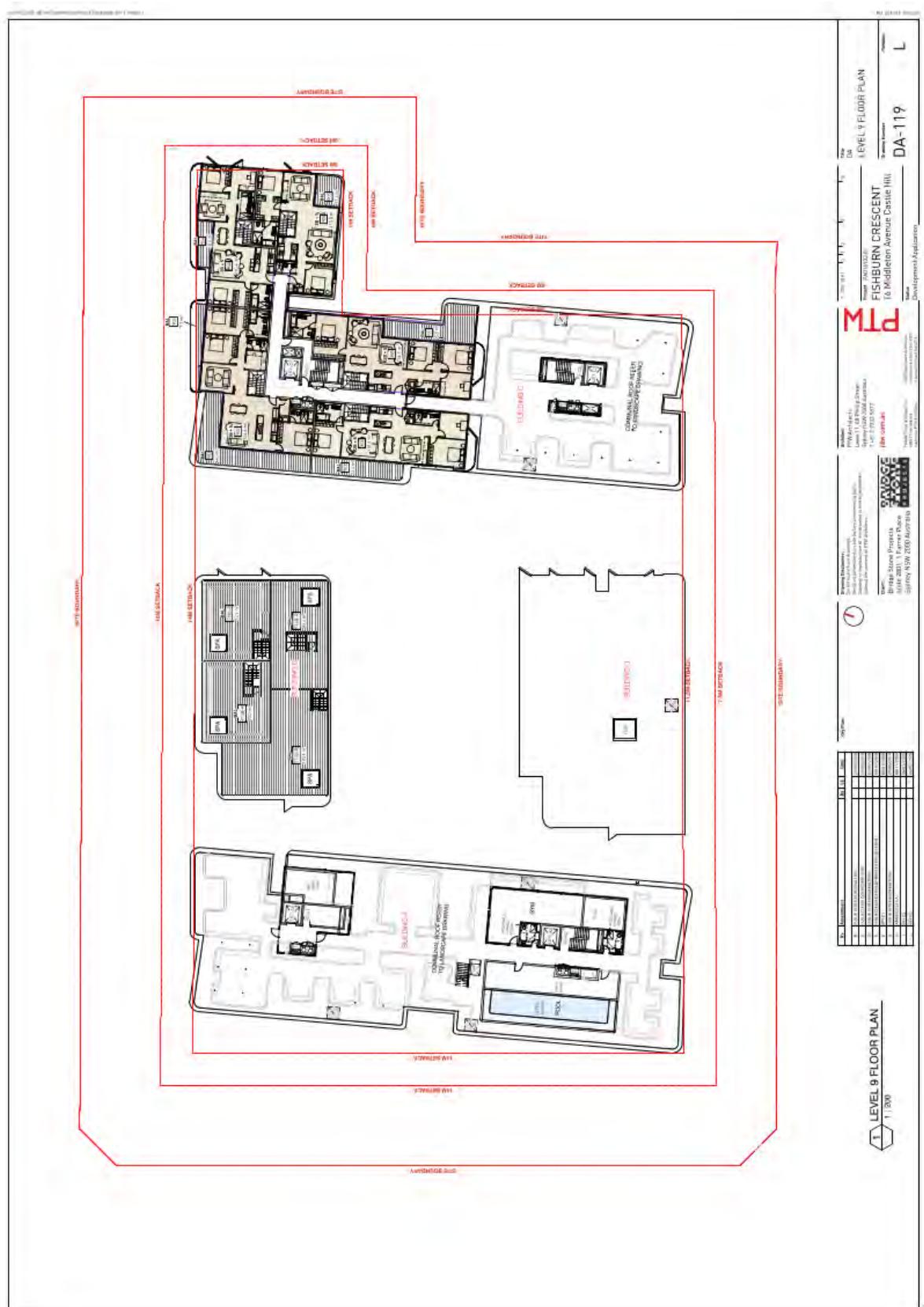


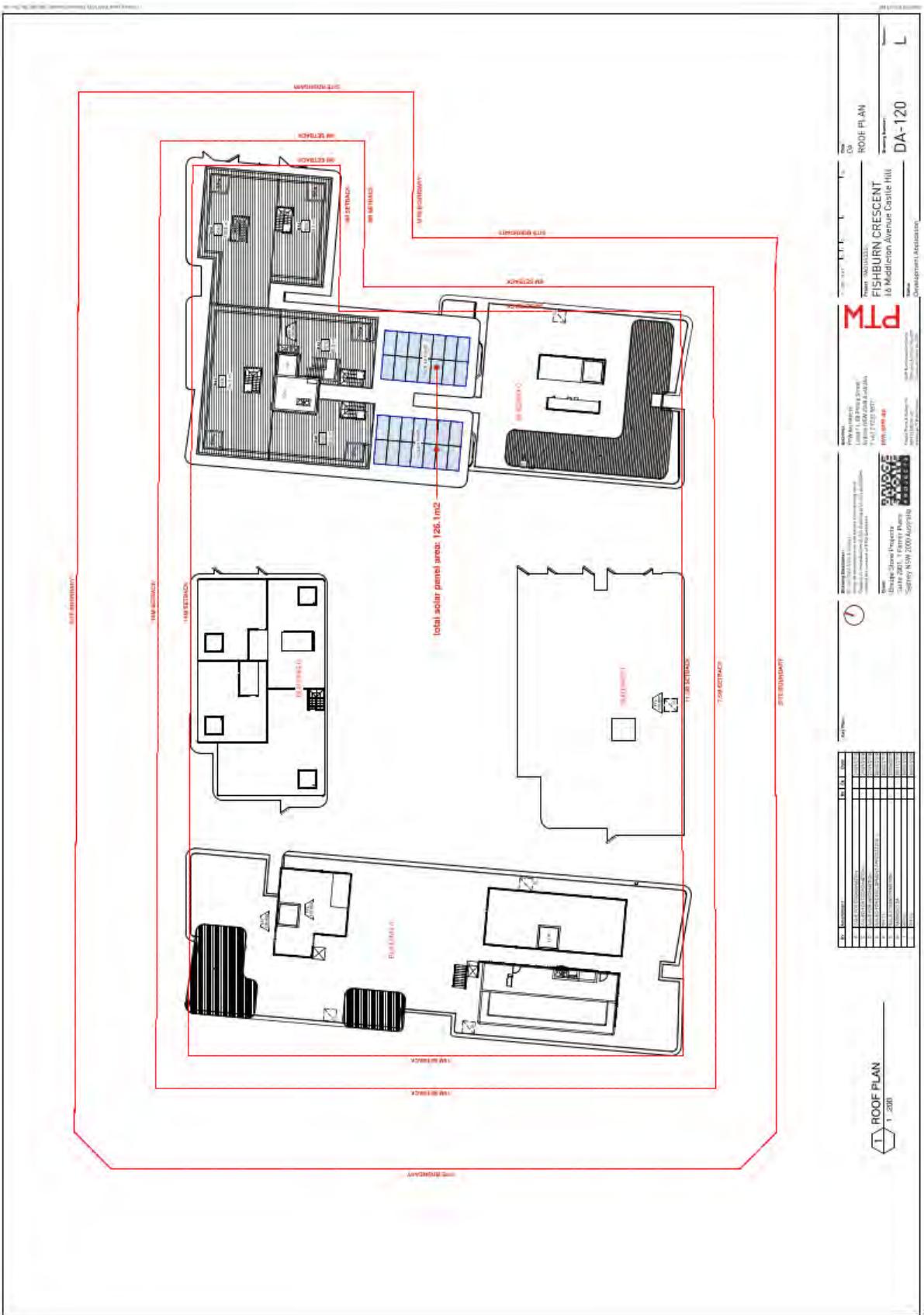




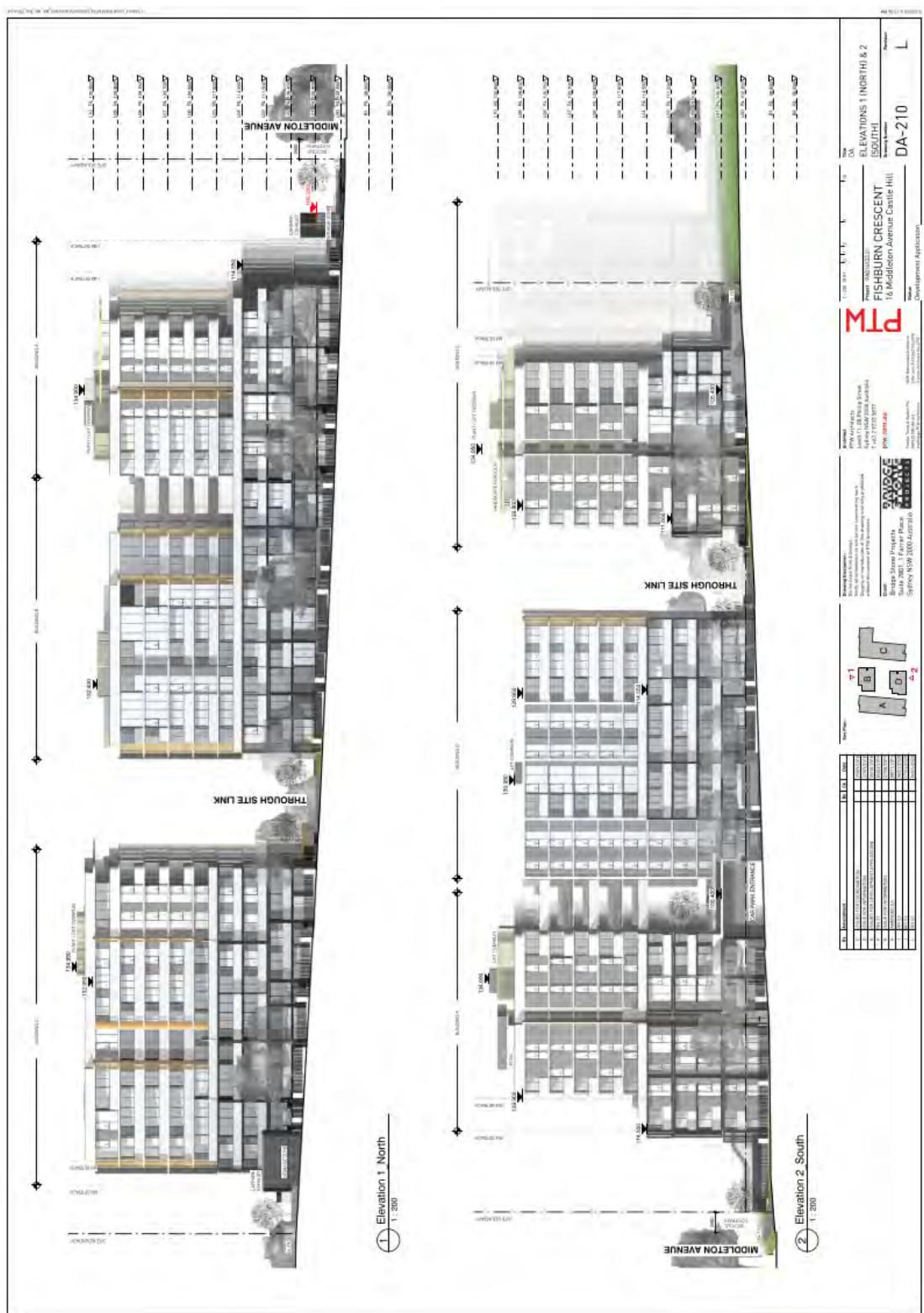


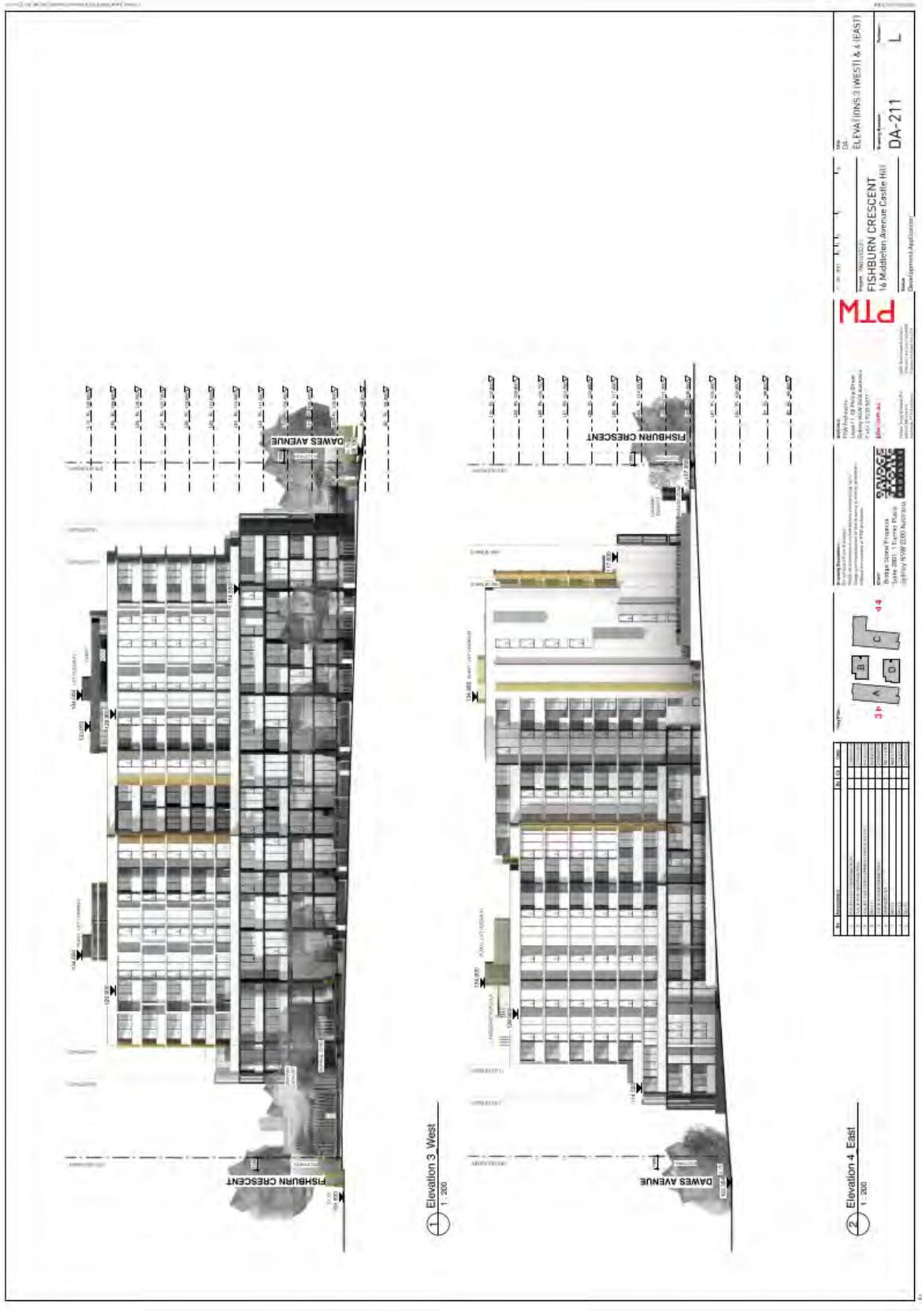


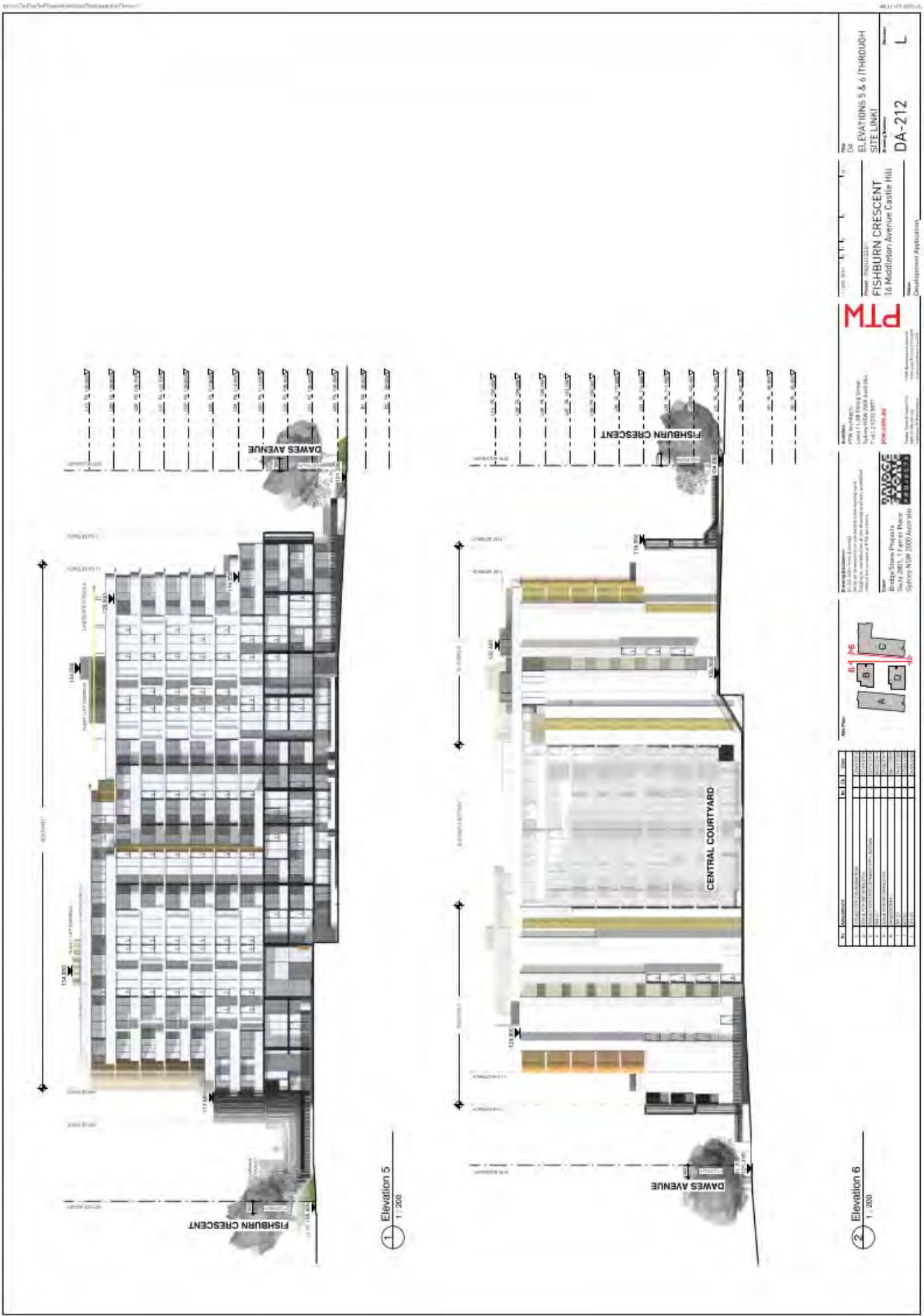


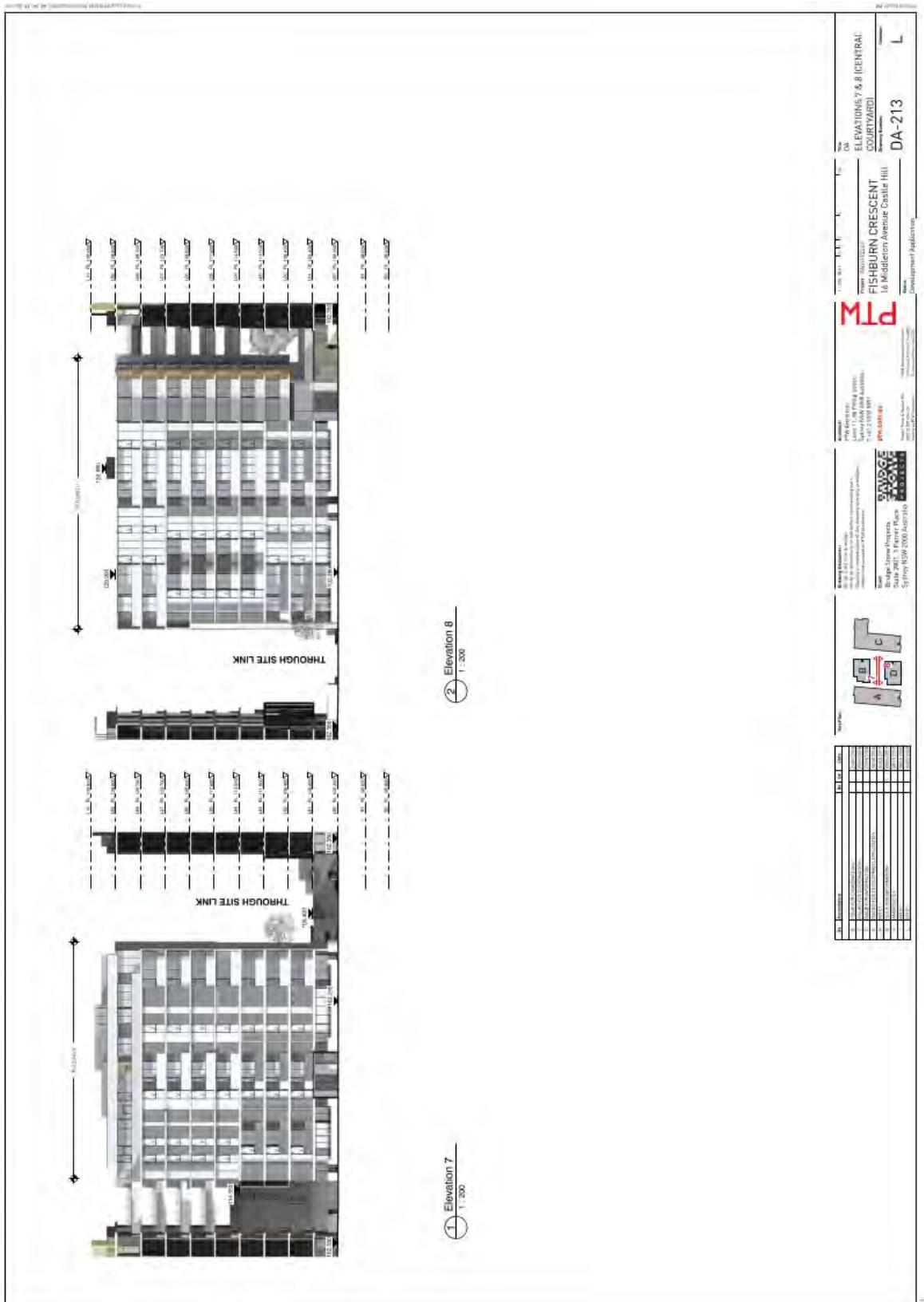


ATTACHMENT 9 – ELEVATIONS



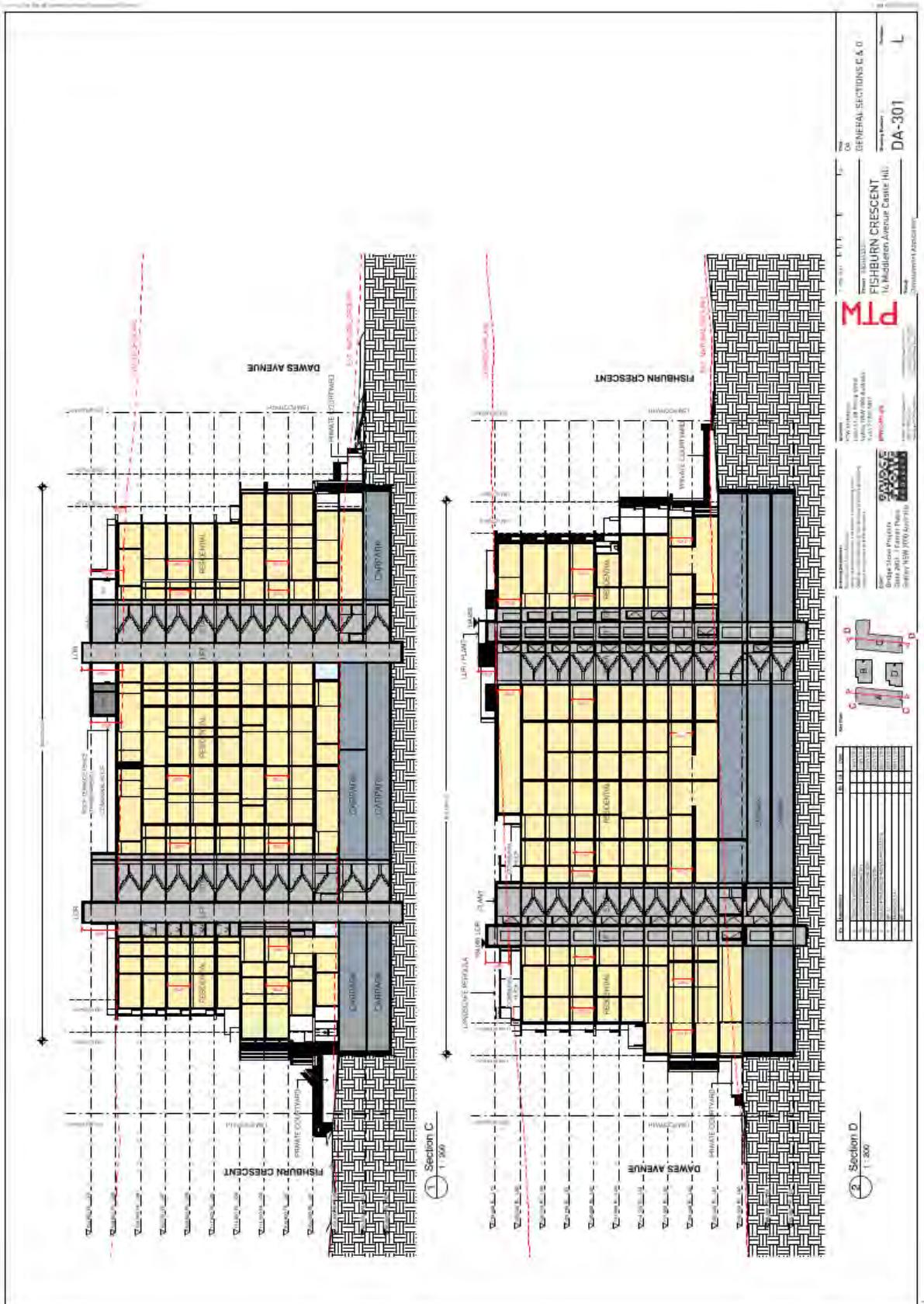


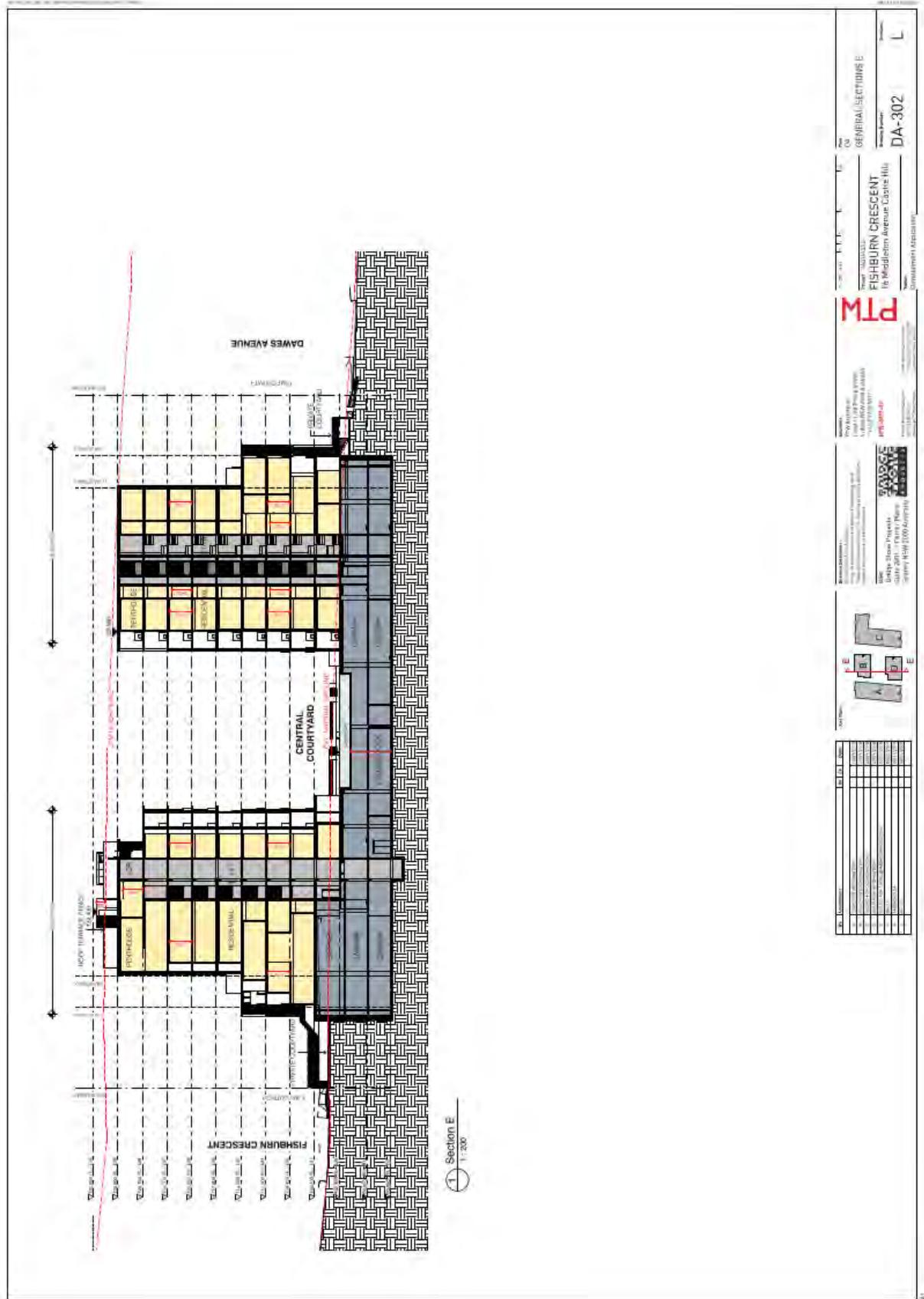




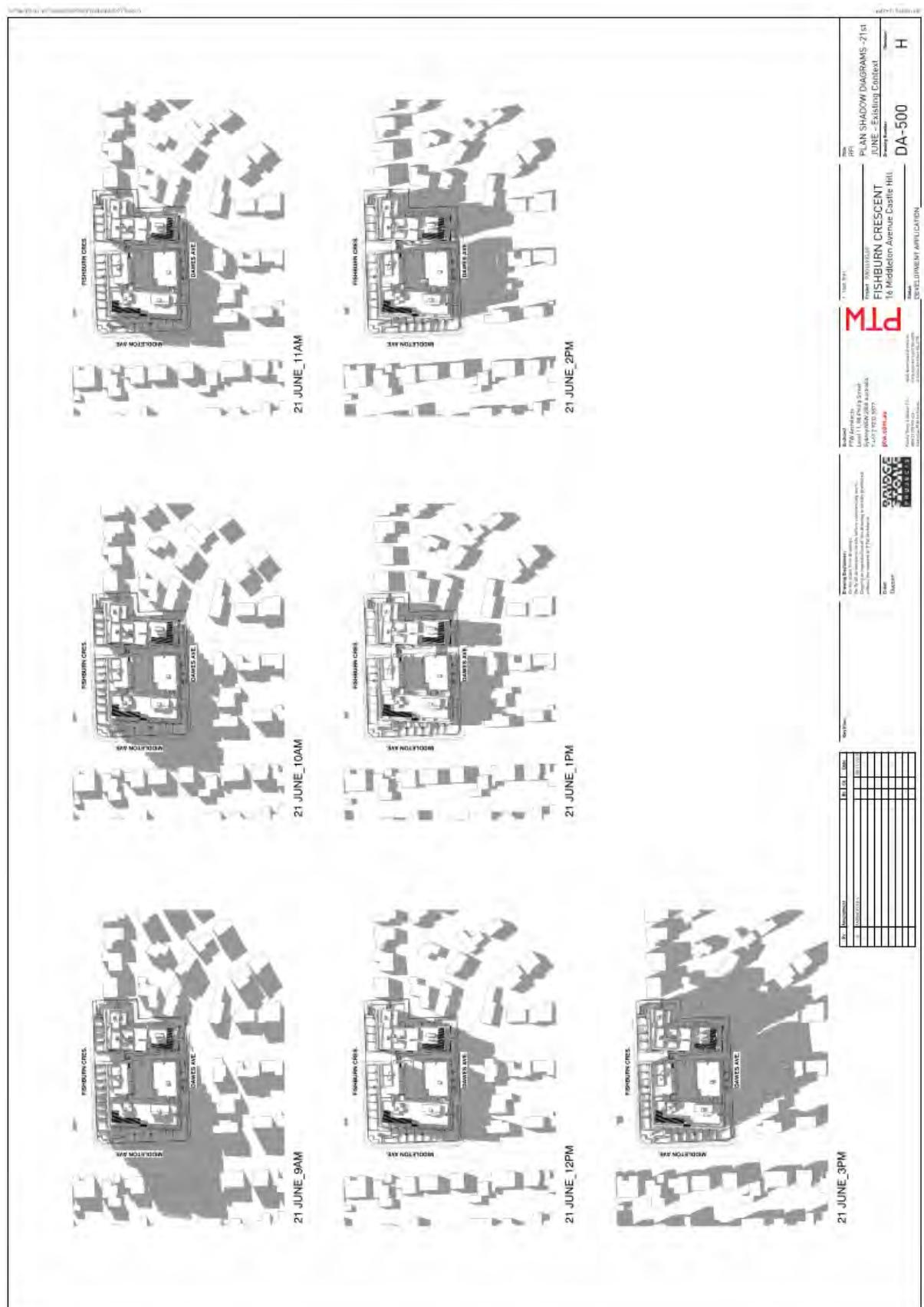
ATTACHMENT 10 – SECTIONS

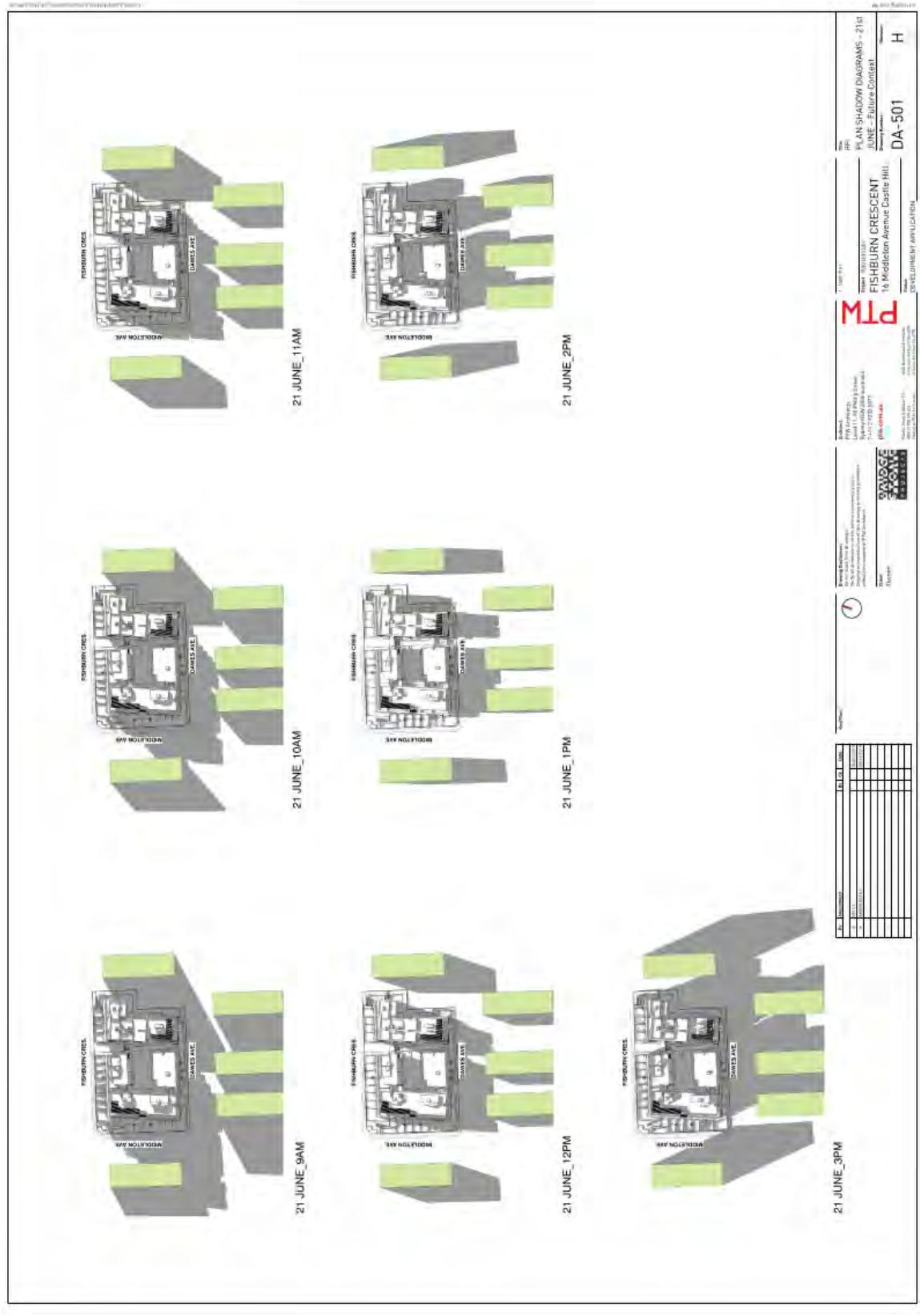




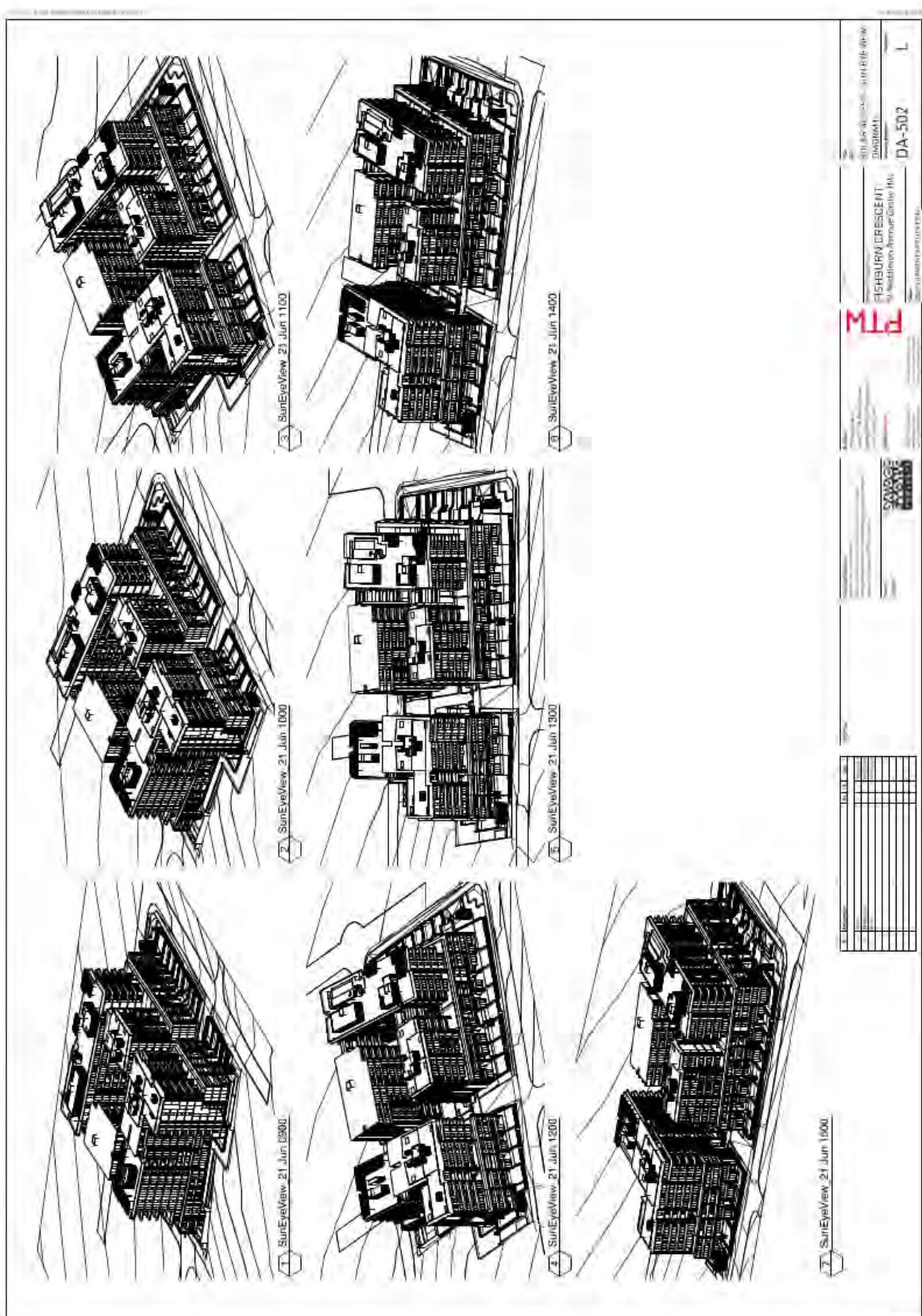


ATTACHMENT 11 – SHADOW DIAGRAMS

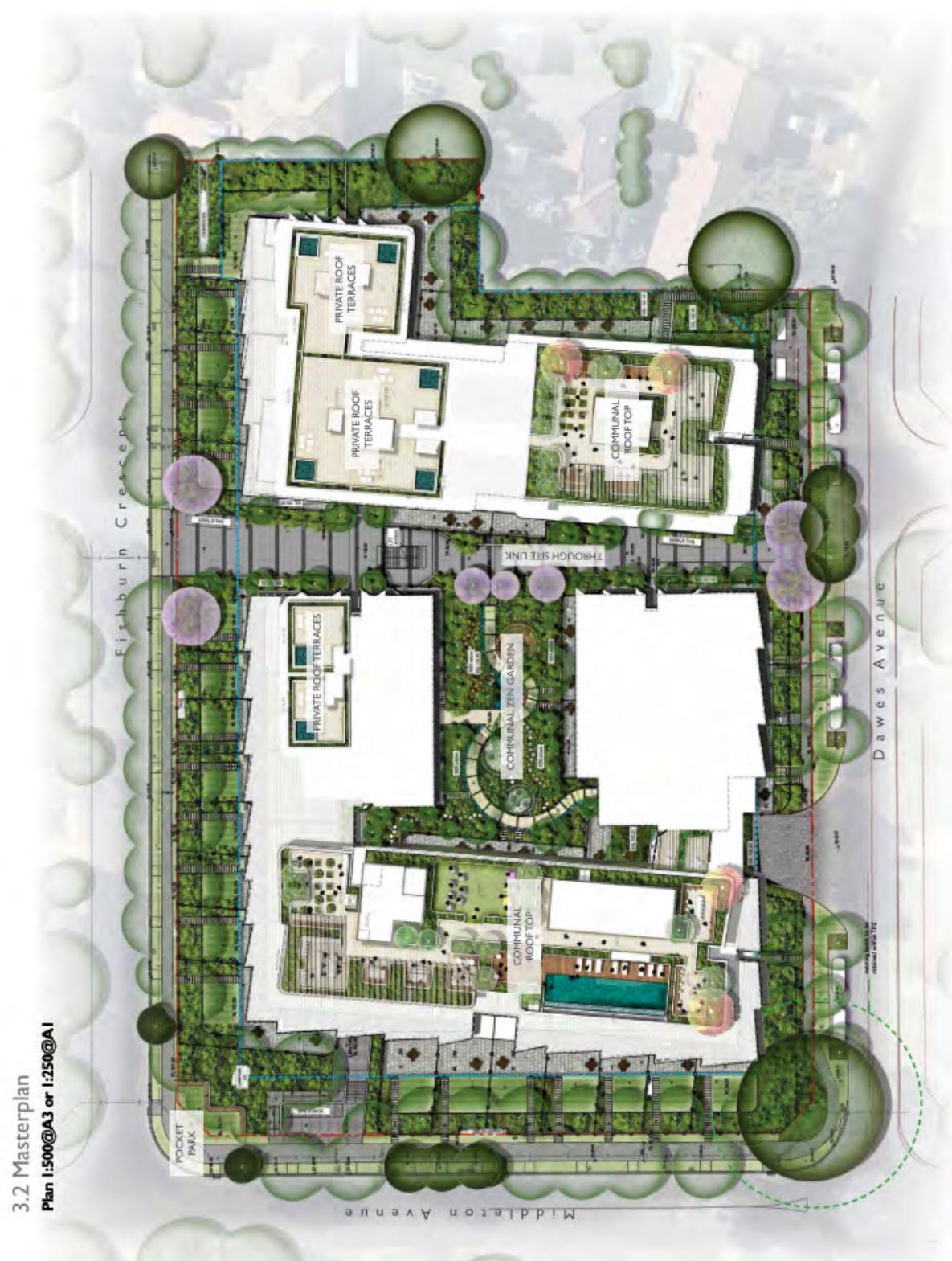




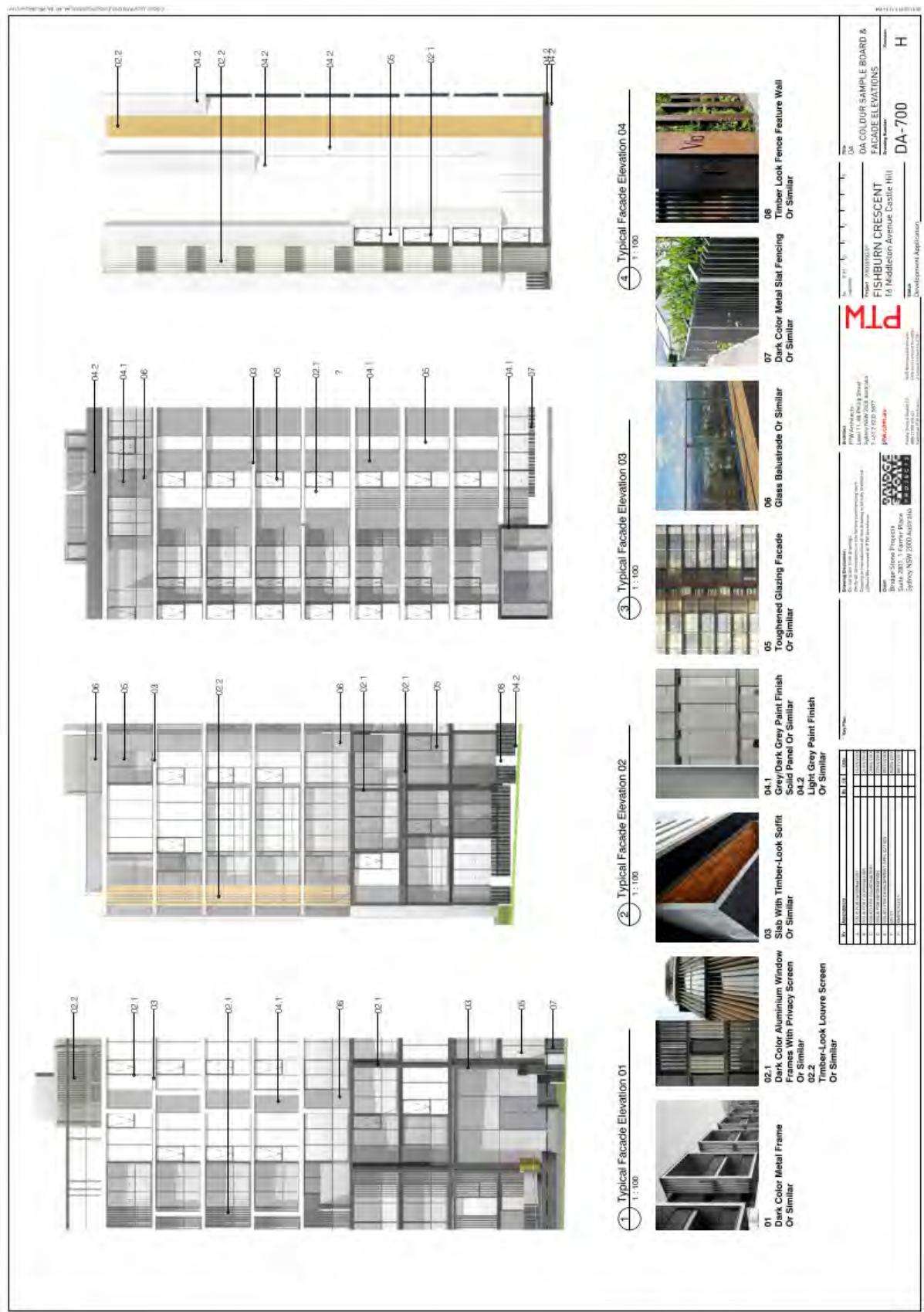
ATTACHMENT 12 – SUN EYE DIAGRAMS



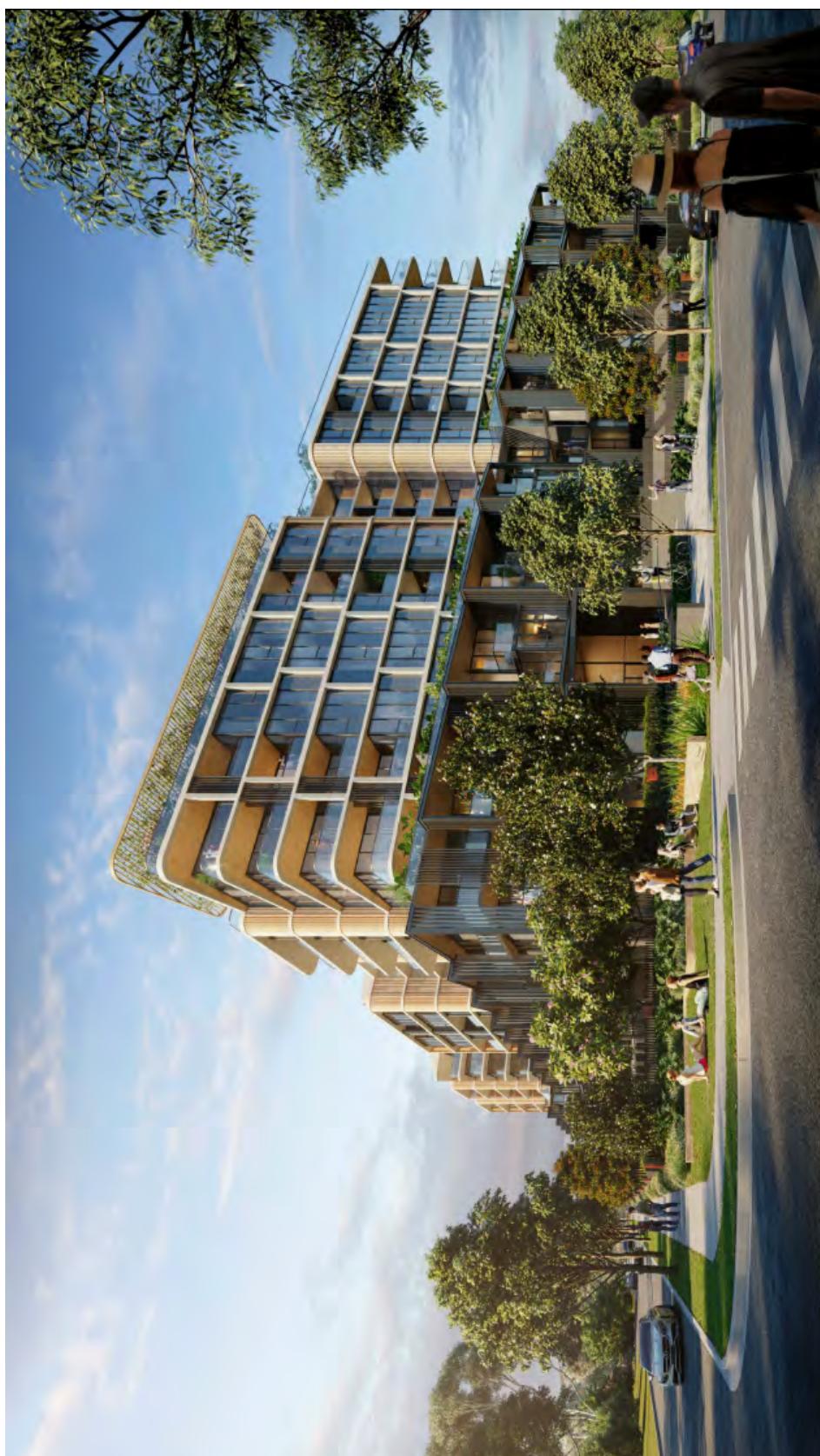
ATTACHMENT 13 – LANDSCAPE PLAN



ATTACHMENT 14 – FINISHES SCHEDULE



ATTACHMENT 15 – PERSPECTIVES





ATTACHMENT 16 – CLAUSE 4.6

10 December 2019

Ref: WTJ18-246



**Amended Clause 4.6 Variation
– Height of Building**

3, 5, 7 & 9 Fishburn Crescent
14 & 16 Middleton Avenue
37, 39, 41, 43 & 45 Dawes Avenue

Prepared by Willowtree Planning Pty Ltd on
behalf of Bridgestone Projects Pty Ltd

December 2019

A national town planning consultancy
www.willowtreeplanning.com.au

Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building

3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

Document Control Table

Document Reference:	Addendum Clause 4.6 Variation – Height of Building		
Date	Version	Author	Checked By
9 October 2018	Draft 1	A Smith	T Cook
5 February 2019	Amended Clause 4.6 V1	A Smith	T Cook
10 December 2019	Amended Clause 4.6 V2	A Smith	T Cook

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Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building

3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

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Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building
3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

PART A PRELIMINARY

1.1 INTRODUCTION

This Clause 4.6 Variation Request has been prepared in support of a Development Application (DA) for the redevelopment of the Site for an 9-10 storey residential flat building, comprising 296 dwellings. A through-site link in a north-south orientation, with highly activated edges bringing diversity and 24-hour quality amenity to the Site. The proposed development application will provide significant value to the Showground Station Precinct.

The Site comprises several lots with a combined area of **10,577m²** as follows:

Table 1 | Land Details

Address	Legal Description
3 Fishburn Crescent	Lot 34 DP 247890
5 Fishburn Crescent	Lot 33 DP 247890
7 Fishburn Crescent	Lot 35 DP 594083
9 Fishburn Crescent	Lot 36 DP 594083
14 Middleton Avenue	Lot 35 DP 247890
16 Middleton Avenue	Lot 36 DP 247890
37 Dawes Avenue	Lot 28 DP 255722
39 Dawes Avenue	Lot 34 DP 594083
41 Dawes Avenue	Lot 32 DP 592887
43 Dawes Avenue	Lot 31 DP 592887
45 Dawes Avenue	Lot 45 DP 592887

The proposed non-compliances are with the following development standards under The Hills Shire Local Environmental Plan 2012 (THLEP 2012):

• Clause 4.3 Height of Building

This Variation Request has therefore been prepared in accordance with the requirements of Clause 4.6 of THLEP 2012, which include the following objectives:

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

1.2 PROPOSED NON-COMPLIANCES

Under the provisions of Clause 4.3 in THLEP 2012, the Site is subject to a maximum building height of **27m**. The proposed development would result in a *maximum* building height of **32.03 metres (Building A)**. The proposed development therefore exceeds the Clause 4.3 Height of Buildings control of 27m by **18.6%**. It is important to note however that this exceedance represents the highest point of all structures being the lift overrun. Removing consideration of rooftop plant and lift overruns, the height point of the building is **30.48m**.

Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building

3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

Table 2 | Summary of Building Height Non-compliances

Building	Location	THLEP 2012 Development Standard	Max. Building Height	Non-compliance
Building A	North West Corner			
	Lift Overrun	27m	31.43m	4.430m (16.4%)
	Communal Roof	27m	30.484m	3.484m (12.9%)
	Slab	27m	27.154m	0.154m (0.57%)
Building A	South West Corner			
	Lift Overrun	27m	32.03m	5.03m (18.6%)
Building B	POS Stair Roof	27m	27.948m	0.948 (3.5%)
Building C	North East			
	Lift Overrun/plant	27m	29.130m	2.130m (7.9%)
	South East			
	Lift Overrun/Plant	27m	29.875m	2.875m (10.6%)
Building D	Lift Overrun	27m	28.472m	1.472m (5.45%)

It is important to note that the majority of the building which exceeds 27m is in relation to the following:

- a sloping topography; and
- allowance for lift overruns and architectural features on the rooftop.

This is further discussed and illustrated in the ensuing sections.

1.3 STRATEGIC PLANNING JUSTIFICATION

Under an alternative building height-compliant scenario, the built form potential of the site would be under-realised. It is furthermore submitted that a hypothetical building height-compliant building at the site would:

- Not achieve an improved design outcome compared to that proposed;
- Not result in an improved streetscape or amenity outcome compared to that proposed;
- Not reduce any perceived environmental impacts compared to that proposed;
- Not appropriately serve the needs of the local community;
- Result in an outcome which would not satisfy the objectives of the site's zoning to the same extend as that proposed in relation to encouraging high density residential development to the local community;
- Result in an outcome which does not respond as effectively to the future housing targets under the *Central City District Plan* (District Plan) and *draft Local Strategic Planning Statement* (LSPS).

This Clause 4.6 Variation Request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards under THLEP 2012. It considers various planning controls, strategic planning objectives and existing characteristics of the site, and concludes that the proposed building height non-compliance is the best means of achieving the objective of encouraging orderly and economic use and development of land under section 5 of the *Environmental Planning and Assessment Act 1979*.

Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building

3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

PART B THRESHOLDS THAT MUST BE MET

2.1 CLAUSE 4.6 OF THLEP 2012

In accordance with Clause 4.6 of THLEP 2012 Council is required to consider the following Subclauses:

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

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

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

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

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

- whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- the public benefit of maintaining the development standard, and*
- any other matters required to be taken into consideration by the Secretary before granting concurrence.*

These matters are responded to in **Part D** of this Clause 4.6 Variation.

2.2 CASE LAW

Relevant case law on the application of the standard Local Environmental Plan Clause 4.6 provisions has established the following principles:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, which emphasised that the proponent must address the following:
 - Compliance with the development standard is unreasonable and unnecessary in the circumstances;
 - There are sufficient environmental planning grounds to justify contravening the development standard;
 - The development is in the public interest;
 - The development is consistent with the objectives of the particular standard; and
 - The development is consistent with the objectives for development within the zone;
- *Randwick City Council v Micali Holdings Pty Ltd* [2016] NSWLEC 7, which held that the degree of satisfaction required under Subclause 4.6(4) is a matter of discretion for the consent authority;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827, which emphasized the need to demonstrate that the objectives of the relevant development standard are nevertheless achieved, despite the numerical standard being exceeded. Justification is then to be provided on environmental planning grounds. Wehbe sets out five ways in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:
 - The objectives of the standard are achieved notwithstanding the non-compliance with the standard;

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

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

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

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

- a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning; and
- b) the public benefit of maintaining the development standard; and
- c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

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 - The development is consistent with the objectives of the particular standard; and
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- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
- The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

• *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* where Preston CJ clarified the appropriate approach to the consideration of Clause 4.6. The importance of the judgment is that the Clause 4.6 submission does not require that developments do not comply with the applicable development standard must have a neutral or better environmental planning outcome than a development that does not.

These matters are responded to in **Part D** of this Clause 4.6 Variation.

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PART C STANDARD BEING OBJECTED TO**3.1 CLAUSE 4.6 HEIGHT OF BUILDING OF THLEP 2012**

The development standard being requested to be varied is **Clause 4.3 Height of Building** of THLEP 2012.

Table 3 outlines the proposed Clause 4.6 Variation to THLEP 2012 **Clause 4.3**.

Table 3 Clause 4.6 Variation					
Building	Location	THLEP 2012 Development Standard	RL	Proposed Maximum Building Height	Proposed Non-Compliance
Building A	North-West Corner				
	Lift Overrun	27m	134,000 - 102,570	31.43m	4.430m (16.4%)
	Plant Room	27m	132,850 - 102,366	30.484m	3.484m (12.9%)
	Communal Roof	27m	129,900 - 102,746	27.154m	0.154 (0.57%)
	South-West Corner				
	Lift Overrun	27m	134,000 - 101,97	32.03m	5.030m (18.6%)
	Communal Gym Roof	27m	132,850 - 102,088	30.762m	3.762m (13.9%)
	Roof slab	27m	129,900 - 101,638	28.262m	1.262m (4.7%)
Building B	P,O,S stair roof	27m	132,400 - 104,452	27.948m	0.948m (3.5%)
Building C	North East				
	Lift Overrun	27m (105.820)	134,000 - 105.820	28.180m	1.180m (4.37%)
	Plant Room	27m (105.820)	134,950 - 105.820	29.130m	2.130 (7.9%)
	South East				
	Lift Overrun	27m (104.175)	134,050 - 104.175	29.875m	2.875m (10.6%)
	Landscape Pergola	27m (103.565)	132,700 - 103.565	29.135m	2.135 (7.9%)
	Roof slab	27m (103.404)	129,800 - 103.404	26,396m	-
Building D	Lift Overrun	27m (102.478)	130,950 - 102.478	28,472m	1.472m (5.45%)

The proposed development seeks approval for the demolition of existing structures and the construction of a residential flat building, comprising 296 dwellings. The proposed development would result in a *maximum* overall building height of **32.03m (18.6% variation)** under Clause 4.3 of THLEP 2012.

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Residential Flat Building
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Figure 1 and **Figure 2** provides a comparative analysis of the extent of the variation from the **27m** height plane, between the original scheme and the amended scheme.

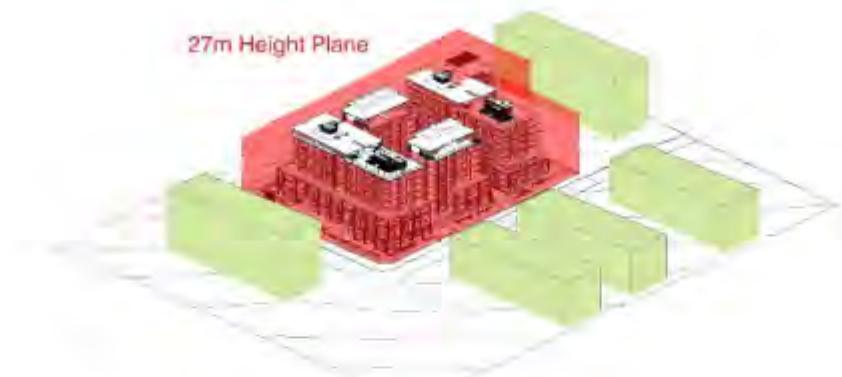


Figure 1. Original Height Plane (Source: PTW Architects, 2018)

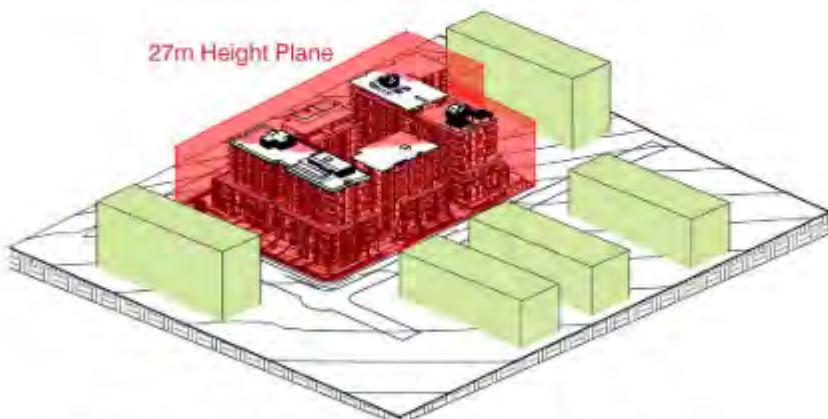


Figure 2. Revised Scheme Height Plane (Source: PTW Architects, 2019)

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Residential Flat Building

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Figure 3 to Figure 6 show the elevations of the proposed building height when viewed from the public domain.

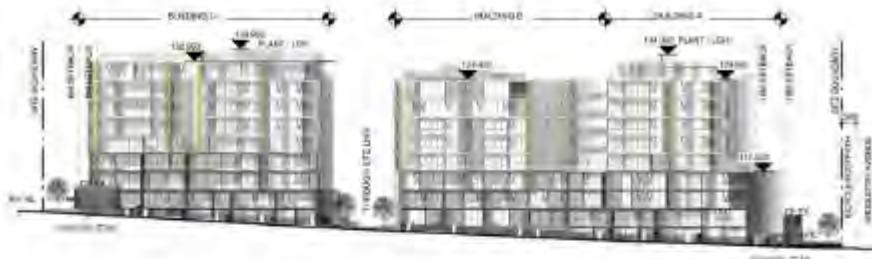


Figure 3. North Elevation – Fishburn Crescent (Source: PTW Architects, 2019)

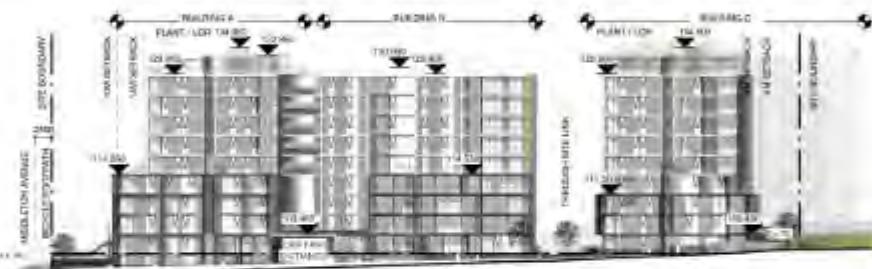


Figure 4. South Elevation – Dawes Avenue (Source: PTW Architects, 2019)

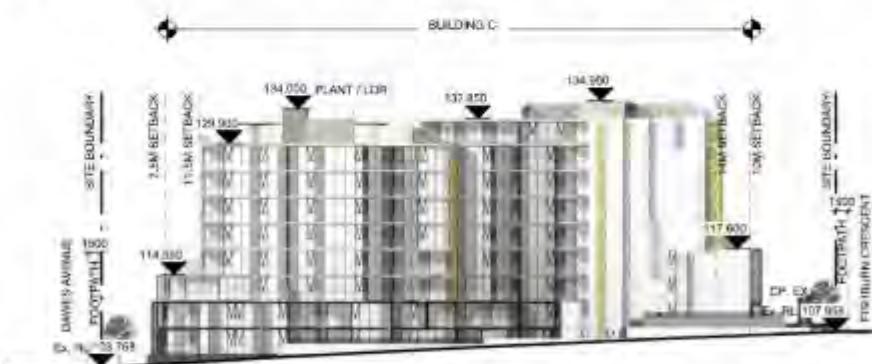


Figure 5. East Elevation (Source: PTW Architects, 2019)

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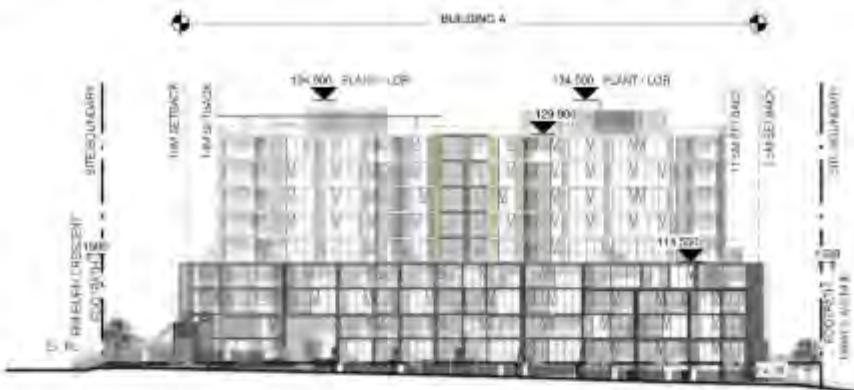


Figure 6. Western Elevation – Middleton Avenue (Source: PTW Architects, 2019)

The majority of the building which exceeds 27m is in relation to the following:

- a sloping topography; and
- allowance for lift overruns and architectural features on the rooftop.

The exceedances to the height of building development standard is shown in Error! Reference source not found. and Error! Reference source not found.,



Figure 7. Section of Building A (Source: PTW Architects, 2019)



Figure 8. Section of Building C (Source: PTW Architects, 2019)

As evident above, the majority of the non-compliance results from the inclusion of lift overruns and plant services, and light weight fence. All lift overruns and plant services are positioned in a centralised location to not be viewed from street level.

The elements which protrude through the 27m height plane are significantly setback from the street edge so that the building appears as a nine (9) storey building.

The proposed variation facilitates a higher level of amenity when compared to a scheme with strict compliance as it allows for greater communal open space at the ground level; improved building

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separation; as well as improved visual privacy and acoustic outcomes, whilst still making use of the available gross floor area (GFA) across the Site.



Figure 9. View of Middleton Avenue frontage (Source: Involve Solutions, 2019)

The proposed distribution of floor space and massing of the building across the Site is the result of a considered analysis of the context of the Site and the desire to deliver a positive urban design outcome in accordance with the Showground Precinct objectives. The proposed building height delivers a diverse scale and built form which generates a high level of visual interest with modulation to the skyline.

The Site has a significant fall from north to south and the development has been designed to respond to the gradient across the Site in a manner which ensures that all street edges are appropriately addressed and the internal ground floor plane is functional. In this sense, if the ground floor plane were to be stepped to follow the gradient of the Site, this would not allow for a continuous and delineated podium structure and would instead result in a less desirable design outcome; the gradient from the north-east corner of RL107.85 to the south west corner of RL 99.2 results in a significant gradient fall of 8.65m. The fall of the Site, stepping of the building and podium level, achieves a highly modulated built form outcome which serves to reduce the apparent bulk and mass of the development and a visually dynamic outcome. Overall, the buildings exhibit a high level of environmental performance, provide a high level of amenity and an attractive contemporary architectural expression.

There are no adverse impacts in terms of overshadowing, views, visual and acoustic privacy to adjacent sites resulting from the proposed variation to the building height development standard. A comparative analysis has previously been prepared by PTW and issued to Council showing the differences between a compliant building height and the proposed development. The comparative analysis confirmed a compliant scheme has no net benefit with respect to solar access and/or overshadowing improvements, both on-site and to adjoining properties.

As illustrated in **Figure 2** above, the building mass over the height limit equates to **1.58%** (previously **4.2%**) of the overall building mass. In terms of gross floor area (GFA), **0.43%** of the total GFA of the development is located in the area which exceeds the maximum building height. The proposed development comprises a GFA of **28,557.91m²**, with approximately **122.79m²** being

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located above the building height. The GFA comprising the 10th storey includes the following elements:

- Building A: Communal roof terrace and gymnasium;
- Building B: Communal roof terrace;
- Building C: Partial of upper level penthouse apartments;
- Building D: Not applicable.

The above represents a nominal amount in the context of the entire development which will result in no measurable environmental or amenity impacts on the streetscape or adjoining properties and demonstrated here within.

As a requirement of achieving the incentivised FSR, the proposal is to achieve the minimum unit size and mix of Clause 9.7 of THLEP 2012. As such, the proposal has elected to adopt larger apartment sizes, encouraged by THLEP 2012 bonus FSR provisions. These apartment sizes are significantly larger than the minimum *State Environmental Planning Policy No 65 (Apartment Design Guide)* (SEPP 65) requirement, as well as the standard RFB apartment sizes prescribed under THDCP 2012, and it is understood The Hills Shire Council have strongly advocated for larger apartments being the preferred design outcome. Notwithstanding the incentivised FSR available to the Site and the provision of larger apartments, it is evident that there is not a strict correlation between the FSR provisions and that of the height control. In this regard, it is considered reasonable that where developments satisfy site coverage, setback, communal open space and FSR controls, there should be a certain level of flexibility and dispensation applied to the building height requirements where there is no unreasonable environmental or amenity impacts evident.

Despite the numerical non-compliance for building height, the built form massing has been arranged to ensure a high level of solar access is achieved for the proposed dwellings (internally) being **70.61%**, whilst maintaining solar access to surrounding residential properties.

Overall, it is considered the proposed development will result in high quality architectural and urban design which is essential to set the high standard for the changing nature and context of the Showground Precinct.

In light of the above, the proposed built form and urban design outcome is considered subtle, diverse, and within the band width the of prescribed development controls of the Showground Precinct.

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PART D PROPOSED VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDING**4.1 OBJECTIVES OF THE CLAUSE 4.3 HEIGHT OF BUILDING STANDARD UNDER THLEP 2012**

A key determination of the appropriateness of a Clause 4.6 Variation to a development standard is the proposed development's compliance with the underlying objectives and purpose of that development standard. Indeed, *Wehbe v Pittwater Council* recognized this as one of the ways in which a variation to development standards might be justified (refer to **Section 2.2**). In *Four2Five Pty Ltd v Ashfield Council*, it was found that the proponent must demonstrate compliance with these objectives (refer to **Section 2.2**). Further, *Initial Action Pty Ltd v Wollahra Municipal Council [2018] NSWLEC 118* clarifies the appropriate approach to the consideration of Clause 4.6 (refer to **Section 2.2**).

Therefore, while the site is subject to a specified numerical control for Height of Building, the objectives and underlying purpose behind the development standard are basic issues for consideration in the development assessment process.

4.1.1 Height of Building

The objectives of Clause 4.3 under THLEP 2012 are responded to as follows:

- (a) *to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape.*

The proposed development will be one of the first key residential developments within the Showground Precinct and will form a benchmark for high level urban design. The prescribed development standards intend to increase housing opportunities and densities across the Showground Precinct, with increased building heights and floor space ratio (FSR). As such, the proposed development has captured the relevant planning controls in the desired built form outcome.

The proposed height of building is considered to be compatible with the envisaged future development in the Showground Station Precinct in that the development appropriately transitions to the surrounding sites and future proposed built form. The development locates taller built form to the north, stepping to the south, reducing the scale of the building envelopes with the interface of property to the south which has a prescribed maximum building height of 21m. The proposed design approach is consistent with the overall principle of height gradation which Council is seeking to enforce across the Showground Precinct.

The proposed building height in storeys is largely a reflection of the permissible incentivised maximum FSR for which the proposal achieves and demonstrates that the storey height controls for the Site do not correspond consistently with the maximum floor space ratio when applied to this Site. As such, the proposed FSR for the Site, at **2.7:1** is compliant; however, the maximum building height standards do not correspond with applicable FSR controls and a compliant scheme would thwart the achievement of the objectives of FSR and subsequently the height of building development standard.

Overall, the proposal provides a contemporary built form which appropriately considers the existing and future built form and streetscape surrounding the Site and provides a built form that responds to the objectives of the Showground Station Precinct in terms of both existing and desired future character. For these reasons, the proposal is considered to represent a development outcome and building height which would be compatible with adjoining development and overall streetscape.

- (b) *to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

The proposed apartment layout and orientation has been configured to ensure an appropriate level of privacy is achieved both within the Site and to neighbouring properties.

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Internal privacy between the proposed dwellings within the Site is achieved through appropriate building separation, as recommended in the ADG in terms of offsetting windows, and the implementation of privacy screening. In particular, where there are minor encroachments to internal separation, privacy screens have been implemented to mitigate any direct overlooking into adjoining residential dwellings, whilst ensuring adequate residential amenity continues to be achieved.

Each tower element has been designed to be separated from **6m** to **12m**. However, the revised design includes cantilevered balconies between Building A and Building B and Building A and Building D, and therefore the built form is technically considered as one building in the context of building separation requirements. In terms of apartment orientation, Tower B and D are facing north and south while Tower A is facing east and west, in this case the apartments are not facing one another. Distance between Tower B and C, and D and C are 12m however privacy screens and angled windows are provided to avoid privacy impact.

Notwithstanding this non-compliance, the interfaces will be treated with either blade walls or privacy screens, and orientation of built form and layout, to ensure appropriate privacy is achieved. Further, the proposed configuration of the building blocks and their orientation ensures adequate solar access and cross ventilation continues to be achieved.

Importantly, the scale and height will not create additional overshadowing to adjoining properties when compared to a compliant building height scheme. Therefore, the proposal will ensure adequate solar access achieved to both the apartments and adjoining properties, minimising overshadowing on the public domain.

In terms of the visual impact the proposal is considered as reasonable as the height exceedance will not cause any undue view loss over that of a compliant scheme, nor will it interrupt or alter important views.

4.2 OBJECTIVES OF THE ZONE

The Site is currently zoned R4 High Density Residential under THLEP 2012. The proposed development is located in the Showground Station Precinct and is permissible with consent. The proposed development is consistent with the following R4 zone objectives:

(a) To provide for the housing needs of the community within a high density residential environment.

The proposal achieves a high level of amenity and housing choice resulting in a density appropriate to the Site and regional context.

The height and proportion of the building is commensurate of the character envisaged for the Showground Precinct, and will provide an addition **296 dwellings**, contributing the 5,000 dwellings target for the Showground Precinct.

(b) To provide a variety of housing types within a high density residential environment.

The proposal achieves a mix of apartment sizes including adaptable houses. Housing diversity and social interaction will be supported through a variety of apartment size and types including double storey townhouse type apartments to suit the existing and future demographic. The overall mix is deemed appropriate for the local demographic.

A total of **296 dwellings** are proposed with an appropriate mix of one, two and three bedroom dwellings. The proposal seeks to provide a variety of apartment types in response to the local demographic and market demand.

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(c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The objective is not affected by the variation sought.

(d) *To encourage high density residential development in locations that are close to population centres and public transport routes.*

The proposal will provide high to medium density residential development in proximity of the new Metro, located within 300m of the new Showground Station precinct.

The proposed development adheres to the principle of transition height away from the Station, stepping the building form from north to south. However, flexibility is sought in order to achieve a design outcome that responds to the planning controls prescribed for the Site, while providing a high level of residential amenity, for both the Site and adjoining properties.

4.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

Subclause 4.6(3)(a) and the judgement in *Four2Five Pty Ltd v Ashfield Council* (refer to **Section 2.2**) emphasise the need for the proponent to demonstrate how the relevant development standard is unreasonable or unnecessary in the circumstances.

As demonstrated in **Section 4.1**, the proposed development is considered to be consistent with the objectives of **Clause 4.3**.

Compliance with Clause 4.3 Height of Building Requirement is considered unnecessary given that the objectives of the Site are achieved notwithstanding the non-compliance, and the underlying objective of the development standard would be defeated in the event a compliant scheme was proposed.

4.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

As demonstrated in **Section 4.1**, the proposed development would result in a built form outcome which meets the future desired character of the Site as part of the Showground Station Precinct. The proposed development is permissible at the Site, proposes suitable use of the Site for residential purposes, complies with the eligible incentivised FSR of **2.7:1** and is consistent with the objectives of the R4 zone.

The proposed development would also deliver on the Greater Sydney Commission's key strategic requirements for the Central City District.

Moreover, the Clause 4.6 Variation to the development standard for height of buildings is considered well founded on planning grounds as, notwithstanding the proposed non-compliance:

- The proposed development is entirely consistent with the underlying objectives or purposes of the standard as demonstrated in **Section 4.1**;
- The proposed development is entirely consistent with the underlying objective or purpose of the R4 High Density Zone as demonstrated in **Section 4.2**;
- Provides, with a level of flexibility to the maximum building height development standard, for a better planning outcome through the provisions of a more consistent approach to building heights within the emerging precinct;
- The proposed development would lead to a superior public domain outcome as a result of the through-site link connecting Fishburn Crescent and Dawes Avenue;
- The proposed development represents a superior ESD outcome for the Site;

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- The proposed development is consistent with the desired character of the Site as part of the Showground Station Precinct;
- The proposed variation would not give rise to any measurable environmental or amenity impacts when compared to a compliant development.

4.5 NEUTRAL OR BETTER ENVIRONMENTAL OUTCOME

As outlined in Section 2.2, *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* clarifies the appropriate approach to the consideration of the application of Clause 4.6, in that the proponent must demonstrate the non-compliance must have either a neutral or better environmental planning outcome.

The Clause 4.6 Variation to the development standard for height of building, is considered to have either a neutral or better environmental planning outcome for the following reasons:

- The varying building height provides a better environmental planning outcome by providing a diverse skyline through the Showground Precinct, providing visual interest in scale, bulk and streetscape and is within the band width of the prescribed development controls of the Showground Precinct;
- The public domain interface of the external facades provides a neutral benefit in that it provides adequate articulation through the creation of distinct building elements, and ensures the additional height in the form of lift overruns and plant services are not viewed from the street front as they positioned in a centralised location;
- The proposal results in a neutral planning outcome in terms of residential amenity as there is no increased detrimental impact on adjoining residents in terms of overshadowing, views, visual and acoustic privacy when compared with a compliant building height as a result of the building height exceedance.

As outlined above, the proposal is considered to provide either a neutral or better planning outcome when addressing the matters of consideration and therefore satisfies the criteria established under *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 11*.

4.6 PUBLIC INTEREST

As outlined in **Section 2.2**, *Four2Five Pty Ltd v Ashfield Council* emphasised that it is for the proponent to demonstrate that the proposed non-compliance with the development standard is in the public interest. Subclause 4.6(4)(a)(ii) requires the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Section 4.1 and **4.2** have already demonstrated how the proposed development is consistent with the objectives of Clause 4.3, as well as the R4 High Density zone under THLEP 2012.

In *Lane Cove Council v Orca Partners Management Pty Ltd (No 2) [2015] NSWLEC 52*, Sheahan J referred to the question of public interest with respect to planning matters as a consideration of whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development.

The public advantages of the proposed development are as follows:

- Contribute to the urban renewal and transformation of the Showground Precinct;
- Provide opportunities of greater housing choice in The Hills Shire LGA and assist in meeting the dwelling targets of the Showground Station Precinct Structure Plan;
- Contribute to pedestrian amenity through the provision of a through-site link; and
- Provide a development outcome that is compatible with the existing and emerging residential areas that is a permissible land use and consistent with the land use zone objectives.

Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building

3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

There are no significant public disadvantages identified which would result from the proposed development.

The proposed development is therefore considered to be justified on public interest grounds.

4.7 MATTERS OF STATE AND REGIONAL SIGNIFICANCE

The proposed non-compliances with Clause 4.3 would not give rise to any matters of State or Regional environmental significance. It would also not conflict with any State Environmental Planning Policy or Ministerial Directives under Section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Planning circular PS 18-003, issued by the NSW Department of Planning, requires that all development regionally significant development applications, regardless of whether the variation to the standard is more than 10%, be considered by the Local Planning Panel rather than under delegation. The proposed development is regionally significant as the capital investment value is greater than \$30 million and would result in exceedances of the relevant planning controls as follows:

- Height of Building Control by **18.6%**, at a maximum (**Building A**).

Furthermore, by including these non-compliances with Clause 4.3, the proposed development would be better able to meet the objectives of the Greater Sydney Region Plan and Central City District Plan for the following reasons:

- Provides for higher residential densities and a variety in housing typologies and opportunities;
- Is located within 300m to the Showground Station, forming part of the Metro which is scheduled to open in 2019, along with a number of other transport routes;
- The proposed development will provide a built form consistent with the general provisions of the Local Environmental Plan; and
- The proposal is appropriate for the Site and context, and achieves a high level of amenity for residents;
- The proposal will deliver diverse housing typologies to meet the need of changing communities and is ideally situated to provide new housing stock which will benefit from the close proximity to Showground Station.
- The proposal has been designed with a high level of articulation to ensure no adverse amenity impacts to surrounding neighbours.

4.8 PUBLIC BENEFIT IN MAINTAINING THE STANDARD

Strict compliance with Clause 4.3 would result in:

- Less housing opportunities to respond to the housing target and demand of the Showground Station Precinct and wider locality;
- Less opportunity to deliver public benefit associated with the development of the Site;
- No improvement to the extent of the environmental or amenity impacts associated with the proposed development;

In light of the above, there is no genuine public benefit identified in maintaining strict height of building standard for the Site. The public benefit is best served by the proposed development complying with the objectives of the Height Standard, rather than strictly complying with the numeric standard of the control.

The proposed development would result in a public benefit through improved urban design outcomes, the provision of additional housing stock with good residential amenity, within a 5 minute walking distance to the new Showground Station.

Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building

3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

4.9 SUMMARY

For the reasons outlined above, it is considered that the objection to Clause 4.3 of the THLEP 2012 are well-founded in this instance and the granting of Clause 4.6 Variations to these development standards are appropriate in the circumstances. Furthermore, the objection is considered to be well founded for the following reasons as outlined in Clause 4.6 of the THLEP 2012, *Four2Five Pty Ltd v Ashfield Council and Wehbe v Pittwater Council*:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances;
- There are sufficient environmental planning grounds to justify contravening the development standard;
- The development is in the public interest;
- The development is consistent with the objectives of the particular standard;
- The development is consistent with the objectives for development within the zone;
- The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
- The development does not negatively impact on any matters of State or regional significance; and
- The public benefit in maintaining strict compliance with the development standard would be negligible.

It is furthermore submitted that:

- Strict compliance with the standards would not result in a better planning outcome for the land as it would prevent the development of a better considered proposal;
- The proposed development is considered to be key in meeting the housing targets of the Showground Station Precinct, providing **296 additional dwellings**; and
- No unreasonable impacts are associated with the proposed development and more specially, the proposed building height exceedance.

Overall, it is considered that the proposed Clause 4.6 Variations to the maximum height of buildings controls are entirely appropriate and can be clearly justified having regard to the matters listed within THLEP 2012 Clause 4.6.

Addendum Clause 4.6 Variation – Height of Building

Residential Flat Building

3, 5, 7 & 9 Fishburn Crescent, 14 & 16 Middleton Avenue, 37, 39, 41, 43 & 45 Dawes Avenue, Castle Hill

PART E CONCLUSION

It is requested that The Hills Shire Council and the Sydney Central City Planning Panel exercise their discretion (as identified in *Randwick City Council v Micaul Holdings Pty Ltd* – refer to **Section 2.2**) and find that this Clause 4.6 Variation adequately addresses the matters required to be demonstrated by Subclause 4.6(3) of the THLEP 2012 (refer to **Section 2.1**).

This is particularly the case given the proposed development's otherwise general compliance with the aims and objectives of THLEP 2012 and the Showground Precinct DCP, and the Site's strategic suitability for the proposed development at both a local and State government level.

ATTACHMENT 17 – DESIGN REVIEW PANEL MINUTES



**MEETING REPORT
DESIGN REVIEW PANEL**

Date: 27-02-19 Time: 1.10am – 2.20pm

Location of Meeting: Community Rooms 1+2

Panel Members: Chairperson - Tony Caro
Panel Member - Stephen Pearse
Panel Member - Adam Hunter

Councillors: None present

Council Staff: Paul Osborne, Hugh Halliwell, Marika Hahn

Guests: Grace Wu – Bridgestone - applicant
David Liu – Bridgestone - applicant
Amy Huong – Bridgestone - applicant
Tom Cook – Willowtree Planning
Trevor McNally – Project Manager, McNally Management
Matt Dunning – Landscape Architect , RPS Group
Stephen Moore – Roberts Day
Tom Payne – Roberts Day
Simon Parsons - Architect, PTW
Alex Lin - PTW
Lilian Gu - PTW
Wenhan Fu - PTW

BUSINESS ITEM AND MEETING MINUTES

1. Welcome and Opening

The Hills Shire Council is committed to achieving design excellence in the built environment and ensuring new developments exhibit the highest standard of architectural, urban and landscape design.

The Hills Shire Design Review Panel (The Panel), is an Independent Advisory Panel approved by the Government Architect which provides an opportunity for applicants to receive expert design feedback on their developments and to provide comments to assist The Hills Shire Council in its consideration for development application.

The Panel provides recommendations on the following:

- Any development which contains a building with a height of 21 metres or more; or 6 storeys (or both) but no higher than 86m or 20 storeys (or both).
- Any strategic planning matters for which design excellence is relevant.

The role of the Panel is to evaluate and comment on the design quality of proposed development and provide recommendations that must be addressed to achieve 'Design Excellence'. The Design Review Panel is an independent Panel, not a SEPP 65 Panel and the absence of comment with reference to matters pertaining to SEPP 65 does not mean that matters assessed under SEPP 65 have been satisfactorily addressed.

2. Declaration of interest

'Nil'

3. Confirmation of previous minutes

Confirmed by email

4 Presentations

Item 4.2	1.10pm – 2.20pm	
DA Number	DA 688-2019-JP	
Property Address	16 Middleton Avenue, Castle Hill	
Proposal		Residential Flat Development comprising 281 dwelling units over basement car parking.
Applicant representative address to the design review panel	Tom Cook – Planner - WillowTree Planning Steve Moore – Roberts Day – Urban Designer Simon Parsons – Architect – (registration 6098) Matt Dunning – Landscape Architect	
Background	The site was inspected by the panel on February at 9.00 – 9.15am	
Key Issues	<ul style="list-style-type: none">• Excessive height• ADG non-compliances• Pedestrian circulation• Landscape treatments• DCP and Public Domain Plan non-compliances	

INTRODUCTION

The Panel thanks the applicant for the presentation of the development application. The development presented is located in the Showground Planned Station Precinct in Castle Hill, a low-density area.

about to undergo significant urban transformation to a higher density residential flat built form outcome.

The Panel acknowledges that the Showground Precinct has been subject to a protracted master plan process, which has resulted in the key development controls for height, density and setbacks. The Panel notes, and advised the applicant at the meeting, that it considers the maximum allowable FSR on this or any site in the precinct is only achievable on the proviso that other key controls that apply to the development are complied with. In particular the need to retain existing landscape and augment with new plantings to maintain the landscape character of the LGA is of concern to the Panel, for reasons including visual amenity, heat mitigation, substantial provision of shade within the public domain, carbon sequester and the need to maintain flora diversity and fauna habitat.

The Panel also considers that due to the constraints of the existing road and sub-division pattern, relatively narrow street corridors and prescribed minimum DCP setbacks, all new developments must provide for substantial deep soil planting to a minimum of 15% of site area as referred to in the ADG.

SUBJECT SITE BACKGROUND SUMMARY

The subject site is located in the Showground Planned Precinct. The character of the area is that of a low-density garden suburb developed during the 1960's-1980's with a variety of large mature trees of both introduced species and those reflective of the original endemic vegetation. The precinct is located to the south west of Showground Road, a ridgeline arterial road, and the undulating topography falls away from Showground Road towards Cattai Creek. The subject site is adjacent to and to the east of Middleton Avenue in close proximity to the new Showground Metro station. Middleton Avenue is one of the few roads in the precinct with a street corridor width of approximately 20m and is considered to be a major road within the precinct. Both Middleton Avenue and Fishburn Avenue require a street setback of 10m.



Site location- RD



Site layout - PTW

DOCUMENTATION

The Design Excellence Panel reviewed the following drawings:

Appendix A – Response to Additional information, 06-02-19, Willow Tree Planning

Appendix B – Response to Key Design Matters, 06-02-19, Willow Tree Planning

Appendix C – Amended Architectural Plans, 04, 02, 19, PTW

Appendix D – Architectural Design Report, Development Application Response to RFI, Jan 2019, PTW

Appendix E – Landscape Development application Report /RFI Response, 03/02/19, RPS

Appendix H - Civil and Stormwater Plans, 09/10/18, Adams Consulting Engineers

Appendix H – Stormwater Report, 14/12/18, Adams Consulting Engineers

Appendix M – Five (5) views, (Renderings) . PTW / RD ?

PANEL COMMENT

DA 688-2019-JP – 16 Middleton Avenue, Castle Hill

The meeting commenced with an introduction by Tom Cook from Willow Tree Planning, followed by a presentation by Roberts Day and a presentation with discussion of the architectural design by Simon Parsons of PTW.

1. **Precinct planning, Appreciation of context**

- The applicant presented a well-considered overview of how the proposal had been designed to integrate into the broader regional context and the strong garden/landscape identity of the Hills Shire, whilst also recognising the many challenges of moving from a low density to a high density urban context.
- The urban design consultant presented a document illustrating in principle how the development meets the objectives of key strategic documents such as THSC DCP2012, Better Placed and the Green Grid.

2. **Site planning strategy**

- The site layout consists of articulated street edge built form around a central courtyard.
- A dog-leg offset along the southern boundary will require careful interface and resolution with future adjacent development.
- The Panel sought clarification of the proposed relocation of the required DCP public cross-site link, which has been moved approximately 10m west of its intended alignment between Sexton and Hughes Avenues. This diminishes the wayfinding benefits that the DCP link alignment offers.
- The proposed design character and treatment of the link within the development site will further reduce its legibility and sense of open accessibility to the public.
- The Panel recommends therefore that the link is aligned closer to the DCP position, and it be designed and detailed as part of the precinct public domain with uninterrupted public access.
- This will necessitate adjustments to the proposed building footprints and internal layouts. An alternative, narrow floor-plate for the eastern building would be required, and the central buildings extended eastwards to maintain the development yield.
- Courtyard landscape is crucial to the sustainability of this new precinct, and a presence of large mature trees is essential in achieving a range of essential, long-term environmental benefits. In this context an alternative to achieving 15% deep soil as recommended by ADG may be to provide a one metre deep structural set-down over a parts of the courtyard and cross site link to allow for up to 1.5m of mounded soil depth capable of effectively supporting large trees.
- The applicant suggested that additional height be considered as compensation the provision of the cross site link. This is not supported by the Panel, however any such request to amend a statutory control is for the DA officers consideration.

3. **Compliance**

Height

- For reasons of public and environmental amenity, the Panel does not generally support height non-compliance that includes GFA. Lift over-runs and vertical access elements to well-designed communal open space on roof tops may be considered acceptable for resident amenity, provided that such non-compliant elements are setback, not seen from the immediate public domain, and do not impact on the amenity of developments planned for adjacent sites.
- The extent of overshadowing of the central common open space at ground level is a concern. The proportions of the courtyard seem cramped compared to building depth, and this is indicative of the challenges faced when attempting to maximise generous FSR on sites of this width.
- Compliance with ADG distance separation must be achieved across the courtyard and there are concerns about acoustic and visual privacy between the 10 storey buildings. Provision for large trees in the courtyard is recommended to counter this.
- The section through the pedestrian cross-site link indicates a tall, narrow space. The cross-site link should approximate and align with the width of Hughes and Sexton Avenues.

Density, and Apartment Mix and Building program

- The development appears to be too dense and would benefit from greater consideration of residential amenity compliance. All ADG minimum separations and DCP boundary setbacks should be complied with (including basements and balconies).
- Compliance with the incentivised FSR provisions in LEP cl.9.7 must be confirmed to Councils satisfaction, including a possible deficiency of complying 2-bedroom units.
- The maximum façade lengths set out in the DCP should be reviewed, and the built form further articulated to satisfy this objective.
- Apartments with courtyards below ground level addressing the street are not supported.
- The Panel questioned the long corridors on the lower four levels, which are almost the width of the site.
- For buildings of this height, the Panel recommends that lift access and distribution be reviewed to ensure that when a single lift is out of operation residents have access to an alternative lift.

DCP2012 - Part D Section 19 Showground Station Precinct

The Panel is concerned with climate appropriate design and retention of the landscape character of The Hills Shire, in particular the realistic provision of trees as documented. This is reinforced in Part 4.8 Ecologically Sustainable Development.

6.1 Site Requirements and 6.3 Open Space and Landscaping

The impact of the proposed swale may preclude substantial tree planting and emphasises the need for substantial tree planting in all setbacks. The site coverage exceeds 50%, reducing the opportunity for substantial landscaping. It is not clear if the minimum communal open space of 25% at ground level had been achieved.

4.3 Public Domain

The materiality of the cross-site link does not match the Public Domain Plan.

4.4 Wind

The applicant was asked to investigate potential wind impacts of the proposal on the pedestrian environment and capture of cooling summer breezes.

6.6 Residential uses on Ground and First Floors

These units should be reviewed for privacy and security.

4. Landscape Design

- The DCP controls require basement car parking is to be within the building footprint.
- Site Coverage and Landscaped area do not comply with DCP 2012 (large portion of impervious surfaces including footpaths and stairs).
- The landscape detail for the swale on Fishburn Avenue is unclear, how medium to large trees are planted / located, the impact of swale drainage / moisture, and how pedestrian crossing was achieved requires further detail.
- The 6m x 6m deep soil provision (required by ADG) is not to be encumbered by terrace walling or other encumbrances which impact available soil volume – this must be reviewed to the street frontage setbacks.
- The landscape strategy must be fully proofed to Councils landscape architects satisfaction, to ensure the trees as indicated have the required clear soil volumes for deep soil and on structure zones for small medium and large trees as per ADG.
- Tall canopy trees are required in all setbacks, this is very clear in the DCP and what one would expect from a residential flat building set in a garden landscape. The number of medium to large sized trees within the setback or to public domain should be reviewed and cross referenced to / checked against elevations and CGI images.
- The Panel noted trees were in some cases shown in close proximity to garden walls. This needs to be reviewed and sufficient detail provided to demonstrate the plan intention is feasible.
- The Panel noted the provision of landscape area was insufficient and was to be calculated in accordance with the DCP definition.

Private Domain

- The Panel recommends that the central courtyard be for the exclusive use of residents by providing an open palisade fence along the edge of the public cross-site link.

- The landscape strategy must be fully proofed to Council's landscape architects satisfaction that the target number of medium to large sized trees is being achieved to the on structure landscaped areas as per ADG.
- Soil volumes on structure for small, medium and large trees must be unencumbered by terrace walling or other factors that might impact on soil volume – this must be reviewed and proofed to Councils landscape architects satisfaction.
- Trees in some cases are shown too close to garden walls. This needs to be reviewed and sufficient detail provided to demonstrate the plan intention is feasible.
- There is no grassed or soft surface small scale play space for resident children within the communal areas. A water feature/fountain is proposed in the lower central court which is the primary potential play area for children.
- The central courtyard space is overshadowed at most times and would be unpleasant in winter. The proponent should clearly identify the proposed planting approach to the central courtyard, both tree and understorey, particularly with regard to the limitations of the overshadowed environment.
- The roof top gardens provide a good variety of open spaces and the applicant advised that equitable access is available to all residents.

Public Domain

- The public domain interface on all street frontages where adjacent dwellings are below ground level is not acceptable. The walled levels changes within the deep soil zone/setback are also impacting the functionality of the deep soil zones and need to be reviewed. All residential dwellings are to be at ground level or higher in accordance with DCP controls.

5. SEPP 65 items to be clarified or amended

ADG

The Panel would like to see greater design emphasis on securing high quality amenity for all residents. Presently this amenity is suffering at the expense of maximising density.

The Panel recommends that additional information is provided to the DA officer to demonstrate that the development is meeting ADG objectives and design criteria in the following areas:

- The central courtyard should be at least 24m wide between habitable spaces.
- Provision of deep soil zones for lots greater than 1500sqm.
- Cross privacy between units facing the main courtyard and into its convoluted indented NE corner, and across the cross-site link.
- Central access corridors exceed desirable lengths in lower levels.
- Solar access compliance to ADG definition to be confirmed with planner. A number of units were challenged at the meeting.
- Natural Cross ventilation compliance to ADG definition to be confirmed with planner. A number of units were challenged at the meeting.
- Using moveable/permeable screens to achieve visual privacy presents acoustic issues.
- Ensure exposed windows are adequately shaded.

Other related items:

- Access provisions in event of a lift being out of service.
- Private/public interfaces needs clearly established, eg between courtyard and cross-site link.
- Planning of larger units to maximise opportunities for flexibility and amenity of occupants.

6. Sustainability and Environmental amenity

Whilst not discussed at the Panel meeting, achieving a high level of environmental sustainability and amenity in an increasingly denser and hotter western Sydney is a key challenge for the Showground precinct. For example, a 40% tree canopy for sites in urban renewal areas is targeted by the GSC (Central City District Plan, Planning Priority C16).

- The Showground Precinct LEP and DCP make numerous references to the need for ESD principles to guide the design of new developments. This fundamental requirement for achieving design excellence has not been adequately addressed in the design submission.
- Beyond satisfying ADG requirements as noted above, the Panel recommends that this proposal is reviewed by the applicant with a sustainability engineer and a report prepared that demonstrates how an appropriate suite of passive and active environmental measures have been integrated into the design of the scheme.

7. **Architecture and Aesthetics**

- In general this scheme demonstrates a well-considered approach to its architectural form, articulation, detail and materiality.
- The relationship between the finer-grained detail of the podium elements and the relative simplicity of the setback upper levels presents as a restrained, quite elegant building that effectively mitigates its apparent mass. The proposal could blend well into a verdant, generous landscape setting around the perimeter of the site.

SUMMARY OF PANEL RECOMMENDATIONS

- The Panel considers that the density sought compromises the overall amenity of the development. The scheme has some good qualities, however the design should be reviewed to suit the site's constraints rather than maximising development yield.
- Relocate the cross site link to align DCP location and adjust built form to suit.
- Amend the courtyard layout so ADG minimum distance separation is achieved.
- Remove all encumbrances from street and side setbacks including basement car parking.
- Provide more substantial trees in all setbacks.
- Ensure required soil volumes for the proposed tree sizes are being achieved to deep soil and on structure situations in accordance with ADG
- Provide lowered deep planting beds for large trees in the courtyard and cross-site link.
- Confirm plant species in central court will survive in shade.
- Provide correct apartment mix and sizes to meet incentivised FSR provisions.
- Remove subterranean units and terraces.
- Minimise all paved courtyards in setback areas. Paved courtyards are not to encroach into setback area by more than 2m, 6m minimum width deep soil widths are to be maintained to all setbacks.
- Building services such as fire hydrant and fire sprinkler booster valves are to be integrated into landscape and built form.

Note: further information may be required by the Development Assessment team to aid with their assessment of the development.

PANEL CONCLUSION

The Panel does not support the proposal in its current form as the proposal it does not presently demonstrate the requirements of design excellence. It is recommended that the applicant address the issues identified in this report and presents a revised application to the Panel.

5. Next Design Review Panel meeting to be held on May 2nd, 9am - 5pm

6. Close

**MEETING REPORT
DESIGN REVIEW PANEL**

Date:	22/05/19	Time:	11.00am	Agenda Item:	4.1
Location of Meeting:	Community Rooms 1+2				
Panel Members:	Chairperson - Tony Caro Panel Member - Stephen Pearse Panel Member - Adam Hunter				
Councillors:	None present				
Council Staff:	Paul Osborne, Cynthia Dugan, Marika Hahn				
Guests:	Tom Cook – Willow Tree Planning Matt Dunning – Landscape Architect, RPS Group Grace Wu – Bridgestone - applicant Simon Parsons - Architect, PTW Alex Lin – PTW Lilian Gu - PTW				

BUSINESS ITEM AND MEETING MINUTES

1. Welcome and Opening

The Hills Shire Council is committed to achieving design excellence in the built environment and ensuring new developments exhibit the highest standard of architectural, urban and landscape design.

The Hills Shire Design Review Panel (The Panel) is an Independent Advisory Panel, approved by the Government Architect, that provides an opportunity for applicants to receive expert design feedback on their developments and to provide comments to assist The Hills Shire Council in its consideration for development application.

2. Declaration of Interest

"Nil"

3. Confirmation of previous minutes

Confirmed by email

4 Presentations

Item 4.1	11.00am – 12.00pm	
DA Number	DA/688/2019/JP	
Property Address	16 Middleton Avenue, Castle Hill	
Proposal		Residential flat development over basement car parking.
Applicant representative address to the design review panel	Simon Parsons – Architect PTW (registration-6098) Matt Dunning – Landscape Architect	
Background	The site was inspected by the panel on 22/05/19.	
Key Issues	<ul style="list-style-type: none">Excessive heightADG non-compliancesDCP non-compliances	

SUBJECT SITE BACKGROUND SUMMARY

On 27/02/19 DA/688/2019/JP was presented the Design Review Panel. Following the meeting the applicant requested a review to present proposed changes in accordance with the Panel recommendations before undergoing architectural revisions. The revised proposal was reviewed by the same Panel members who were present for the initial review of the Proposal.



Location plan (THSC)

DOCUMENTATION – provided for 27-02-19 Panel Meeting

The Design Excellence Panel reviewed the following drawings:

Appendix A – Response to Additional information, 06-02-19, Willow Tree Planning

Appendix B – Response to Key Design Matters, 06-02-19, Willow Tree Planning

Appendix C – Amended Architectural Plans, 04-02-19 PTW

Appendix D – Architectural Design Report, DA Response to RFI, Jan 2019, PTW

Appendix E – Landscape Development application Report /RFI Response, 03/02/19, RPS

Appendix H – Civil and Stormwater Plans, 09/10/18, Adams Consulting Engineers

Appendix H – Stormwater Report, 14/12/18, Adams Consulting Engineers

Appendix M – Five (5) views, (Renderings) , PTW / RD ?

DOCUMENTATION – provided for 22-05-19 Panel Meeting

Architectural Response, May 2019, PTW

Landscape Response, 30/04/19 , RPS Group

Response to Design Review Panel – through Site Link, Letter dated 2 May 2019, by Willow Tree Planning

Response to Design Review Panel, Letter dated 2 May 2019 by Willow Tree Planning

PANEL COMMENT

DA/688/2019/JP – 16 Middleton Avenue, Castle Hill

The updated proposal was presented by the architect and landscape architect. The Panel acknowledges that many items from the previous DRP report 27-02-19 recommendations have been reviewed by the applicant. For clarity, the Panels previous comments (*repeated below in grey italics*) have been used to structure the Panel comments below. These new comments do not necessarily supersede previous advice and as such should be read in conjunction with the previous DRP report.

- *The Panel considers that the density sought compromises the overall amenity of the development. The scheme has some good qualities, however, the design should be reviewed to suit the site's constraints rather than maximising development yield.*

COMMENT

A range of ADG non-compliances and adverse impacts on the public domain are exacerbated by the proposed height exceedence. Any justification for LEP height non-compliance is to be provided to the DA officer.

- *Relocate the cross site link to align DCP location and adjust built form to suit.*

COMMENT

- The applicant provided a detailed analysis and justification for this departure from the DCP, which is primarily driven by maximising yield. There was lengthy discussion about how an acceptable alternative alignment could be achieved, and the architect agreed to investigate these suggestions.
- The minimum width of the link is accepted at 12m with ADG compliance at all levels to be confirmed with DA officer.
- The public character of the cross site link should be reinforced by an agreed use of paving materials, landscape, furniture and lighting that connects with the adjoining street public domain. Extending the share-way pavement to the street kerbs was suggested as one strategy that could be investigated.
- The use of street tree species that integrate with the adjoining street along the cross-site link on the western side of the link is recommended, to further assist with promoting a public character.
- The Panel recommended that the alignment of the western building block edges align with anticipated future built form corners at NW (Sexton Avenue and Fishburn Cr) and SW (Hughes Ave and Dawes Ave). Setting up the built form alignment will assist in wayfinding for pedestrians moving towards the Metro station.
- This may require a number of adjustments to the eastern building block alignment to provide a more direct line of sight for pedestrians from Hughes Avenue through to Fishburn Crescent.
- The Panel also raised the idea of providing raised pedestrian crossings across Hughes Avenue and Fishburn Crescent using the same paving material and the pedestrian cross site link to aid with wayfinding.
- A revised layout plan that addresses these issues should be provided to the planning officer.

- *Amend the courtyard layout so ADG minimum distance separation is achieved.*

COMMENT: The proposal has been adjusted to comply with ADG minimums however the overall building height continues to exceed the LEP maximum.

- *Remove all encumbrances from street and side setbacks including basement car parking.*

COMMENT: Partially addressed. Basement car parking extends beyond building footprint. (Refer DCP 6.10.7)

- *Provide more substantial trees in all setbacks.*

COMMENT: The Panel acknowledges the modifications made to courtyard levels and resultant removal of low walls that facilitate functional deep soil to frontages. It also acknowledges the indication of tree species to courtyards. It recommends that in finalising design that courtyard tree species are confirmed recognising the fine balance between a strong green street edges and maintaining some sun and light to the courtyards. Use of the relatively less dense canopies such as the Angophoras is one such strategy.

- *Ensure required soil volumes for the proposed tree sizes are being achieved to deep soil and on structure situations in accordance with ADG.*

COMMENT: Addressed. To be fully documented in revised DA submission.

- Provide lowered deep planting beds for large trees in the courtyard and cross-site link.

COMMENT: Addressed.

- Confirm plant species in central court will survive in shade.

COMMENT: Addressed.

- Provide correct apartment mix and sizes to meet incentivised FSR provisions.

COMMENT: Compliance or otherwise with LEP2012 incentivised clause 9.7 should be agreed with Council staff. The Panel supports larger apartments that can be adapted and offer floor plans suitable for a range of family demographics.

- Remove subterranean units and terraces.

COMMENT: Substantially addressed. Car parking interface to street frontage to be screened with appropriate vegetation.

- Minimise all paved courtyards in setback areas. Paved courtyards are not to encroach into setback area by more than 2m. 8m minimum width deep soil widths are to be maintained to all setbacks.

COMMENT: Addressed.

- Building services such as fire hydrant and fire sprinkler booster valves are to be integrated into landscape and built form.

COMMENT: Not demonstrated in submission other than services location noted. Applicant has stated the services enclosure sits within a step in the palisade fence treatment to be integrated with street frontage. Applicant to confirm this meets authority requirements and provide elevation at approvals stage.

ADDITIONAL COMMENTS

- Access provisions in event of a lift being out of service

COMMENT: The architect presented a revised apartment floor layout on some levels that would reduce the impact of this issue. The Panel suggested that revised units could be located on alternate floors. Architects to investigate. It was noted that whilst the very long internal corridors would be addressed by the proposed alternate floor plan, this issue remains for the unaffected floors. The Panel recommended that this should be resolved.

- Private/public interfaces needs clearly established, eg between courtyard and cross-site link

COMMENT: Addressed.

- Planning of larger units to maximise opportunities for flexibility and amenity of occupants

COMMENT: Addressed.

SEPP 65 items to be clarified or amended

Additional information should be provided to the DA officer to demonstrate that the development is meeting ADG objectives and design criteria in the following areas:

Solar access compliance – no solar studies were provided and compliance has yet be demonstrated.

- Natural Cross ventilation compliance – updated diagrams to be provided to officer
- As noted above central access corridors exceed desirable lengths on a number of levels, 60m lengths are considered to be excessive.

Note: further information may be required by the Development Assessment team to aid with their assessment of the development.

PANEL CONCLUSION

The Panel offers qualified support for the proposal on the basis that all of the comments in this and previous report are addressed to the satisfaction of Council officers. The Panel notes that the proposal may require a further meeting should Councils staff not be satisfied with the revised documentation.