

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018SWC071DA
<b>DA Number</b>	DA 2245/2018/JP
<b>LGA</b>	The Hills Shire Council
<b>Proposed Development</b>	Demolition Of Existing Structures & Construction of a Mixed Commercial & Industrial Development
<b>Street Address</b>	Lot 29 DP 834050 318 Annangrove Road, Rouse Hill
<b>Applicant/Owner</b>	BHI Architects and Cattai Developments Pty Ltd
<b>Consultants</b> Town Planner: Architect: Landscape Architect: Engineering: Ecologist: Bushfire Environmental: Acoustics: Surveyor: Traffic: Quantity Surveyor: Geotechnical: Odour: BCA:	Think Planners BHI Architects Bare Root Design Studio Northrop Conacher Consulting Conacher Consulting Benbow Environmental Benbow Environmental Real Serve The Transport Planning Partnership Charles L. Hammon EI Australia Pacific Environmental BCA Logic
<b>Date of DA lodgement</b>	14 June 2018
<b>Number of Submissions</b>	5
<b>Recommendation</b>	Approval subject to conditions
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	CIV exceeding \$30 million (\$45,735,361)
<b>List of all relevant s4.15(1)(a) matters</b>	<p>EPIs:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• SEPP (Educational Establishments and Child Care Centres) 2017</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>• Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River</li> <li>• The Hills Local Environmental Plan 2019 – See discussion relating to The Hills LEP 2012 under “Matters for Consideration”</li> </ul> <p>Draft EPIs:</p> <ul style="list-style-type: none"> <li>• Draft Environment SEPP</li> </ul> <p>Relevant development control plan</p> <ul style="list-style-type: none"> <li>• The following sections of The Hills DCP 2012:</li> </ul>

	<ul style="list-style-type: none"> <li>○ Part B Section 6 – Business</li> <li>○ Part B Section 7 - Industrial</li> <li>○ Part C Section 1 – Parking</li> <li>○ Part C Section 3 – Landscaping</li> </ul> <p>Any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv):</p> <ul style="list-style-type: none"> <li>• Nil</li> </ul> <p>Relevant regulations:</p> <ul style="list-style-type: none"> <li>• Demolition of buildings – <i>Environmental Planning and Assessment Regulation 2000</i> - Clause 92(1)(b)</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Clause 4.6 variation request</li> <li>• Submissions</li> </ul>
<b>Clause 4.6 requests</b>	<ul style="list-style-type: none"> <li>• The Hills Local Environmental Plan (LEP) 2019</li> <li>• Clause 4.4 Floor Space Ratio</li> <li>• B6 Enterprise Corridor</li> </ul>
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Environmental Concerns</li> <li>• Construction Impacts</li> <li>• Vehicle Movements</li> </ul>
<b>Report prepared by</b>	Robert Buckham Principal Executive Planner
<b>Report date</b>	19 March 2020

#### **Summary of s4.15 matters**

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

#### **Legislative clauses requiring consent authority satisfaction**

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

#### **Clause 4.6 Exceptions to development standards**

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

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**

#### **Conditions**

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

## EXECUTIVE SUMMARY

The subject Development Application seeks approval for the demolition of the existing dwelling and outbuildings, tree removal and construction of a mixed use development. The proposal includes:

- 4 levels of basement with car parking (471 parking spaces);
- 112 x self storage units;
- 24 x warehouse premises;
- 8 x business premises;
- 2 x indoor recreation facilities;
- 1 x child care centre (140 children); and
- 2 x food and drink premises.

The application identifies that this application is only seeking consent for the 'shell' of the child care centre and swimming centre and that separate applications will be lodged for the fitout. The final numbers of the children for the child care centre will be determined with a subsequent development application.

The Development Application is accompanied by a written request to vary a development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan. Clause 4.4 Floor Space Ratio (FSR) prescribes a maximum FSR of 1:1 for the subject site. The development proposes a FSR of 1.35:1 which results in a 35% or 5,993.32m<sup>2</sup> variation to the development standard. The variation is considered reasonable as the variation can primarily be attributed to the self-storage units which are located below ground and do not add to the bulk and scale of the building and are a low scale use that does not generate many vehicle movements. The applicant's Clause 4.6 variation request is well founded and the proposed variation results in a development that is consistent with the objectives of Clause 4.4 Floor Space Ratio and the B6 Enterprise Corridor zone objectives.

The proposed development has been assessed against the requirements of The Hills Development Control Plan 2012 with variations to the front setback, side setback and parking controls.

The proposal is defined as 'Nominated Integrated Development' under the provisions of Section 4.46 of the Environmental Planning and Assessment Act 1979 as the proposal requires approval from the Department of Primary Industries – Natural Resource Access Regulator (NRAR) under the provisions of the Water Management Act 2000, and Rural Fire Service under Section 100B of the Rural Fires Act 1997.

The application was publicly exhibited and has been notified to surrounding properties for 31 days. One submission was received during the notification period. A further four submissions were received recently, providing a total of five submissions.

The issues raised include concern over excessive excavation, extensive sawing and use of heavy machinery, noise, vibration and dust pollution which will impact the health and safety of children and staff at the adjoining child care centre and adjoining businesses, increase in traffic and concerns with road safety, tree removal, impact on the child care centre retaining families, and concern that the site will become an open cut sandstone quarry. These matters are addressed in this report and it is considered that they do not warrant refusal of the application or amendments to the application.

The Development Application is recommended for approval.

## DETAILS AND SUBMISSIONS

Owner:	Cattai Developments Pty Limited
Zoning:	B6 Enterprise Corridor and SP2 Local Road Widening
Area:	1.695 hectares
Existing Development:	Single storey dwelling and outbuildings
Section 7.11 Contribution	\$2,003,434.24
Exhibition:	31 days
Notice Adj Owners:	31 days
Number Advised:	53
Submissions Received:	5

## PROPOSAL

The Development Application seeks approval for the demolition of the existing dwelling and outbuildings, tree removal and construction of a mixed use development. The proposal includes:

- 4 levels of basement with car parking with a total of 471 parking spaces
- 112 x self storage units
- 24 x warehouse premises
- 8 x business premises
- 2 x indoor recreation facilities
- 1 x child care centre (140 children)
- 2 x food and drink premises.

The proposed development is divided into two main precincts. The rear of the site is to comprise of the industrial and warehouse precinct, and the front part of the site facing Annangrove Road to comprise of the business, community and recreational precinct. Two separate access driveways are proposed to access each precinct.

The application identifies that this application is only seeking consent for the 'shell' of the child care centre and swimming centre and that separate applications will be lodged for the fitout.

The child care centre proposes the following age ratios:

- 0 – 2 years: 32 places;
- 2 – 3 years : 30 places;
- 3 – 4 years: 29 places; and
- 4 – 5 years: 46 places.

However, the final numbers of the children for the child care centre will be determined with a subsequent development application.

Indicative signage is shown on the subject plans however will be subject to a further development application.

## ISSUES FOR CONSIDERATION

### 1. State Environmental Planning Policy (State and Regional Development) 2011

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



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

The proposed development has a capital investment value of \$45,735,361 thereby requiring referral to, and determination by, a Regional Planning Panel.

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

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

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

Clause 7 of the SEPP states:-

- 1) *A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Phase 1 Contamination Investigation dated May 2018 has been undertaken by Benbow Environment to determine whether historical land uses have the potential to contaminate the site and affect the viability of the proposed development. The report finds no evidence of potential contamination on the site as a result of the previous land uses. As demonstrated in the report, the subject site is suitable for the proposed development including commercial and residential development.

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

## **3. State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

The SEPP for child care centres came into force on 1 September 2017. The Development Application seeks consent for the construction of a child care tenancy on the upper floor (Level 03) of the building, but does not include the internal fitout of the centre. The fitout of the centre-based child care centre will require assessment under a future Development Application. Notwithstanding, the construction and use of the proposal has been assessed as satisfactory against relevant requirements under the SEPP Educational Establishments and Child Care Facilities and the National Quality Framework Assessment Checklist. The tenancy would achieve the unencumbered indoor and outdoor space requirements in accordance with the Education and Care Services National Regulation and provides for adequate car parking spaces. It is noted that the barrier enclosing the outdoor space would be required to meet the provisions under Clause 104 of the Regulation. A condition is recommended that requires a further detailed development application be lodged for the child care centre. A detailed assessment against SEPP and Guidelines will be carried out at this time.

In this regard, the use of the child care centre is considered to be satisfactory in relation to SEPP Educational Establishments and Child Care Facilities 2017.

#### 4. The Hills Local Environmental Plan 2019

The DA was lodged under The Hills LEP 2012. On 6 December 2019, The Hills LEP 2012 was amended and renamed *Parramatta (former The Hills) Local Environmental Plan 2012*. This LEP applies to that part of the City of Parramatta local government area which was previously located within The Hills local government area.

The Hills Local Environmental Plan 2019 came into force on 6 December 2019 and applies to The Hills local government area, including the site of the proposed development.

Clause 1.8A of The Hills LEP 2019 states that:

*“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.”*

Nevertheless, the provisions of The Hills LEP 2019 are the same as those contained in the previous The Hills LEP 2012. The only change is the change of name.

##### a. Permissibility

The land is zoned B6 Enterprise Corridor and SP2 Local Road Widening under The Hills Local Environmental Plan 2012. The proposal is defined as ‘self storage units’, ‘food and drink premises’, ‘business premises’, ‘recreation facility (indoor)’, ‘centre-based child care facility’ and ‘warehouse or distribution centre’ as follows:

**“self-storage units** means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).”

**“food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.”

**“business premises** means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
  - (b) a service is provided directly to members of the public on a regular basis,
- and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.”

**“recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.”

**“centre-based child care facility** means:

- (a) a building or place used for the education and care of children that provides any one or more of the following:

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note.

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility."

**"warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, and includes local distribution premises."

In view of the above, it is considered that the proposed development satisfies the provision for permissibility with respect to The Hills LEP 2012.

## **b. Zone Objectives**

The land is zoned B6 Enterprise Corridor and SP2 Local Road Widening under The Hills Local Environmental Plan 2012. The objectives of the B6 zone are:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.

The objectives of the SP2 zone are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

The proposed development is considered to be consistent with the above objectives of the B6 Enterprise Corridor and SP2 Local Road Widening zones as the development provides a variety of compatible uses in the area which provide a range of employment opportunities.

In view of the above, it is considered that the proposal satisfies the B6 Enterprise Corridor and SP2 Local Road Widening zone objectives under The Hills LEP 2012.

### c. Development Standards

The following addresses the principal development standards of The Hills LEP 2012:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height	16 metres	16 metres	Yes
4.4 Floor Space Ratio	1:1 (16,950sqm)	1.35:1 (22,943.23sqm)  <i>Not including basement storage:</i> 0.88:1 (15,019.44sqm)	<b>No – see comments below</b>
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	Variations proposed to the LEP are addressed below.	Yes

### d. Variation to Floor Space Ratio

Clause 4.4 of The Hills LEP 2012 prescribes a maximum FSR of 1:1 for the subject site. The Applicant had proposed that the self-storage component which includes 7,923.88m<sup>2</sup> of gross floor area which is all located below the natural ground level and within the proposed basement is not included in the calculation of GFA. On this basis the gross floor area equates to 15,019.44m<sup>2</sup>, or an FSR of 0.88:1. The proposed GFA inclusive of the basement storage areas is 22,943.32m<sup>2</sup>, 5,993.32m<sup>2</sup> in excess of the GFA permitted which equates to an FSR of 1.35:1, a 35% variation.

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.*

The applicant has submitted a Clause 4.6 Variation (see Attachment 9) and is summarised as follows:

- The proportion of the building that is to be developed for the self storage facility is completely underground and will have no impact on the bulk, scale and character of existing and future surrounding environment. The proposed self storage floor space does not result in an overdevelopment of the site. The proposed use of additional basement space is a suitable contextual response to the topographical fall on the site and will result in the efficient use of land within this enterprise corridor precinct.
- The overall scale of the development as seen from the ground level up is a compatible form of development in this enterprise corridor.

- The buildings will present an appropriate bulk and scale on the site with 3 balanced vertical components/proportions that are consistent with the emerging character of this Enterprise Corridor.
- The additional GFA does not generate any unreasonable additional amenity impacts given the location of the site and surrounding site context.
- The proposal has been designed to not obstruct existing view corridors.
- The deemed non-compliance of the FSR has no impact on the setting of any items of environmental heritage or view corridors.
- The proposal does not adjoin any residential areas or sensitive interfaces and will integrate with future development to the north, east, south and west.

**Comment:**

The objectives of Clause 4.4 Floor Space Ratio of The Hills LEP 2012 are as follows:

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

The applicant's Clause 4.6 Variation request is well founded and the proposed variation results in a development that is consistent with the objectives of Clause 4.4 Floor Space Ratio the B6 Enterprise Corridor and SP2 Local Road Widening zone objectives.

The bulk and scale of the proposed development is considered to be appropriate for the intended character of the area given the planning controls in place. The proposed variation to the FSR standard has been reviewed in context with the surrounding development, future streetscape and character of the area. It is considered that the proposal has adequately demonstrated that the variation to the FSR standard will not have a detrimental visual impact within the Annangrove Road Enterprise Corridor.

Specifically in relation to recent judgments of the Land and Environment Court, for the reasons identified above it is considered that:

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.4 Floor Space Ratio and the B6 Enterprise Corridor zone objectives; and
- Compliance with the standard is unnecessary or unreasonable in this instance.

In accordance with the Departments Circular PS 08-003 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.

In view of the above, the proposed floor space ratio is considered satisfactory and can be supported in this instance.

## **5. Compliance with The Hills Development Control Plan 2012**

The proposal has been assessed against the provisions of The Hills Development Control Plan 2012 and the following addresses the relevant development controls of the DCP:

- Part B Section 6 – Business – Child Care Centres (Appendix E)
- Part B Section 7 – Industrial
- Part C Section 1 – Parking
- Part C Section 3 – Landscaping

The development complies with the relevant controls with the exception of the following:

**a. Front Setback**

Section C2.2 of Appendix C, The Hills DCP 2012 Part B Section 7 – Industrial ‘Development Controls for the Edwards Road Precinct’ requires a front landscaped setback of 10m. The site is subject to road widening along Annangrove Road and a portion of the site is zoned SP2 Infrastructure to allow for Council to acquire land to reconstruct Annangrove Road. The land zoned SP2 within the site is essentially for battering, retaining works and service relocation beyond the extent of the future Annangrove Road carriageway and verge.

As such, the proposed building is set back 9.3m to the future boundary of the site with the SP2 Infrastructure zone. A 10 metre setback is proposed to the future edge of the road reserve, ordinarily where the front setback would be measured from. As such although technically the proposal does not comply with this provision, the intent of the setback control from Annangrove Road is met.

**b. Side Boundary**

Section C2.2 of Appendix C, The Hills DCP 2012 Part B Section 7 – Industrial ‘Development Controls for the Edwards Road Precinct’ requires a side setback of 0m to one side boundary and 5m to any other side boundary.

The development proposes a minimum 2 metre side setback to northern boundary and a minimum 3 metre setback to the southern boundary.

The applicant submitted the following statement in support of the variation:

*“The setback to the south is 3m which strictly does not comply with the DCP requirement of 5m. The width of 3m is sufficient to accommodate deep soil planting which can hold large canopy tree plantings as shown in the landscape plan. Although the setback is not achieved for this frontage, additional rear setback is provided overall, the setback space is balanced out over the entire site. The landscape plan shows that many high quality plantings will be delivered to ensure the scheme has a green outlook and contributes to the locality.”*

**Comment:**

The objectives of Section C2.2 of Appendix C, The Hills DCP 2012 Part B Section 1 – Industrial ‘Development Controls for the Edwards Road Precinct’ are as follows:

- “(i) To create a visually attractive and consistent streetscape.*
- (ii) To provide an effective buffer to preserve the natural features and creeks in accordance with Council’s ESD objective 4.*
- (iii) To protect privacy and amenity of any adjoining land uses.*
- (iv) To provide a desirable and aesthetically pleasing working environment,”*

The development complies with the minimum front and rear setback requirements and provides sufficient setbacks for landscaping. Given the proposed use of the site, it is considered that the side setback is balanced out to 2 and 3 metre side setbacks in comparison to the required nil and 5 metre side setbacks providing landscaped side setbacks to both side boundaries.

The development provides a visually attractive development which is consistent with the future character of the area, protects the privacy and amenity of adjoining land uses and provides a desirable working environment for a range of employment types.

In view of the above, it is considered that the variation to the side setback control is supportable in this instance.

### c. Parking

The proposal provides for 471 spaces on the site. There are a range of uses proposed on the site. The table below details the parking required by the proposal under the DCP for each use and rates of parking for uses not covered under the DCP.

#### PARKING CALCULATIONS

USE	PARKING RATE (SPACES)	REQUIREMENT	PROPOSED
Child care Centre	1 space per 6 children plus 1 space per employee (140 children)	43	
Business Premises	1 space per 25m <sup>2</sup> (7,303m <sup>2</sup> GFA)	293	
Industrial / Warehouse	1 space 75m <sup>2</sup> of GFA (4,203m <sup>2</sup> GFA)	57	
Self-storage	No rate (Parking Study)		5*
Food and Drink Premises	1 spacer per 5 seats plus 12 spaces per 100m <sup>2</sup> of GFA  (60 seats 193m <sup>2</sup> GFA)	35	
Recreation Facility	Gymnasium/ Fitness Centre – 1 space per 25m <sup>2</sup> of GFA (997m <sup>2</sup> )  Other Recreation Facility – Parking Study	Gym – 40	Swimming Centre – 49*
Total Required			522
Total Proposed			471

The DCP does not provide specific rate for swimming centres or the self-storage units. The swimming centre will be subject to a future development application which will detail patron numbers and operational characteristics such as student numbers and hours of operation for learn to swim classes. The applicant has attributed 49 spaces to the centre based on gymnasium/fitness centre rate of 1 space per 25m<sup>2</sup>. The applicant has proposed that five parking spaces be attributed to the self-storage facility based on a parking report by Aurecon “*Study Results and Findings Self Storage Facility Traffic and Parking Study, Self-Storage*



*Association of Australia*” which identifies that a self-storage facility within the range of 6,000m<sup>2</sup> to 9,500m<sup>2</sup> of GFA is to provide 5 spaces.

Given the range of uses parking demand will vary given the time of day or week. All future occupation applications will be required to ensure that adequate parking is provided on site in accordance with the specific rates of the DCP a future application will need to justify adequate parking for the specific demands of uses not specifically cover by the DCP. The applicant has provided justification below to support the proposed development based on the rates above

*“The proposed parking supply on-site would aim to accommodate the peak usage of the overall site on a typical day. However, patterns of parking accumulation also need to be considered, given that different uses on the site will give rise to different parking demands throughout the course of the day and week.*

*For example, the swimming pool and gym are expected to generate peak parking demand before the morning road network peak and after the afternoon peak with people using the gym and/or swimming before or after work. Food and drink premises within a commercial development would, on the other hand, have its peak parking demand during the midday lunch period by catering to nearby staff, and is anticipated to be closed during the afternoon peak. A warehouse has a higher heavy vehicle percentage and is thereby anticipated to have peak activity occur in the morning with heavy vehicle usage typically lower in the afternoon peak. On weekends, the swimming pool and gym are the only land uses anticipated to generate a parking demand.*

Table 5.2 (the table below) estimates the maximum parking demand of the site’s different uses over the course of an average day, illustrating how parking allocated to different uses will experience peaks during different times of the day. It is suggested that peak parking demands at different times of day would be able to be accommodated due to parking provided for other uses experiencing different peaks.

Time (Weekday)	Estimated Parking Usage by Time Period							Parking Occupancy
	Child Care	Commercial	Food & Drinks	Swim. Pool	Gym	Ware- house	Storage Unit	
7am-8am	100%	50%	20%	100%	100%	100%	75%	66%
8am-9am	100%	100%	20%	70%	70%	100%	75%	89%
9am – 12pm	25%	100%	50%	50%	50%	100%	100%	82%
12pm-3pm	25%	100%	100%	50%	50%	100%	100%	85%
3pm-6pm	100%	100%	20%	75%	75%	50%	100%	85%
6pm-10pm	10%	50%	0%	100%	100%	10%	25%	47%

Time (Weekday)	Estimated Parking Demand by Time Period							Expected Maximum Parking Occupancy
	Child Care	Commercial	Food & Drinks	Swim. Pool	Gym	Ware- house	Storage Unit	
<b>DCP Parking Requirement:</b>	<b>43</b>	<b>293</b>	<b>35</b>	<b>49</b>	<b>40</b>	<b>57</b>	<b>5</b>	<b>522</b>
7am-8am	43	147	7	49	40	57	4	347
8am-9am	43	293	7	34	28	57	4	466
9am – 12pm	7	293	18	25	20	57	5	424
12pm-3pm	7	293	35	25	20	57	5	441
3pm-6pm	43	293	7	37	30	29	5	444
6pm-10pm	4	147	0	49	40	6	1	247

*Based upon this analysis, the total parking requirement assessed, could be reduced to 466 spaces including 62 spaces for the industrial (warehouse and storage units) component and 406 spaces for the business and recreational components.*

*The proposed development is to provide 471 car spaces including 370 spaces within the general car park (to accommodate the child care centre, commercial and recreational premises), 78 spaces within the industrial building (to accommodate the storage and warehouse facilities and some staff members from the commercial and recreational premises), and 23 car spaces dedicated to the warehouses. The 23 warehouse spaces (one dedicated space per warehouse) would have a combined use as a loading bay, noting that due to the small sizes of the warehouse tenancies (150m<sup>2</sup> each), they are likely to accommodate the storage needs of small business and would not have much parking demand beyond the requirement for a space to load and unload.*

*Based on the above, the car parking provision for the proposed development is satisfactory.”*

Council’s DCP Part C Section 1 - Parking Clause 2.1.3 allows the provision of dual use parking. The DCP states;

*“Where the main usage periods of the component uses do not coincide, Council may consider a reduction in the car parking requirements provided that the total car parking is not less than that needed for the component that generates the greatest requirement. The onus will be on the applicant to satisfy Council that the main usage periods do not coincide.”*

It is considered that the justification provided by the applicant for the proposed parking is reasonable and that adequate parking will be provided on site for future tenants and customers.

## **6. Issues Raised in Submissions**

The application was advertised and notified and 5 submissions were received. The issues raised in the submissions are summarised as follows:

<b>ISSUE/OBJECTION</b>	<b>COMMENT</b>
Concern that the entire area of the site is to be excavated to a depth of between 16 to 18 metres with the excavation to continue in a full horizontal plane to the creek line boundary at the rear of the property. Concern that all top soil and sandstone will be removed from the site.	<p>The excavation of the site for the proposed development has been clearly identified on the subject plans. It is acknowledged that the site includes significant excavation. Council staff have considered the impacts associated with the earthworks and have recommended a number of measures to limit impact of neighbouring properties. These include:</p> <ul style="list-style-type: none"><li>• Construction times frames, limiting development time to 27 months;</li><li>• Compliance with an approved Site Construction Environmental Management Plan;</li><li>• Compliance with an approved Construction Noise Management Action Plan for adjacent child care centre requirements</li><li>• Acoustic requirements, including the construction of a 2 metre acoustic barrier along the boundary of the child care centre and the development prior to</li></ul>

ISSUE/OBJECTION	COMMENT
	<p>development works commencing;</p> <ul style="list-style-type: none"> <li>• Dust management conditions; and</li> <li>• Water management condition.</li> </ul>
<p>It appears to us that it is the developer's intention, as an alternative to fully developing the site themselves, that the project will be sold off after the development consent is issued and the quarrying completed.</p>	<p>It is acknowledged that the owner of the land is a quarry operator and that the proposal includes a significant amount of excavation.</p> <p>Although there are no specific controls that limit building excavation, assessment of the merits of the proposal and the impacts associated with the works has been undertaken specifically given that the site is located directly adjacent to an existing child care centre. A detailed Construction Environmental Management Plan and a Construction Noise Management Plan has been submitted and reviewed. Subject to the amendments made to these plans and conditions recommended in this report it is considered that the excavation and associated impacts of the works will be managed to a satisfactory standard.</p> <p>A condition is also recommended that the site is not to operate as a quarry. Refer Condition No. 5.</p>
<p>Concern that to excavate, process and remove this volume of spoil from the site will take years with time extensive sawing and heavy machine hammering/grinding of the sandstone strata required on a near continuous basis.</p>	<p>Council staff have required that the Applicant detail the proposed time frame for excavation. A time frame for excavation of 3 to 4 months has been proposed and conditions of consent have been recommended reflecting this. Refer Condition Nos. 70 and 72.</p>
<p>Concern that the noise, vibration and fine dust created by this intense excavation will impact the health and safety of children and staff at the child care centre.</p>	<p>As detailed above a detailed Construction Environmental Management Plan and a Construction Noise Management Plan has been submitted and reviewed. Noise, vibration and fine dust created by the excavation of the site have been addressed in these reports. Subject to the amendments made to these plans and conditions recommended in this report it is considered that the excavation and associated impacts of the works will be managed to a satisfactory standard.</p>
<p>Council has approved our child care for 173 places and the developer of No. 318 has requested approval for another child care facility of 140 places. To have two large child care centres next to one another makes no commercial sense and in our view is a poor way to develop the growing Rouse Hill / Box Hill precinct.</p>	<p>The proximity of proposed child care centres to existing centres is not a matter that cannot be considered in the assessment of a new proposal as identified under Clause 25 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.</p>

ISSUE/OBJECTION	COMMENT
<p>We also refer you to the Noise Management plan (171075_NMP_Rev 3) prepared by Benbow for our own development at No. 320 Annangrove Rd, with which we had to comply. Our development, completed in July 2019, is a low rise, low impact office and warehouse complex. The estimated value of the development at No. 318 Annangrove Rd is said to approach \$60M and is surely an indication of the magnitude and scale of the proposal. It will ultimately have a major and permanent negative impact on our child care centre and for the strata owners and tenants of our development at No. 320 Annangrove Road.</p>	<p>As identified in this report, the impacts associated with the construction of the development have been considered and associated impacts of the works will be managed to a satisfactory standard subject to compliance with the recommended conditions.</p> <p>Operational noise levels have been assessed and appropriate detail and conditions have been provided to confirm that the operation of the site will comply with the requirements of the EPA's Noise Policy for Industry. In addition a condition has been provided requiring the applicant to undertake an Acoustic Assessment within 3 months of the operation of the site to confirm that the requirement site specific noise level has been met.</p>
<p>Concern that there will be a significant increase in heavy vehicle traffic on Annangrove Road and will impact all local residents, businesses and already congested traffic flow on Annangrove Road.</p>	<p>Annangrove Road is identified as a sub-arterial road and as such is intended to carry significant volumes of traffic. Annangrove Road is to be upgraded and will include two lanes each way with a central median island.</p>
<p>In order to highlight the extent of the excavation required to prepare the site for building, we calculate, after taking expert opinion, that in the order of 200,000 cubic metres of sandstone spoil will require to be removed from the site. This will require 16,800 truck loads, at 30 tonnes per load (optimistic) and allowing for a period of 12 months to excavate, or 240 working days, a minimum of 70 loads per day is needed to clear the site. Given the turnaround time for each vehicle, there will be a requirement for each vehicle to complete 10 runs per day, necessitating 7 trucks and dogs.</p>	<p>As identified in this report, it is acknowledged that the site includes significant excavation. In order to lessen impacts excavation will be undertaken initially adjacent to the boundary with No. 318 Annangrove Road to create a natural sound wall. All trucks will enter and exit the subject site adjacent to the northern boundary away from the child care centre site, adjacent to No. 316 Annangrove Road, where a civil contracting company currently operates from.</p>
<p>Concern raised that the DA proposes to remove all the trees from the site despite many being old growth natives.</p>	<p>Given the earthworks proposed including the changes in levels at the front of the site, all vegetation is proposed to be removed from the site. The applicant has sought to address the impacts on the site through a Biodiversity Development Assessment Report (BDAR). Council staff are satisfied that the applicant has provided an adequate assessment of impacts that has followed avoid, mitigate and offset.</p> <p>The applicant has also submitted a Vegetation Management Plan to support the development proposal for the purpose of</p>

ISSUE/OBJECTION	COMMENT
	meeting with the; avoid, mitigate and offset requirements proposed as part of the Biodiversity Development Assessment Report.
Concern raised that there are two driveways proposed for multiple entry and exit points which will be dangerous with current speed limits and lines of sight.	Council's Traffic Section has reviewed the entry and exit driveways and advised that the driveway locations of the proposed development shows that there will be in excess of 100m sight distance to north and south bound vehicles travelling on Annangrove Road. Accordingly, the driveway location complies with the sight distance requirements under the Austroads Standards for vehicles travelling at 70km/hr.

## EXTERNAL REFERRALS

### NSW RURAL FIRE SERVICE COMMENTS

The proposal was lodged as Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the NSW Rural Fire Service as the development included a child care centre, which is defined as a special fire protect purpose and the site is bushfire prone land. No objections were raised to the proposal subject to conditions of consent (refer to Attachment 10).

### DEPARTMENT OF PRIMARY INDUSTRIES - NRAR

The proposal was lodged as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the Department of Primary Industries – Natural Resources Access Regulator under the provisions of the Water Management Act, 2000. The Department of Primary Industries - Water have provided their General Terms of Approval (refer to Attachment 11).

### NSW POLICE COMMENTS

The application was referred to the NSW Police in relation to Crime Prevention Through Environmental Design (CPTED). No comments were received to the application.

### SYDNEY WATER COMMENTS

The application was referred to Sydney Water. No objections were raised to the proposal.

## INTERNAL REFERRALS

### TRAFFIC

#### i) Existing Traffic Environment

The application proposes to seek approval for a commercial and industrial development at 318 Annangrove Road, Rouse Hill. The traffic report prepared by The Transport Planning Partnership has been submitted in support of the application.

Annangrove Road is classified as a sub-arterial road under Council's Road Hierarchy and provides a link to Edwards and Withers Road on a local level and to the wider arterial road

network via Windsor Road and Old Northern Road. This road is currently configured as a two-way, two-lane road with one traffic lane in either direction across a 7m wide road carriageway.

The site is currently vacant and has been rezoned from IN2 Light Industrial to B6 Enterprise Corridor Zoning. Land uses surrounding the site predominately comprise industrial and rural residential land use. These lots have been rezoned to B6 Enterprise Corridor Zoning as part of the Edwards Road Precinct Master Plan.

The consultant's traffic report provide a recent traffic count data during peak hours for key intersections near the development site such as Annangrove Road and Windsor Road(2958 and 3362), Annangrove and Edwards Road(1325 and 1398) and Annangrove and Withers Road(1222 and 1212).

#### ii) Cumulative Impact in Locality

The Edwards Road Precinct Traffic and Accessibility Study 2010 estimated a traffic generation of 233 vehicles per hour for Area 2 of the precinct, which comprises of four sites. The Transport Planning partnership has used this figure to assume that the study estimates 25% of Area 2 to generate 60vph of the estimated 233 vph.

According to The Transport Planning Partnership, the net increase in traffic generation is 295vph and 223vph in the AM and PM peaks respectively over that considered in the Edwards Road Precinct Study. However the 2018 traffic survey data is noted to contain significantly greater traffic volumes compared to the 2010 traffic survey used for the Edwards Road Precinct Study as a result of surrounding developments that have already been completed.

SIDRA intersection modelling of key intersections suggests that the proposed development would have a negligible impact on the surrounding road network with the exception of the intersection of Windsor Road and Annangrove Road, resulting in a LOS increase from C to E. However given the anticipated industrial arising from future development in the area, Withers road will be upgraded to a Sub-Arterial Class 2 road. Further to the above, it is noted that Annangrove Road-Withers Road intersection will be upgraded to a signalised intersection with auxiliary right-turn lanes which will improve the LOS to D.

#### iii) Sight Distance and other Safety Issues

The driveway location of the proposed development shows that there will be in excess of 100m sight distance to north and south bound vehicles travelling on Annangrove Road. Accordingly, the driveway location complies with the sight distance requirements under the Austroads Standards for vehicles travelling at 70km/hr.

#### iv) Recommendations

While the proposed development is expected to see an increase in traffic, upgrades to existing intersections are planned to accommodate a significant increase in development activity in the surrounding areas. Sidra analysis also shows that the development traffic would have a negligible impact compared to the background traffic growth. There are no objections to the proposal in terms of traffic impact provided that the appropriate contributions are paid, given that the site is included in the "Annangrove Road Employment Area Contributions Plan" as part of the Edwards Road Precinct Area.

## **ECOLOGY**

Council staff have reviewed the updated Biodiversity Development Assessment Report prepared by Conacher Consulting Ref 20011 dated January 2020 and are satisfied that the

applicant has provided an adequate assessment of impacts that has followed avoid, mitigate and offset requirements of the Biodiversity Assessment Methodology.

The applicant has submitted a Vegetation Management Plan to support the development proposal for the purpose of meeting with the avoid, mitigate and offset requirements of the BAM proposed as part of the Biodiversity Development Assessment Report. I have asked for information in the Vegetation Management Plan, prepared by Conacher Consulting, Ref 8076, dated September 2019, to be amended.

## **ENVIRONMENT AND HEALTH COMMENTS**

Council staff have reviewed and asked for amendments to the various reports submitted throughout the assessment process. These reports include;

1. Noise Impact Assessment and Report prepared by Benbow Pty Ltd, referenced as 181032\_NIA\_Rev 3, dated October 2019
2. Site Assessment and Report prepared by Benbow Pty Ltd, referenced as Report Number 181064\_Phase1\_Rev2, dated May 2018
3. Construction Environmental Management Plan prepared by Benbow Environmental Pty Ltd, referenced as 181043\_CEMP\_Rev4, dated May 2019
4. Construction Noise Action Plan for adjacent childcare centre, prepared by Benbow Pty Ltd, referenced as 181032\_Rep\_Rev3 dated January 2020

Conditions of consent have been provided to ensure the applicant complies with the requirements of the above mentioned reports. Issues such as Acoustics (both during construction and during site operation), Dust Management and Construction Impact Management including monitoring have been addressed and conditions have been provided to minimise the impacts of the construction and operation of the site on neighbouring properties.

During Construction Conditions have been provided to ensure the following outcomes;

- A 2 metre Acoustic Wall is to be installed between the development site and the neighbouring childcare centre prior to any construction works commencing on site;
- Construction Management conditions including communication protocols and respite periods have been conditioned when the construction is occurring directly adjacent to the childcare centre;
- Dust screens and water sprayers are to be installed around the site to minimise dust impacts;
- Monitoring of noise levels and dust levels is to be undertaken during construction to minimise health risks to children in the neighbouring childcare centre outdoor play area.

An environmental health assessment has been reviewed to ensure that no odour issues impact the proposed childcare centre from the neighbouring Sydney Water treatment plant.

Use of site noise conditions have been provided so as to ensure that the ongoing operation of the development does not cause offensive noise to the neighbouring developments.

Whilst it is acknowledged that the applicant is the owner of a sandstone quarry and sandstone will be excavated from the site, conditions have been imposed regarding timeframe for excavation and not using the site as a quarry.

## **CONCLUSION**

The proposal has been assessed against Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy – State and Regional

Development 2011, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy Educational Establishments and Child Care Facilities 2017, The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered to be satisfactory. The proposed development will benefit the broader community and will result in an appropriate streetscape outcome for the locality and future character of the area.

The request to vary the Floor Space Ratio standard pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP) is considered satisfactory in this instance as discussed within the report.

The proposal was advertised and notified to adjoining property owners and one submission was received. The matters have been addressed in the report but do not warrant the refusal of the Development Application.

The proposal is recommended for approval subject to conditions.

### **IMPACTS:**

#### **Financial**

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

### **RECOMMENDATION**

The Development Application be approved subject to the following conditions.

### **GENERAL MATTERS**

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

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

The amendments in red include: -

- Pylon Signage subject to separate Development Application

### **REFERENCED PLANS AND DOCUMENTS**

JOB NO	DESCRIPTION	DRAWING NO	REVISION	DATE
8664	Cover Sheet	A.0001	H	02/03/2020
8664	Site Plan	A.1001	H	02/03/2020
8664	Basement Level 04 / Storage Units	A.2001	G	20/10/2019
8664	Basement Level 03 / Storage Units	A.2002	G	20/10/2019
8664	Basement Level 02 / Industrial Ground Floor Level	A.2003	G	20/10/2019
8664	Basement Level 01 / Industrial Mezzanine	A.2004	G	20/10/2019



	Level			
8664	Lower Ground Floor Level	A.2005	G	20/10/2019
8664	Floor Levels	A.2006	G	20/10/2019
8664	Floor Levels – Commercial and Child Care	A.2007	G	20/10/2019
8664	Roof Layout Plan	A.2101	G	20/10/2019
8664	Elevations	A.3001	G	20/10/2019
8664	Elevations	A.3002	G	20/10/2019
8664	Elevations	A.3003	G	20/10/2019
8664	Typical Section	A.3101	G	20/10/2019
8664	Ramp Long Sections	A.3102	G	20/10/2019
8664	Typical Section	A.3103	H	02/03/2020
8664	Typical Section	A.3104	H	02/03/2020
8664	Sunken Garden Details	A.4301	G	20/10/2019

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

## **2. Compliance with NSW Rural Fire Service Requirements**

Compliance with the requirements of the NSW Rural Fire Service attached as Appendix (A) to this consent and dated 6 July 2018.

## **3. Compliance with Department of Primary Industries Requirements**

Compliance with the requirements of the Department of Primary Industries attached as Appendix (B) to this consent and dated 30 July 2018.

## **4. Tree Removal**

Approval is granted for the removal of all existing trees within the site boundaries.

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

## **5. Not to Operate as an Extractive Industry**

The site is not to operate as an extractive industry. An extractive industry is defined under the The Hills Local Environmental Plan 2019 as:

*“the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.”*

In this regard, excavation is to occur within a four month period and subsequent building works are to occur upon finalisation of excavation.

## **6. Separate Development Application for Occupations**

A separate development application is required for the occupation of the approved tenancies including the child care centre and recreations facility.

All other uses require a separate development application unless allowed by the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Where a Development Application is required, the application should specifically address the following:

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

### **7. Planting Requirements**

All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m<sup>2</sup>.

Planting to areas covered by the Vegetation Management Plan are to be supplied in planting sizes, densities and quantities as per the VMP.

### **8. Replacement Planting Requirements**

To maintain the treed environment of the Shire, four (4) local provenance 75 litre replacement trees as below are to be planted elsewhere within the front setback of property.

*Eucalyptus tereticornis*

Forest Red Gum

### **9. Irrigation**

Automatic watering system is to be installed to all common areas and raised planter boxes. 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

### **10. Provision of Parking Spaces**

The development is required to be provided with 471 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

### **11. External Finishes**

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

### **12. Separate application for signs**

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

### **13. Construction Certificate**

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

### **14. 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.

### **15. 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.

### **16. 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.

### **17. Litter Control**

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

### **18. Acoustic Requirements**

The recommendations of the Noise Impact Assessment and Report prepared by Benbow Pty Ltd, referenced as 181032\_NIA\_Rev 3, dated October 2019 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Noise mitigation measures for vehicle movements;
  - o Prohibition of extended periods of on-site revving/ idling;
  - o Minimisation of the use of truck exhaust brakes on site;
  - o Enforcement of low onsite speed limits; and
  - o Signs to encourage quiet operations during the night period.

### **19. Contamination Assessment & Site Remediation**

The recommendations of the Site Assessment and Report prepared by Benbow Pty Ltd, referenced as Report Number 181064\_Phase1\_Rev2, dated May 2018 and submitted as part of the Development Application are to be implemented as part of this approval.

### **20. 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](http://www.wastelocate.epa.nsw.gov.au).

### **21. 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](http://www.wastelocate.epa.nsw.gov.au).

## **22. 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.

## **23. Construction of Separate Waste Storage Areas**

The building must incorporate separate waste storage areas constructed in accordance with Council's 'Bin Storage Facility Design Specifications', to facilitate the separation of waste and recycling for the recreation facility, child care, food and drink premises and business premises. A copy of the specifications is available at [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au).

## **24. Waste and Recycling Collection Contract**

There must be a contract with a licenced contractor for the removal of all waste generated on site. Written evidence of a valid and current collection contract must be held on site at all times and produced in a legible form to any authorised officer of the Council who asks to see it.

## **25. Protection of Existing Trees and Native Vegetation**

No additional native vegetation (trees and understorey) is to be removed for the creation of an Asset Protection Zone or otherwise without prior consent of Council.

## **26. Street Trees**

Street trees must be provided for the section of Annangrove Road fronting the development site spaced between 7m and 10m apart. For corner lots, except with separately approved, there should be one tree on the primary frontage and two trees on the secondary frontage. 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 a street tree masterplan where one exists (check Council's website for details). A street tree planting plan demonstrating compliance with the above must be submitted for written approval before any street trees are planted.

The establishment of street tree planting is included in the maintenance bond required to be paid. Alternatively, street trees can be planted by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

## **27. Process for Council Endorsement of Legal Documentation**

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

### **28. 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.

### **29. Separate Application for Strata Subdivision**

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

### **30. 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.

### **31. 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 – 2002 Off Street Commercial Vehicle Facilities
- 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.

### **32. 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.

### **33. 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 northern and southern driveways must be designed and constructed in accordance with the Civil Engineering Works drawing No. DA C03.01 Revision 7 dated 21/11/2019 prepared by Northrop Engineers.
- Detailed design of the northern driveway must ensure the compatibility with the approved development DA 3430/ 2004/ HC on the property to the north 316 Annangrove Road. This will require construction of the roundabout in concurrence with the owner of 316 Annangrove Road.
- (Note: Both sites 316 and 318 Annangrove Road are affected by reciprocal right of ways benefitting each property.)
- The southern driveway must be wide enough to be consistent with Swept Path Analysis drawing No. 18010DA012-Figure 1 Revision A dated 19/11/2019 prepared by ttp Transport Planning to facilitate exiting HRV in parallel with a B99 vehicle, not encroaching the centre line of Annangrove Road.

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

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

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

#### **b) Sydney Water Approval**

The outlet drainage including rip-rap protection measures and web-forged bridged structure are located within Sydney Water land. They must be designed and detailed to the Sydney Water requirements and a copy of approval must be provided to the Principal Certifying Authority prior to the issue of construction certificate.

#### **c) 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.

#### **d) Footpath Verge Formation**

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

#### **e) Site Stormwater Drainage**

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge via Water Sensitive Urban Design elements proposed with the development.

#### **34. Recycled Water – Rouse Hill/ Sydney Water**

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

### **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

#### **35. Landscape Plan**

An amended Landscape Plan for the landscaping of the site is to be prepared by a suitably qualified landscape architect or horticulturalist and submitted to the satisfaction of Council's Manager - Environment and Health.

The Landscape Plan must be amended to contain and address the following:

- a) Existing and proposed levels;
- b) Top of Wall heights to raised planter boxes and retaining wall throughout landscape plan are to be provided to demonstrate the following planter depths.

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.

- c) Landscape plan, Architectural Plans, and Stormwater plans are to be consistent. Positions of stormwater pits are not to conflict with planting, planter boxes or other landscape features.
- d) Street tree species and spacing are to be as per THDCP Part C Section 3 Appendix B – Recommended Street Trees, and The Hills Shire Council Typical Street Tree Setout and Details (SD.50).
- e) Detailed location of substations and hydrants.
- f) Detailed information on fencing heights and materials.
- g) Landscape plan is to adequately respond to the requirements of the Vegetation Management Plan and the species requirements, including diversity and density of planting in the rear and side setbacks.
- h) Plant sizes in Plant Schedule are to be amended to reflect Planting Requirement Conditions.
- i) Trees to be provided in Planting Requirements condition are to be located on the landscape plan.

- j) Landscape Plan and future landscaping is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006', and is to be clearly noted on the Landscape Plan.

### **36. Notice of Requirements**

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

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

### **37. Erosion & Sediment Control Plan**

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

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

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

### **38. Acoustic – Mechanical plant**

Prior to the issue of any Construction Certificate a suitably qualified acoustic consultant is to provide advice on the final mechanical plant selection/s to ensure that it meets the noise targets as shown in the below mentioned table;

Location	Time period	Noise Level
At the property boundary	Day (7:00am – 6:00pm)	52dB(A)Leq (15min)
	Evening (6:00pm – 10:00pm)	43dB(A)Leq (15min)
	Night (10:00pm – 7:00am)	38dB(A)Leq (15min)

Evidence of this is to be provided to Council's Manager – Environment and Health for review and if satisfactory, written support will be provided prior to any Construction Certificate being issued.

### **39. 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:-



<b>Development Category</b>	<b>Rate per add. m<sup>2</sup> of Floor Space: 22,938.27m<sup>2</sup></b>	<b>TOTAL \$7.11</b>
Land	\$ 13.10	\$ 300,491.34
Capital	\$ 76.42	\$ 1,752,942.59
<b>Total</b>	<b>\$ 89.52</b>	<b>\$ 2,053,433.93</b>

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 11.

Council's Contributions Plans can be viewed at [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au) or a copy may be inspected or purchased at Council's Administration Centre.

#### **40. Vegetation Management Plan**

A Vegetation Management Plan must be prepared strictly in accordance with Council's *Vegetation Management Plan Guideline* (available on Council's website [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au)). The Plan must be prepared by a suitably qualified bush regenerator or restoration ecologist with a minimum Certificate IV in Conservation Land Management. The Plan must be submitted to Council's Manager – Environment and Health for approval.

The Vegetation Management Plan must include details relating to:

- The rehabilitation and management of native vegetation within the rear and side setbacks.
- The production of an information fact sheet (maximum 1 page double sided) prepared in accordance with Council's *Guidelines for preparing Information Fact Sheet* (available on Council's website).
- The wording and erection of signage at key locations.
- The location and type of fencing required.

#### **41. Biodiversity Offsetting Requirements**

To offset the loss of biodiversity impacts of the development, the class and number of ecosystem and species credits listed in the table below, must be retired.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator (The amount payable to discharge an offset obligation will be determined at the time of payment).

<b>Impacted plant community type</b>	<b>Number of ecosystem credits</b>	<b>IBRA sub-region</b>	<b>Plant community type(s) that can be used to offset the impacts from development</b>
PCT 849 Grey Box – Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion	8	Cumberland, Burragorang, Pittwater, Sydney Cataract, Wollemi and Yengo. or Any IBRA subregion that is within 100 km of the site.	Cumberland Plain Woodland in the Sydney Basin Bioregion (including PCT's 849, 850)

<i>Myotis macropus</i> (Southern Myotis)	6	Any in NSW	-
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Details demonstrating compliance with the requirements to retire credits or make payment to the Biodiversity Conservation Fund must be provided to The Hills Shire Council Manager – Environment and Health prior to issue of a Construction Certificate.

#### **42. Amend Vegetation Management Plan**

The Vegetation Management Plan, prepared by Conacher Consulting, Ref 8076, September 2019 is to be amended to be strictly in accordance with Council's *Vegetation Management Plan Guideline* (available on Council's website [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au)). The changes required include:

- Addressing all content requirements for a Vegetation Management Plan in accordance with Council's *Vegetation Management Plan Guideline*.
- Density and species richness for PCT 849 Grey Box – Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion;
- Requirements for the installation of a compensatory nest box;

The Plan must be submitted to The Hills Shire Council's Manager – Environment and Health for approval.

#### **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. Site Stormwater Management**

The Siteworks and Stormwater Management Plan (illustrating a partial site) Sheet 03 drawing No. DAC03.03 Revision 5 dated 26/11/2018 prepared by Northrop Engineers is for development application purposes only and is not to be used for construction.

The detailed design must include:

A complete drainage network designed for the entire site.

Water sensitive urban design elements, consisting of 1x20kL Rainwater Tank, 3xEnviroPod 200 and 20x690 PSorb cartridges 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

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.
- Soft copy of the MUSIC model used in establishing the WSUD elements.
- A maintenance schedule.

#### **45. 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.

#### **46. Works in Existing Easement**

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

#### **47. 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.

#### **48. 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 \$114,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the 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 (200m) multiplied by the width of the road (6.5m).

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.

#### **49. 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.

## **PRIOR TO WORK COMMENCING ON THE SITE**

### **50. Protection of Existing Trees**

Neighbouring trees at the rear of the site are to be retained and protected during all works strictly in accordance with AS4970- 2009 Protection of Trees on Development Sites.

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

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

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

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

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

### **51. Details and Signage - Principal Contractor and Principal Certifier**

#### **Details**

Prior to work commencing, submit to the Principal Certifier 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 Principal Certifier 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 Principal Certifier 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.

### **52. 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.

### **53. 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.

### **54. Erosion and Sedimentation Controls**

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

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

#### **55. Site Water Management Plan**

A Site Water Management Plan is to be prepared. The plan shall be in accordance with *"Managing Urban Stormwater - Soils and Construction" (Blue Book)* produced by the NSW Department of Housing. The plan is to be kept on site at all times and made available upon request.

#### **56. 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.

#### **57. 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.

#### **58. 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.

#### **59. Discontinuation of Domestic Waste Services**

Council provides a domestic waste service to the property subject to this Development Application. This service must be cancelled prior to demolition of the existing dwelling 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.

#### **60. Project Ecologist**

Prior to any works commencing, a Project Ecologist is to be appointed and the following details provided to The Hills Shire Council's Manager – Environment & Health:

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

If the Project Ecologist is replaced, The Hills Shire Council's Manager – Environment & Health is to be notified in writing of the reason for the change and the details of the new Project Ecologist within 7 days.

### **61. Bushland Protection Fencing**

Prior to any works commencing on site temporary Bushland Protection Fencing must be in place at the following locations:

On the boundary between Planting Zone 2 and the building footprint (indicated in Figure 1.1 of the Vegetation Management Plan prepared by Conacher Consulting, Ref 8076 dated September 2019). The temporary fence is to be a minimum chain-wire fence or parrawebbing or similar and be suitable to restricted unauthorised entry.

The temporary fence is to stop the following occurring:

- Stockpiling of materials within significant bushland.
- Placement of fill within significant bushland.
- Parking of vehicles within significant bushland.
- Compaction of soil within significant bushland.
- Cement washout and other chemical or fuel contaminants within significant bushland.
- Damage to threatened plants and their habitat.

### **62. Project Bush Regenerator**

Prior to any works commencing, a suitably qualified (minimum Certificate III Natural Area Restoration) Bush Regenerator is to be appointed and the following details provided to Council:

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

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

### **63. Dilapidation Survey**

Prior to work commencing a practicing professional structural engineer shall carry out a dilapidation survey of the adjoining buildings at and submit a copy of the survey both to Council and the property owner.

### **64. 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.

### **65. Erosion and Sediment Control/ Soil and Water Management**

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

### **66. 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**

### **67. Documentation On Site**

A copy of the development consent and stamped plans together with the following documents shall be kept during construction.

- Arborist Report
- Waste Management Plan
- Erosion and Sedimentation Control Plan
- Traffic Control Plan

### **68. 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.

### **69. Critical Stage Inspections and Inspections Nominated by the Principal Certifier**

Section 6.6 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 Principal Certifier 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 Principal Certifier is not carried out. Inspections can only be carried out by the Principal Certifier unless agreed to by the Principal Certifier beforehand and subject to that person being an accredited certifier.

### **70. Construction Noise Management Action Plan for Adjacent Child care Centre Requirements**

The recommendations of the Construction Noise Management Plan for adjacent child care centre prepared by Benbow Environmental Pty Ltd, referenced as 181032\_Rep\_Rev3, dated 14<sup>th</sup> January 2020 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Table 2-1 Construction Activities Time Frames – 27 months in total;
- A 2m high solid construction boundary fence between the site and the adjacent child care centre will be installed prior to any construction works at 318 Annangrove Road, Rouse Hill;
- Excavation work will take place in area A (see figure 3-1) before excavation works occur elsewhere on site;
- 2 hours per day of noise respite will be provided to the adjacent child care centre per day for 4 weeks or until floor area A is 1.5m below ground level, whichever is longer.
  - o Noise respite is where no noisy equipment (sound power level is greater than 80dB(A)) will be operated.

- The manager / director of the child care centre will be contacted before 9am each Monday during this period to agree on specific respite times. Where respite times cannot be agreed upon 10am – 11am and 2pm – 3pm will be provided

#### **71. Site Construction Environmental Management Plan Requirements**

The recommendations of the Construction Environmental Management Plan prepared by Benbow Environmental Pty Ltd, referenced as 181043\_CEMP\_Rev4, dated May 2019 2020 and submitted as part of the Development Application are to be implemented during construction, as part of this approval.

#### **72. Construction (up to handstand) timeframes**

Demolition, excavation and construction works (up to the establishment of handstand) are to be undertaken within the time frames as specified in Table 2-1 Construction Activities as outlined in the Construction Noise Action Plan for adjacent child care centre, prepared by Benbow Pty Ltd, referenced as 181032\_Rep\_Rev3 dated January 2020.

Any amendment to the timeframes identified in Table 2-1 will require the written approval of Council's Manager Health and Environment prior to works continuing.

#### **73. 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.

#### **74. 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)*.

#### **75. 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.

#### **76. 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.

#### **77. 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](http://www.wastelocate.epa.nsw.gov.au).



### **78. Dust Control**

The emission of dust must be controlled to minimise nuisance to the occupants of the surrounding premises. In the absence of any alternative measures, the following measures must be taken to control the emission of dust:

- Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the construction work;
- All dusty surfaces must be wet down and suppressed by means of a fine water spray. Water used for dust suppression must not cause water pollution; and
- All stockpiles of materials that are likely to generate dust must be kept damp or covered.

### **79. Protection of Existing Vegetation**

Vegetation not authorised for removal by this consent shall be protected during construction to ensure that natural vegetation and topography on the subject site is not unnecessarily disturbed.

Any excavated material not used in the construction of the subject works is to be removed from the site to a licensed facility and under no circumstances is to be deposited in bushland areas.

### **80. Tree Removal & Fauna Protection**

During any tree removal, an experienced wildlife handler is to be present to re-locate any displaced fauna that may be disturbed during this activity. Any injured fauna is to be appropriately cared for and released on site when re-habilitated.

Trees shall be lopped in such a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the “grab” attachment of a machine.

Trees with hollows shall be lopped in such a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the “grab” attachment of a machine.

Any injured fauna is to be placed into the hands of a wildlife carer (please note only appropriately vaccinated personnel are to handle bats).

### **81. 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.

## **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

### **82. 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.

### **83. Section 73 Certificate**

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

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

### **84. Provision of Electricity Services**

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

#### **85. Provision of Telecommunications Services**

The submission of a compliance certificate from the relevant telecommunications provider, authorised under the Telecommunications Act confirming satisfactory arrangements have been made for the provision of, or relocation of, telecommunication services including telecommunications cables and associated infrastructure. This includes undergrounding of aerial telecommunications lines and cables where required by the relevant telecommunications carrier.

#### **86. 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.

#### **87. Vegetation Management Plan (VMP) Implementation**

All performance criteria for the establishment phase of the VMP (5 years) must be complied with prior to the issue of a Subdivision Certificate.

A statement certifying such compliance must be provided by the author of the VMP or an equally qualified and experienced person.

Consideration may be given to early release of a Subdivision Certificate in lieu of this by agreement with Council's Manager – Subdivision and Development Certification, based on alternative arrangements to secure the completion of works.

Such agreement must comply with s6.15(2) of the EP&A Act and will be conditional upon there being no circumstances prohibiting the issuing of a Subdivision Certificate contained within s6.15(1) of the EP&A Act at the time of any such agreement.

#### **88. 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 Certifier.

#### **89. Vegetation Management Plan (VMP) Implementation**

All performance criteria for the establishment phase of the VMP (5 years) must be complied with prior to the issue of a Subdivision Certificate.

A statement certifying such compliance must be provided by the author of the VMP or an equally qualified and experienced person.

Consideration may be given to early release of a Subdivision Certificate in lieu of this by agreement with Council's Manager – Subdivision and Development Certification, based on alternative arrangements to secure the completion of works.

Such agreement must comply with s6.15(2) of the EP&A Act and will be conditional upon there being no circumstances prohibiting the issuing of a Subdivision Certificate contained within s6.15(1) of the EP&A Act at the time of any such agreement.

#### **90. Biodiversity compliance**

Evidence that the following measures have been undertaken shall be submitted to The Hills Shire Council's Manager – Environment & Health:

1. **Fauna Nest Boxes** – Location plan and photographs of installed nest boxes.
2. **Tree Removal & Fauna Protection** – Details prepared by the project ecologist demonstrating compliance with the Tree Removal and Fauna Protection condition/s of this consent.

3. **Local Provenance Planting Stock** – Details prepared by the project ecologist demonstrating compliance with the Local Provenance Planting Stock condition/s of this consent.

**91. Final Dilapidation Survey**

On completion of the excavation, the structural engineer shall carry out a further dilapidation survey at the properties referred to in condition 63 above if required and submit a copy of the survey both to the Principal Certifier and the property owner.

**92. Compliance with Natural Resources Access Regulator Requirements**

A letter from the Natural Resources Access Regulator must be submitted confirming that all works associated with the Controlled Activity Authority have been completed to their satisfaction.

**93. Compliance with Sydney Water Requirements**

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

**94. 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.

**95. 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.

**96. Property Condition Report – Public Assets**

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

**97. Water Sensitive Urban Design Certification**

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

- WAE drawings and any required engineering certifications;
- Records of inspections;
- An approved operations and maintenance plan; and
- A certificate of structural adequacy from a suitably qualified structural engineer verifying that any structural element of the WSUD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

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

**98. 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 – 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.

**b) 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.

**c) Positive Covenant – Onsite Waste Collection**

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

**THE USE OF THE SITE**

**99. Hours of Operation**

The hours of operation being restricted to the following: -

**Business and Industrial/Warehouse premises**

6.00am – 10pm, seven (7) days per week

**Self-storage Facility**

24 hour operation, seven (7) days per week

Any alteration to the above hours of operation will require the further approval of Council.

**100. Final Acoustic Report**

Within three months from the issue of an Occupation Certificate, an acoustical compliance assessment is to be carried out by an appropriately qualified person, in accordance with the NSW EPA's - Industrial Noise Policy and submitted to Council's Manager - Environment and Health for consideration.

This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the activities does not give rise to “offensive noise” as defined under the *Protection of the Environment Operation Act 1997*. The report must also confirm that the operational noise levels as detailed in the table below are to be complied with at all times when the businesses are operating.

Location	Time period	Noise Level
At the property boundary	Day (7:00am – 6:00pm)	52dB(A)Leq (15min)
	Evening (6:00pm – 10:00pm)	43dB(A)Leq (15min)
	Night (10:00pm – 7:00am)	38dB(A)Leq (15min)

**101. Acoustic - Signage**

Signage is to be maintained at the entry / exit points of the carpark which reads, words to the effect of ‘please respect our neighbours by reducing noise when entering and leaving the premises’.

**102. Noise Management Plan**

Prior to the issue of an occupation certificate including an interim occupation certificate, a Noise Management Plan shall be submitted to the Manager – Environment & Health at the Hills Shire Council. The noise management plan is to incorporate the following items;

- A clear commitment by the operator to minimising noise from the development;
- Provision of information for neighbours including the issuing of the noise management plan to any potentially impacted neighbour, a complaints register and contact details of the person responsible for investigating offensive noise complaints;
- Details of all actions to be taken to minimise noise from heavy vehicles using the site;

- Action to be taken in the event of excessive noise from the use of the site; and
- Any other item or action deemed relevant to minimising noise within the development.

### **103. 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*.

### **104. Hours of operation for waste collection, delivery / dispatch of goods**

Delivery of goods shall be restricted to the following times;

Monday to Saturday – 7.00am to 8.00pm

Sunday and public holidays – 8.00am – 8.00pm

### **105. 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.

### **106. 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*.

### **107. Operational Noise Level Limits**

The operational noise levels as detailed in the table below are to be complied with at all times when the business is operating.

Location	Time period	Noise Level
At the property boundary	Day (7:00am – 6:00pm)	52dB(A)Leq (15min)
	Evening (6:00pm – 10:00pm)	43dB(A)Leq (15min)
	Night (10:00pm – 7:00am)	38dB(A)Leq (15min)

### **108. Waste and Recycling Management**

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

### **109. Servicing of Bins**

Private garbage and recycling contract collection vehicles servicing the development are not permitted to reverse in or out of the site. Collection vehicles must be travelling in a forward direction at all times to service bins.

### **110. Waste and Recycling Collection**

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

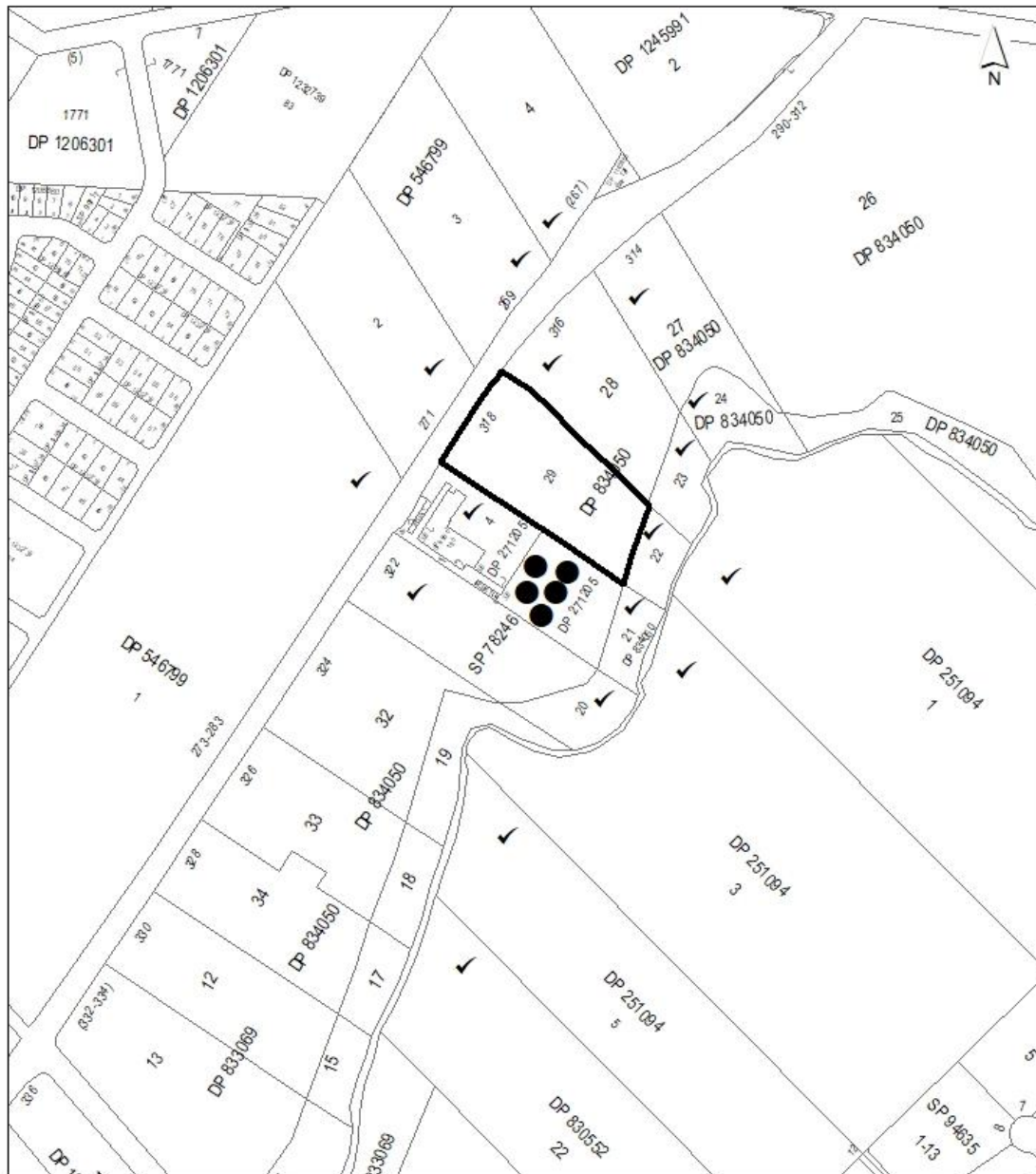
**111. Management of Area Subject to Vegetation Management Plan (VMP)**

Any area that is subject to a Vegetation Management Plan (VMP) shall be managed in accordance with the approved VMP in perpetuity by the property owner/s.

**ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Height Map
5. Floor Space Ratio map
6. Architectural Plans
7. Perspectives
8. Construction Noise Management Plan
9. Clause 4.6 Variation
10. NSW RFS Comments
11. DPI – Water – General Terms of Approval

## ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

**THE HILLS**  
Sydney's Garden Shire

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## ATTACHMENT 2 – SITE PLAN



 SUBJECT SITE

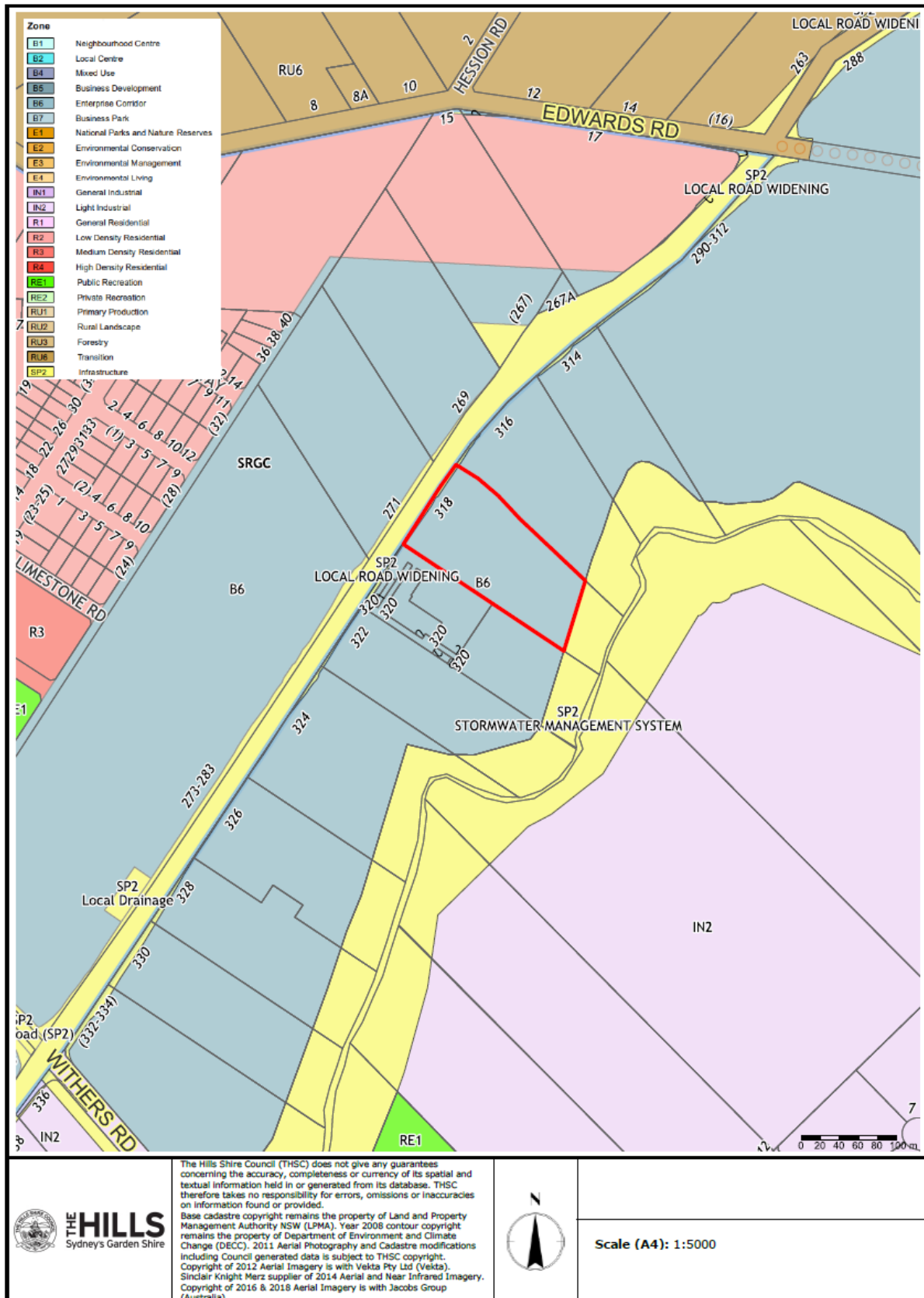
**THE HILLS**  
Sydney's Garden Shire

### THE HILLS SHIRE COUNCIL

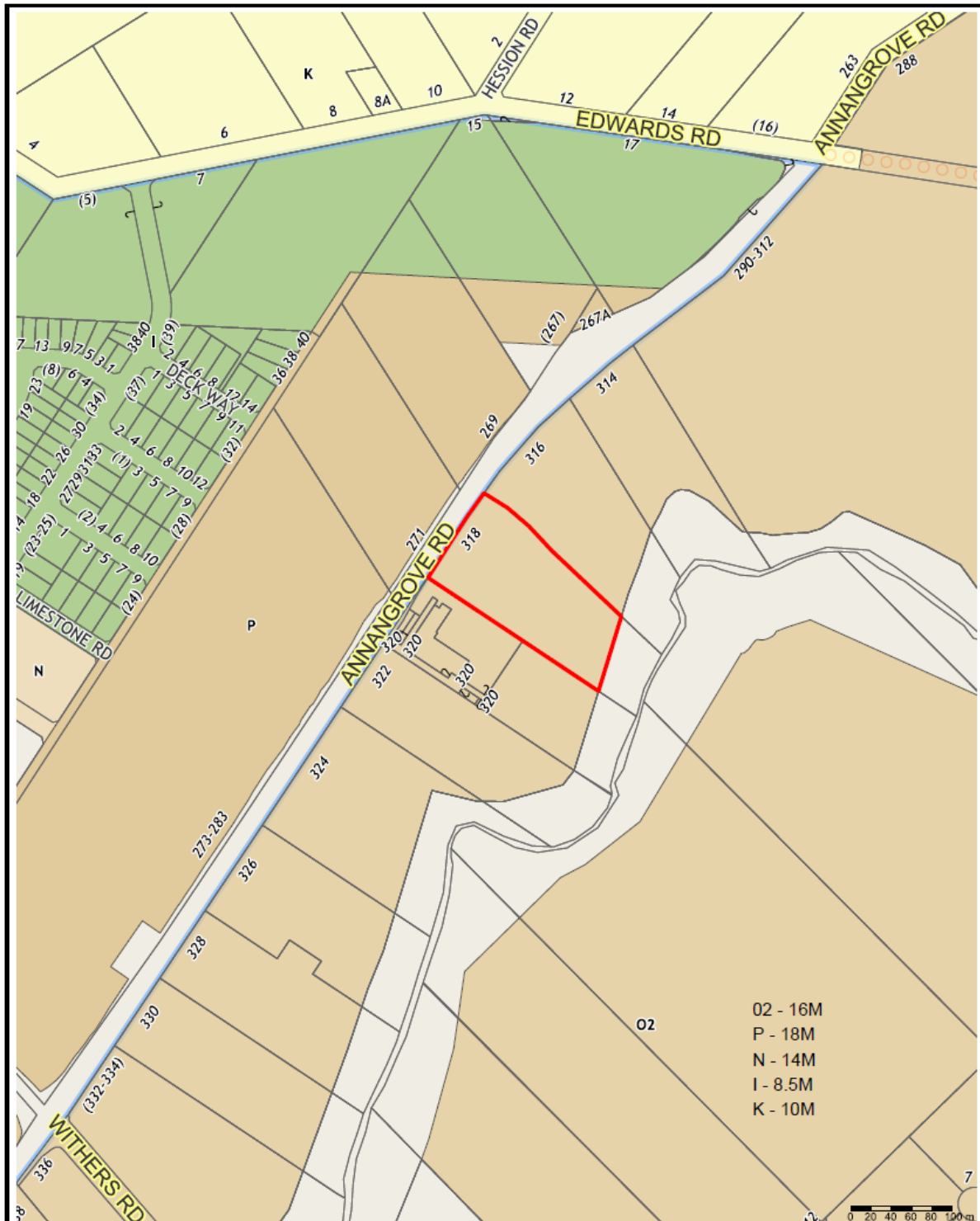
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## ATTACHMENT 3 –ZONING MAP



## ATTACHMENT 4 – HEIGHT MAP



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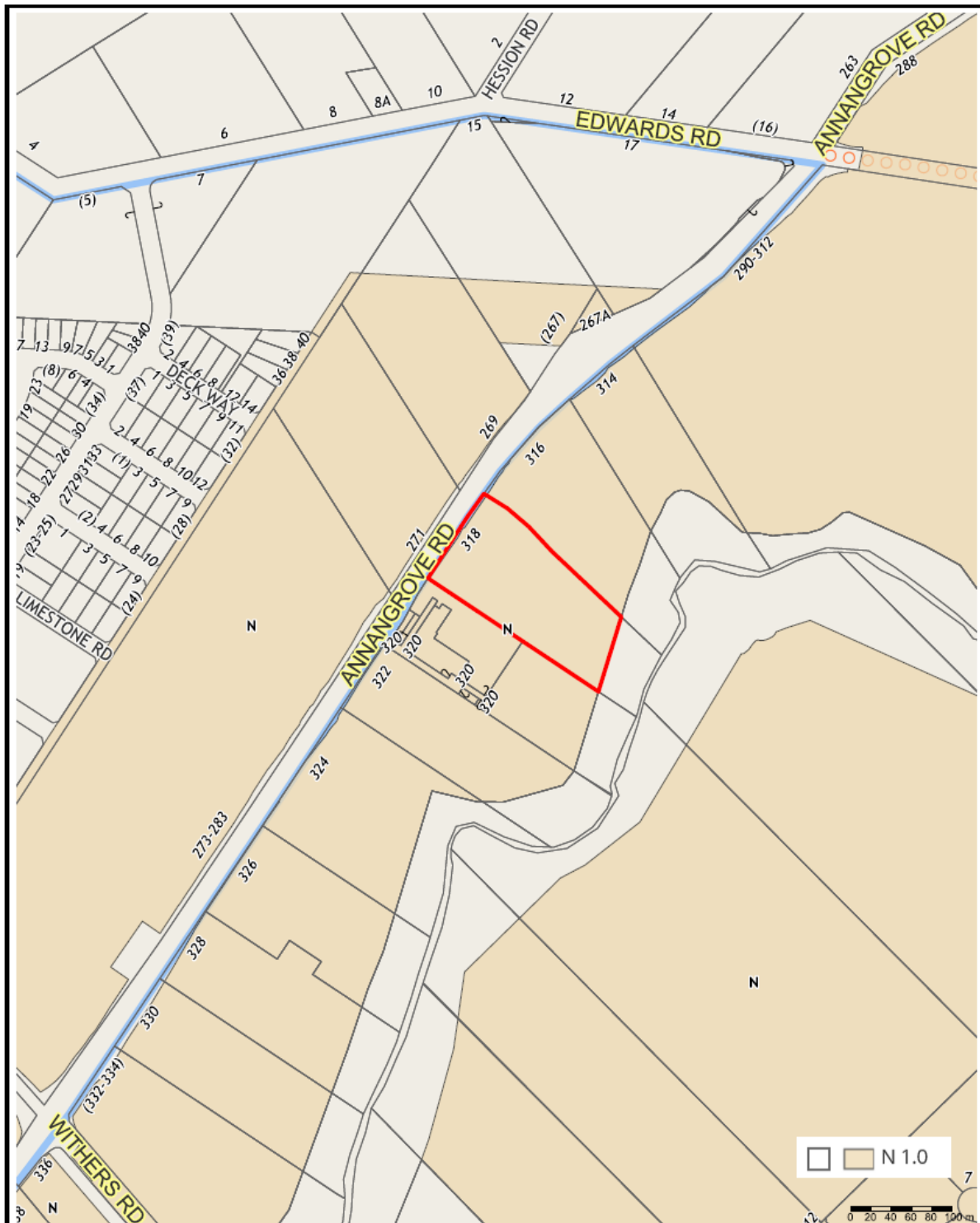
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Scale (A4): 1:5000  
Date: 2/26/2020  
Prepared by: Robert Buckham

## ATTACHMENT 5 – FLOOR SPACE RATIO MAP



**THE HILLS**  
Sydney's Garden Shire

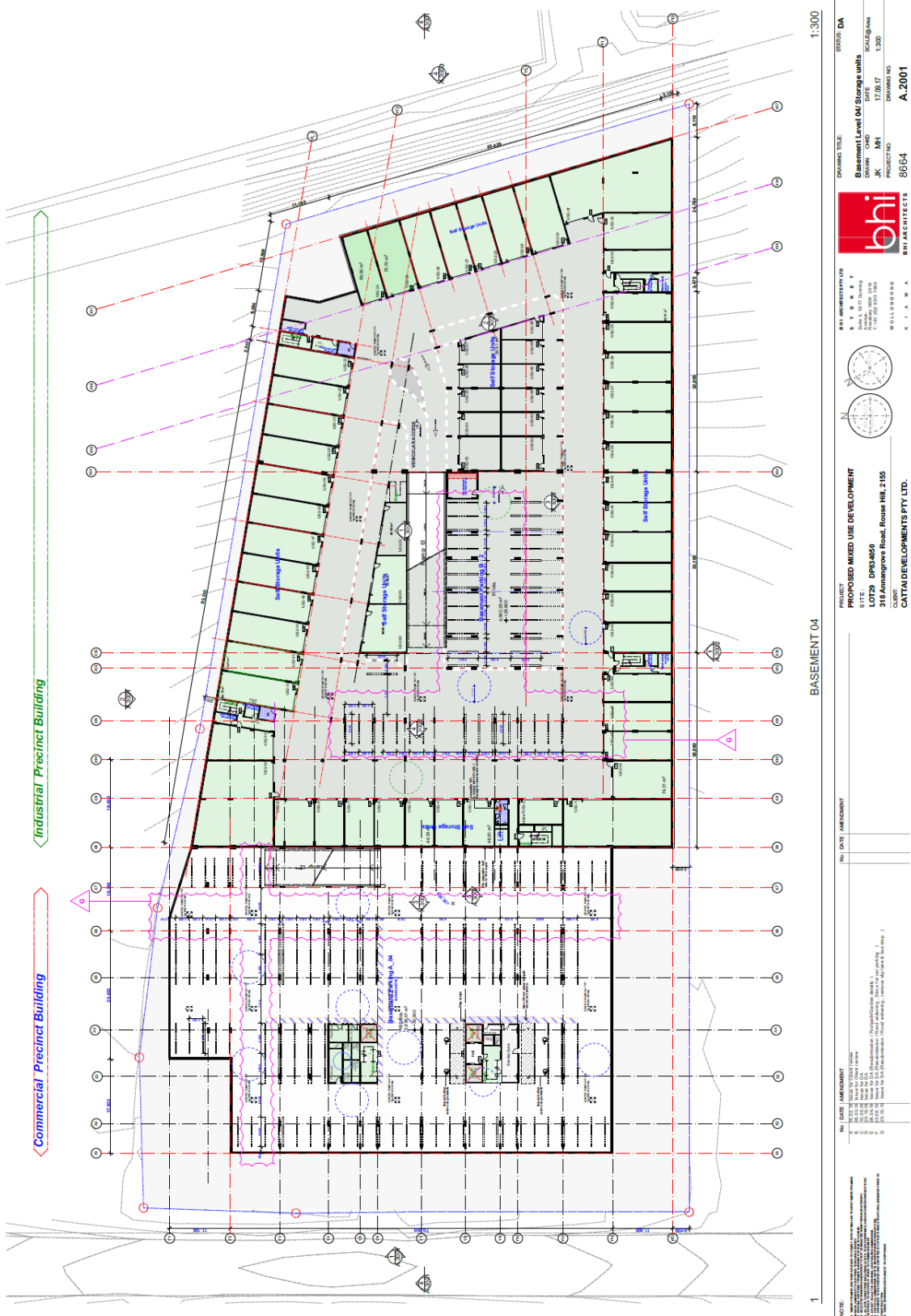
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Scale (A4): 1:5000  
Date: 2/26/2020  
Prepared by: Robert Buckham

## ATTACHMENT 6 – ARCHITECTURAL PLANS



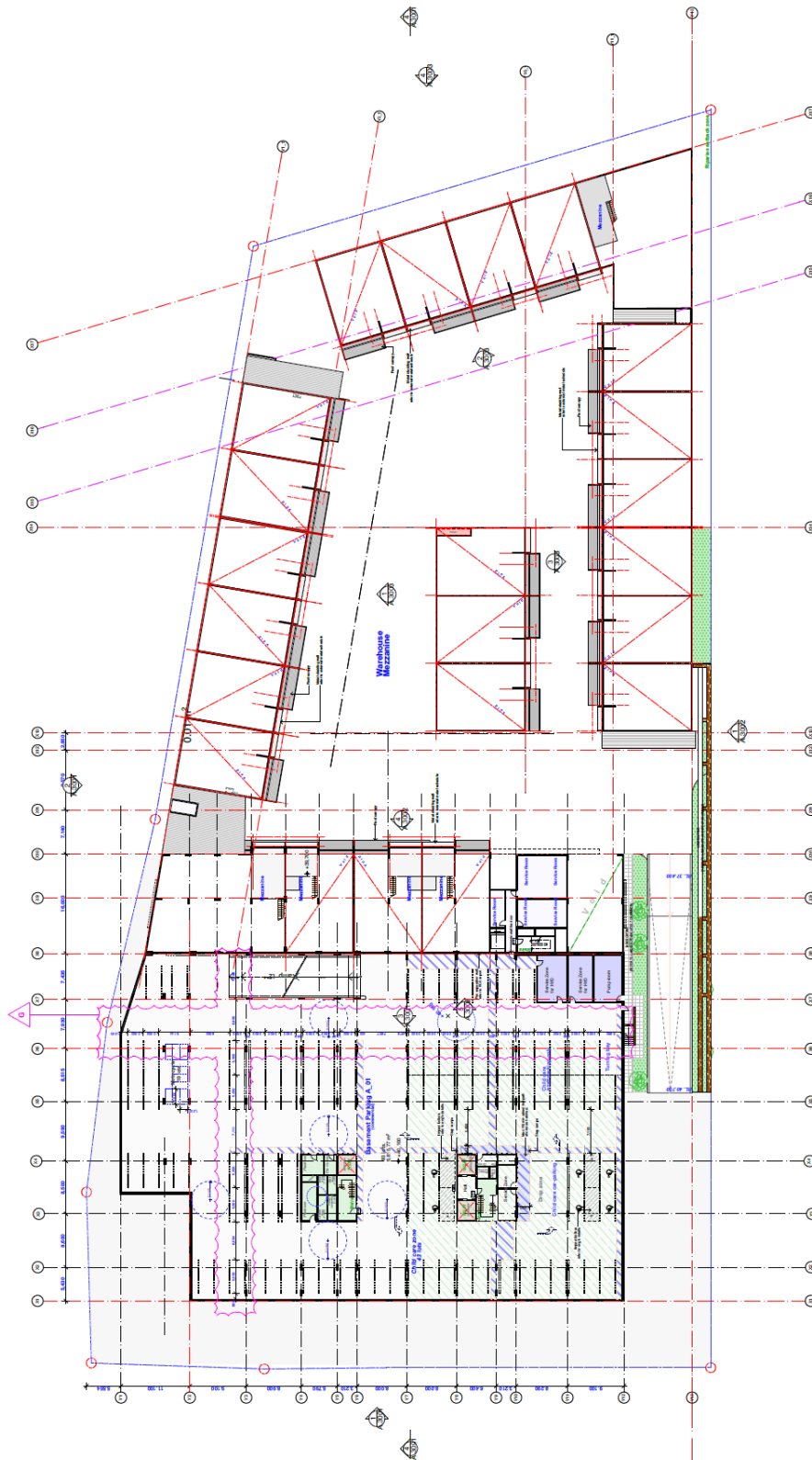
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Commercial Precinct Building

Industrial Precinct Building



1

BASEMENT 01 / INDUSTRIAL MEZZANINES LEVEL

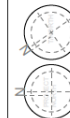
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NO DATE / AMENDMENT  
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10 01/01/2024 01/01/2024

NO DATE / AMENDMENT

PROJECT  
PROPOSED MIXED USE DEVELOPMENT  
SITE:  
LOT29 DP34660  
318 Annangrove Road, Rouse Hill, 2155  
CATHALAN DEVELOPMENTS PTY LTD.



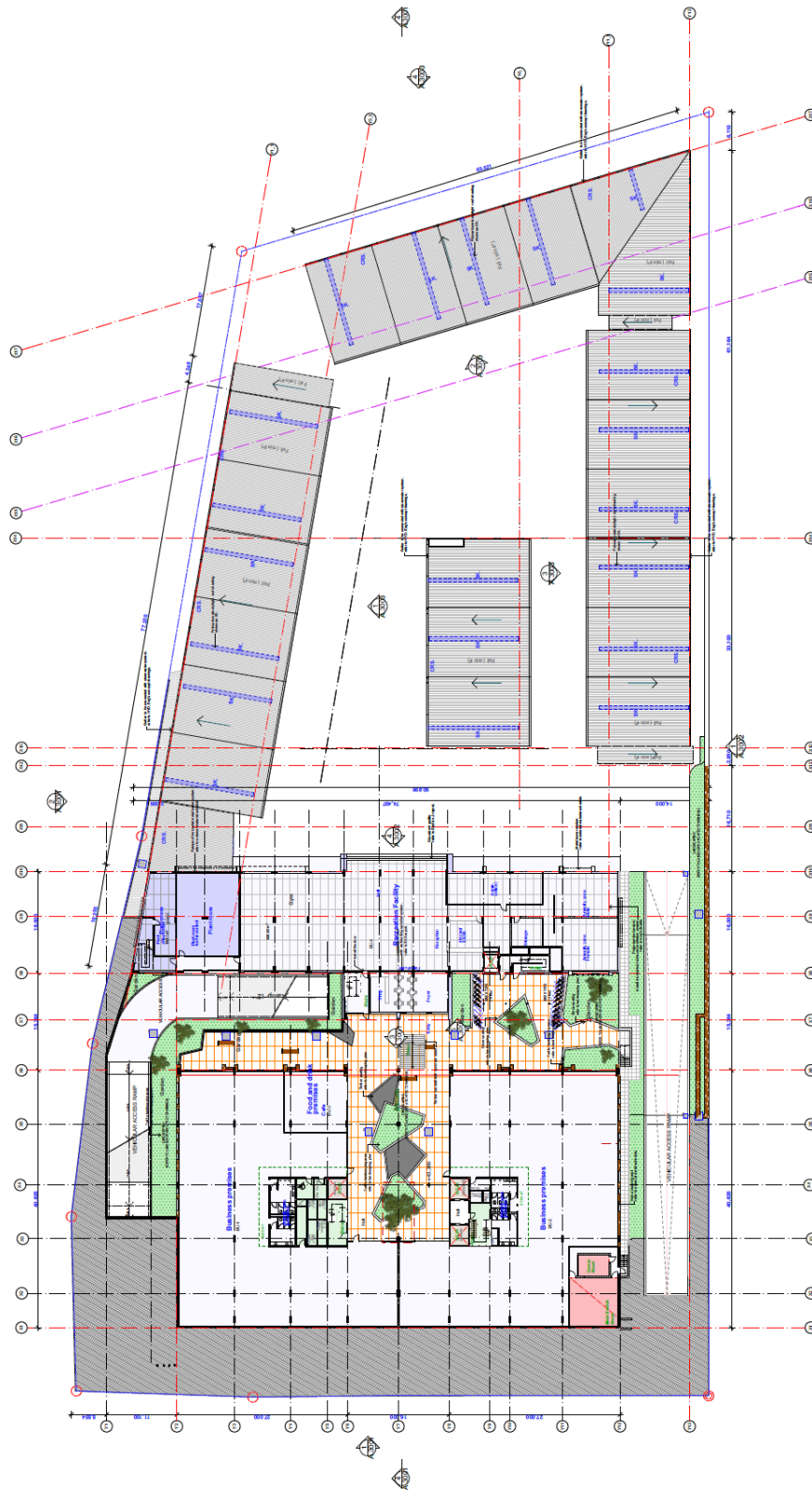
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Suite 3, 207 Dandenong  
Road, Dandenong, VIC 3175  
T: 03 9594 1100  
F: 03 9594 1101  
WWW.BHIARCHITECTS.COM  
E: INFO@BHIARCHITECTS.COM



DRAWING TITLE: Basement Level 01 / Industrial Mezzanines Level  
DRAWING NO: 8664  
PROJECT NO: 8664  
DRAWING NO: A.2004  
DATE: 17.09.17  
SCALE: 1:300  
STATUS: DA

Commercial Precinct Building

Industrial Precinct Building



1

LOWER GROUND LEVEL

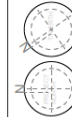
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10. 10/10/2017 / 1.0000

NO DATE / AMENDMENT

PROJECT: PROPOSED MIXED USE DEVELOPMENT  
SITE: LOT 29 DP34560  
318 Annangrove Road, Rose Hill, 2155  
CATA DEVELOPMENTS PTY LTD.



BY ARCHITECTS  
S Y B R Y  
30/03/2017 Drawing  
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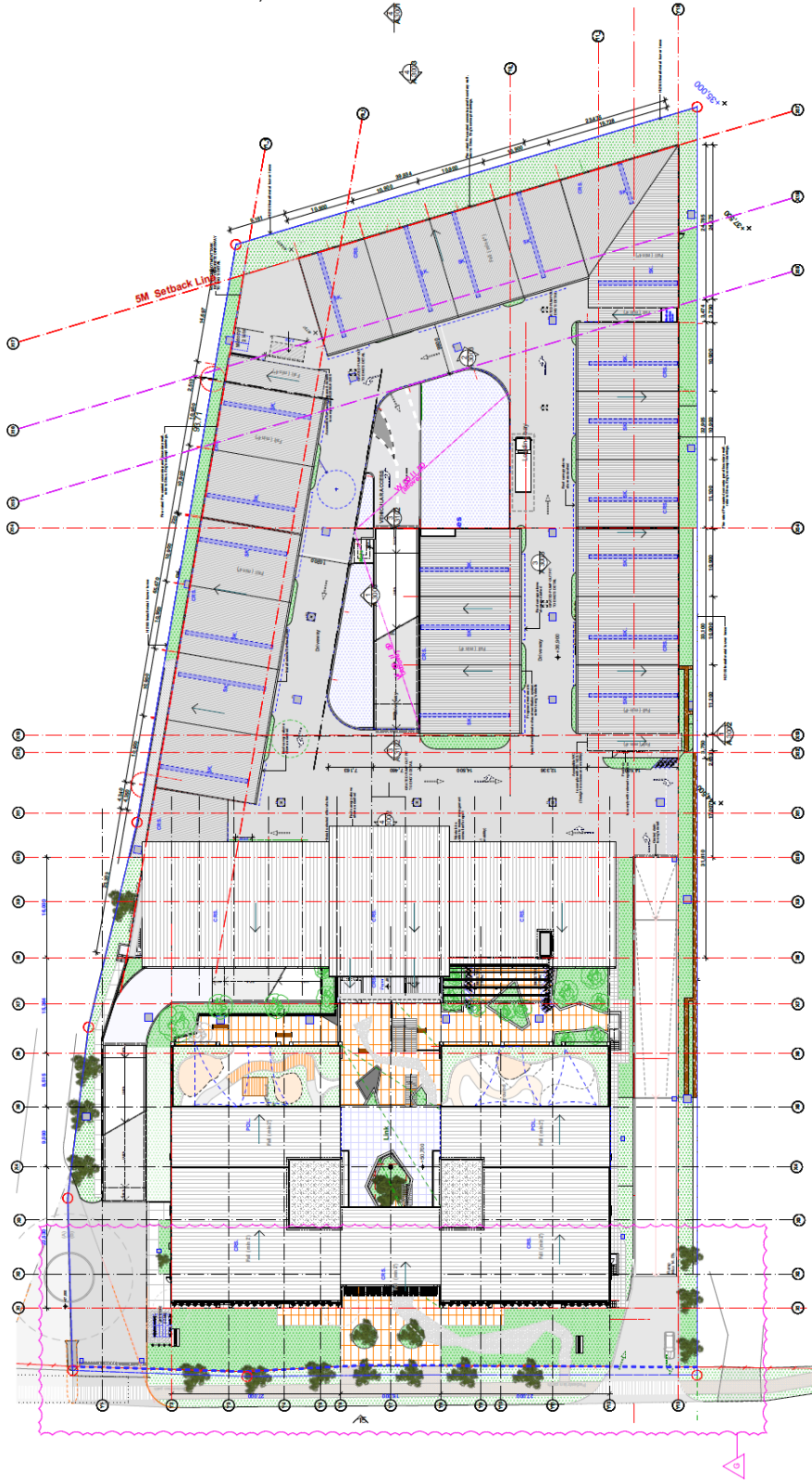


DRAWING TITLE: Lower ground floor level : Commercial & Retail Precinct  
PROJECT NO: 8664  
DRAWING NO: A.2005  
DATE: 17/05/17  
SCALE: 1:300  
DRAWING NO: 8664  
DRAWING NO: A.2005









Roof layout plan

1:300

NOTES:

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2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE SPECIFIED.

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NO DATE / AMENDMENT

NO DATE / AMENDMENT

PROJECT: PROPOSED MIXED USE DEVELOPMENT

SITE: LOT 29 DP34560

318 Annangrove Road, Roser Hill, 2105

CATIA DEVELOPMENTS PTY LTD.

SYDNEY

ARCHITECTS

8/11 ANNANGROVE ROAD

ROSER HILL, NSW 2105

TEL: 02 9612 1234

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Roof layout plan

DATE: 17/05/17

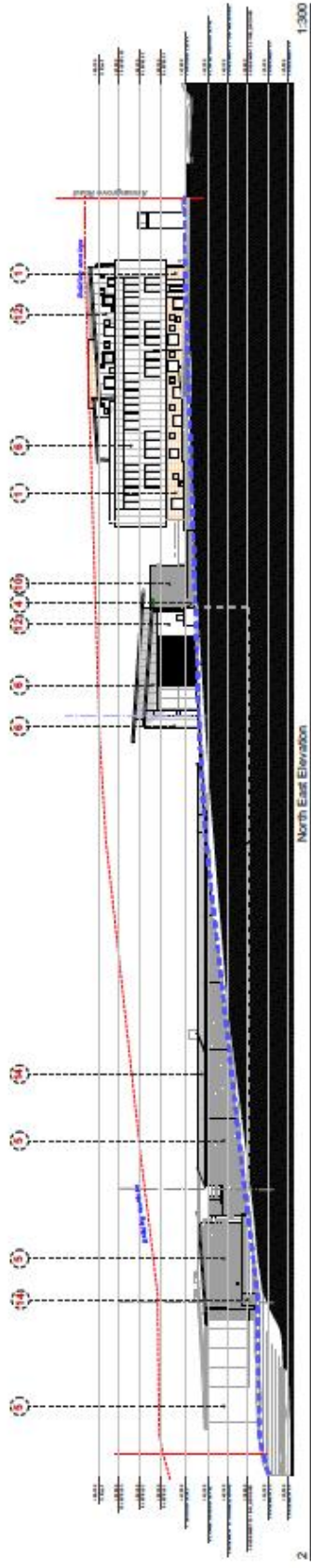
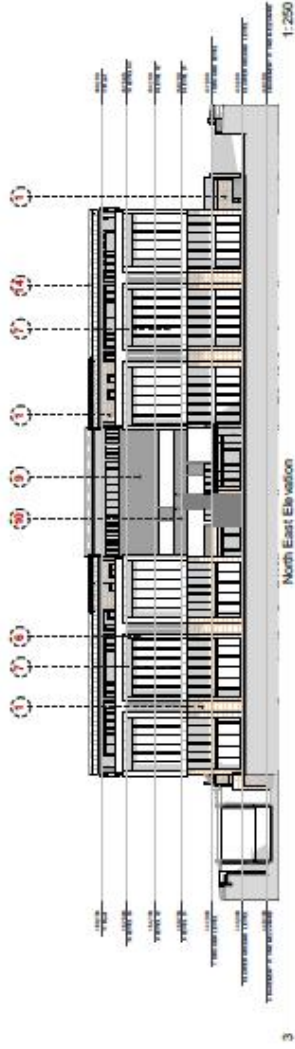
SCALE: 1:300

PROJECT NO: 8664

DRAWING NO: A.2101

38

1. Sandstone 600 x 1200 mm
2. Saw cut 1/2 inch random rough
3. Sandstone landscape log
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## MATERIALS LEGEND

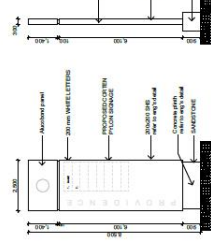
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2. Saw cut Sandstone retaining wall
3. Sandstone landscape (up to 200 mm)
4. Concrete precast panel A
5. Concrete precast panel B
6. Concrete precast panel C
7. Low E green tinted glazing
8. External timber post
9. Timber louvre battens
10. Timber louvre blades
11. Aluminium louvre in discol
12. Alpic Aluminium composite panel 1200 x 2700 mm
13. Polyurethane roof
14. Styrofoam roof
15. Green component added for additional privacy as per landscape architect

[illegible]

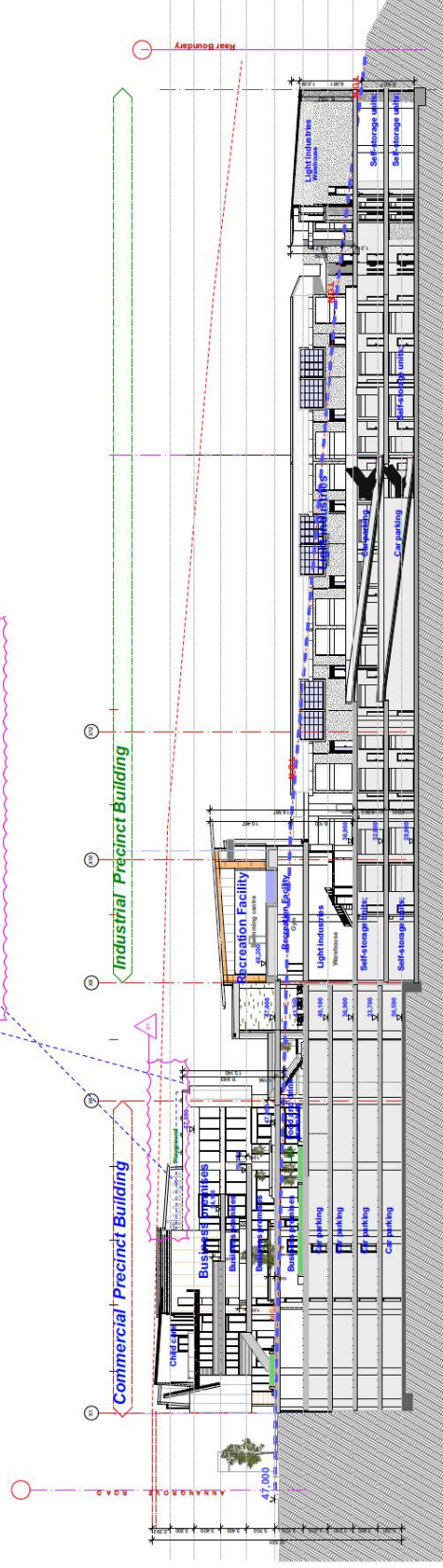




1. Sandstone 600 x 1200 mm
2. Saw cut Sandstone retaining wall
3. Sandstone landscape log
4. Sandstone 600 x 1200 mm
5. Concrete precast panel B
6. Concrete precast panel B
7. Auscuband 1200 x 2700 Melal wall cladding
8. Auscuband 1200 x 2700 Melal wall cladding in natural enclosed aluminium finish charcoal
9. External timber post
10. Timber looks battens
11. Timber looks post and timber looks balustrade
12. Aluminium composite panel 1200 x 2700 mm
13. Aluminium louvre in discoloured
14. Apolite Aluminium composite panel 1200 x 2700 mm
15. Polycarbonate roof sheetings
16. Green component added for additional privacy as per landscape architect

[illegible]

2	Signage	1:100
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[illegible]





## MATERIALS LEGEND

- 1 Sandstone 800 x 1200 mm
- 2 Sew out Sandstone retaining wall
- 3 Sandstone landscape log
- 4 Sandstone 800 x 1200 mm
- 5 Concrete precast panel A
- 6 Concrete precast panel B
- 7 Alum and 1200 x 2700 Metal wall cladding
- 8 Alum and 1200 x 2700 Metal wall cladding in natural anodized aluminum frames in charcoal
- 9 Timber look battens
- 10 Timber look battens and timber look balustrade
- 11 Aluminum louvre in charcoal
- 12 Alpic Aluminum composite panel 1200 x 2700 mm
- 13 Polycarbonate roof
- 14 Polycarbonate roof cladding
- 15 Green component added for additional privacy as per landscape architect



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## ATTACHMENT 7 – PERSPECTIVES



View north from Annangrove Road



View north west from internal driveway



View west internally from the site

## ATTACHMENT 8 – CONSTRUCTION NOISE ACTION PLAN

**CONSTRUCTION NOISE ACTION PLAN  
FOR ADJACENT CHILDCARE CENTRE  
CATTAI DEVELOPMENTS PTY LTD  
318 ANNANGROVE ROAD, ROUSE HILL**

*Prepared for:* Bradley See, Chief Executive, Gosford Quarries (Cattai Developments)  
Mark Hitchcock, Director, BHI Architects

---

*Prepared by:* Emma Hansma, Senior Engineer  
R T Benbow, Principal Consultant

---

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January 2020  
(Released: 14 January 2020)



Benbow  
ENVIRONMENTAL

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## 1. INTRODUCTION

At the request of the Hills Shire Council, this document has been prepared to satisfy the requirements made by council in the email sent on Tuesday, 17 December 2019 4:01 PM. This report specifically relates to management of construction noise at 318 Annangrove Road, Rouse Hill adjacent to the childcare centre play area located at 320 Annangrove Rd, Rouse Hill. The full noise impact assessment is provided as a separate report (Ref: 181032\_NIA\_Rev3).

The additional requirements from the Hills Shire Council are shown in the following section.

### 1.1 HILLS SHIRE COUNCIL REQUEST

*"I have reviewed the letter prepared by Benbow Environmental that details the Noise Consultation undertaken by the applicant with the owners of the childcare centre dated 19th November 2019. This document should be updated to include the provision of a respite time until the area adjacent to the childcare centre boundary is excavated enough to enable all of the construction site excavation to be used as a barrier. The barrier must cover the top of the machinery used in this area. The respite time should not only be guaranteed for 4 weeks but should be guaranteed until the area adjacent to the childcare centre boundary is excavated enough to enable all of the construction site excavation to be used as a barrier. The side of the excavation/ barrier must cover the top of the machinery used in this area.*

*In addition to consultation with the childcare centre, the applicant was requested at the meeting with Council on the 25th October 2019, to provide a document specifically relating to construction adjacent to the childcare centre play area including a map detailing construction areas, details of equipment, time frames and noise reduction achieved when the excavation near the childcare centre is deep enough to shield the machines.*

*This document should clearly detail all actions to be taken by the construction contractor whilst the excavation is occurring near the childcare centre play area boundary. As per the applicant's advice, provided that the weather conditions are supportive, this area should only take 4 – 6 weeks to be excavated to a level that provides shielding to the construction equipment and reduces the impact of noise and dust in the outdoor play area. In addition agreement was reached that the area adjacent to the childcare centre play area would be excavated first so as to minimise the long term noise and dust impact on the childcare centre. This agreement should also be detailed in the documentation requested.*

*The additional information should be submitted to Council to allow for further assessment of the application."*

#### 1.1.1 Barrier Covering Top of Machinery

It is understood that council require the barrier to cover the top of the machinery used in the excavation area adjacent to the childcare centre, area A (see Figure 3-1). This is considered achieved at an excavation depth of 1.5 m with a 2 m high noise wall. Note that this is considered conservative as the most dominant noise source is the concrete saw, which operates at ground level, also that the effectiveness of the noise wall is governed by both the height and the distance away from the wall. Noise reduction achieved is detailed in Section 5.





## **1.2 SCOPE OF WORKS**

The scope of this report is limited to the following:

- Provide the respite time details;
- Map of construction areas;
- Details of equipment;
- Details of time frames;
- Details of noise reduction achieved when the excavation near the childcare centre is deep enough to shield the machines; and
- All actions to be taken by construction contractor whilst excavation is occurring near the childcare centre area boundary.



## 2. TIME FRAMES

Construction work will take place in standard construction hours:

Monday to Friday: 7am to 6pm  
Saturday: 8am to 1pm  
Sunday and Public Holidays: No works permitted

The time frames of the construction work stages are as follows:

Table 2-1: Construction activities.

Component	Typical activities	Timing
Demolition	<ul style="list-style-type: none"> <li>Hazardous material removal (asbestos); and</li> <li>Demolition of existing structures.</li> </ul>	1 Month
Site establishment	<ul style="list-style-type: none"> <li>Fencing of the site;</li> <li>Installation of erosion &amp; sediment controls; and</li> <li>Establishment of construction site facilities.</li> </ul>	1 Month
Site Preparation	<ul style="list-style-type: none"> <li>Removal of existing vegetation;</li> <li>Removal of existing concrete driveway and residential structures;</li> <li>Stripping and stockpiling of topsoil for reuse; and</li> <li>Proof rolling.</li> </ul>	1 – 2 Months
Services	<ul style="list-style-type: none"> <li>Relocation/extension of services including electricity, water, and telecommunications.</li> </ul>	6 Months during the Construction of project.
Earthworks and drainage	<ul style="list-style-type: none"> <li>Preparation of construction diversion drains;</li> <li>Establishment of On-Site Detention (OSD) pond;</li> <li>Site regrading;</li> <li>Installation of shoring system for excavations;</li> <li>Excavation of the site for basement levels (a maximum depth 18 m);</li> <li>Stone will be broken up with a concrete saw; and</li> <li>Dewatering of excavated area.</li> </ul>	3 – 4 Months  <b>Note: Area A, Figure 3-1 excavation 4-6 weeks to be completed first.</b>
Establishment of hardstand	<ul style="list-style-type: none"> <li>Construction of concrete hardstand areas and driveways; and</li> <li>Establishment of sub-surface drainage.</li> </ul>	20 Months



Table 2-1: Construction activities.

Component	Typical activities	Timing
Construction of the industrial park	<ul style="list-style-type: none"> <li>• Construction of the industrial and commercial precincts.</li> </ul>	
Finishing works	<ul style="list-style-type: none"> <li>• Removal of temporary works;</li> <li>• Perimeter planting and landscaping;</li> <li>• Decommissioning of any construction facilities; and</li> <li>• Site clean-up and disposal of surplus waste materials.</li> </ul>	1 Month
<b>All Works</b>		<b>27 Months Total</b>

### 3. GUARANTEE

Cattai Developments guarantees that:

- The 2 m high boundary fence between the site and the adjacent childcare centre will be installed prior to any construction works at 318 Annangrove Road, Rouse Hill.
- Excavation work will take place in area A (see Figure 3-1) before excavation works occur elsewhere on the site (excluding excavation necessary for access) until the floor of area A is 1.5 m below ground level.
- 2 hours per day of noise respite will be provided to the adjacent childcare centre per day for 4 weeks or until floor of area A is 1.5 m below ground level, whichever is longer.
  - ▶ Noise respite is where no noisy equipment (sound power level is greater than 80 dB(A)) will be operated.
  - ▶ The manager/director of the child care centre will be contacted before 9am each Monday during this period to agree on specific respite times. Where respite times cannot be agreed upon 10am-11am and 2-3pm will be provided.

Figure 3-1: Map of Construction Areas



Note: Area A is the area within 10 m of the boundary between the site and the adjacent childcare centre.



#### 4. EQUIPMENT

The main noise generating construction equipment will include:

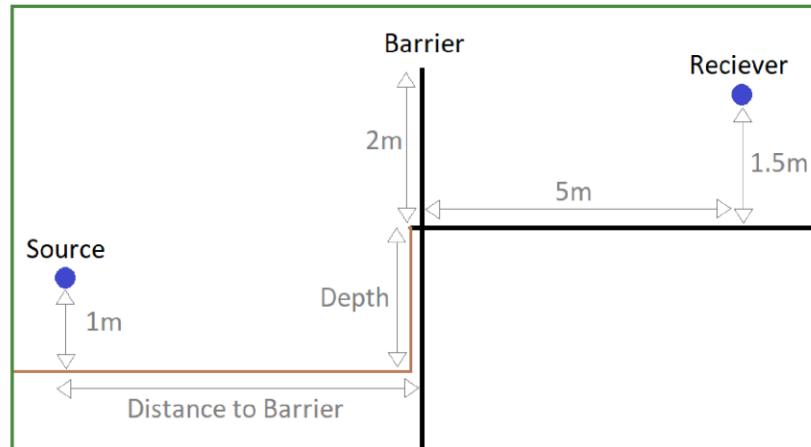
- Excavator
- Truck
- Jackhammer (used in demolition works only)
- Hand tools
- Backhoe
- Concrete Saw
- Concrete truck
- Concrete pump truck
- Crane
- Welders

Note this equipment will not be all used simultaneously. For details of the staged use of equipment see the construction noise impact assessment presented in Section 8 of the full Noise Impact Assessment 181032\_NIA\_Rev3.

## 5. DETAILS OF NOISE REDUCTIONS

The effectiveness of the noise reduction of the barrier and depth of excavation is dependant on the location of the noise sources. As all noise generating equipment is mobile, the effectiveness of the noise wall will vary. A summary of estimated predicted noise reduction is presented in Table 5-1 for several configurations. An illustrative diagram of the situation is provided below:

Figure 5-1: Noise Propagation Diagram



### 5.1 ASSUMPTIONS

- The receiver has been positioned 1.5 m above the ground;
- The receiver has been positioned 5 m from the barrier as to reduce the effect of acoustic shadowing;
- A single source is considered, the concrete saw, at 1 m above the ground, A-weighted octave band spectrum is shown below:

Noise Source	SWL	Octave Band Centre Frequency (Hz)							
		63	125	250	500	1k	2k	4k	8k
Concrete Saw	113	87	86	91	95	100	105	111	104

- *ISO9613-2:1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation* has been used for calculating ground effects (hard: factor 0), air adsorption and attenuation due to the barrier.
- The following factors have **not** been considered:
  - ▶ Sound transmission around the barrier;
  - ▶ Sound transmission through the barrier;
  - ▶ Reflections from the barrier and surrounding environment.



## 5.2 NOISE REDUCTION RESULTS

Table 5-1 presents the noise reduction results for various configurations.

Table 5-1: Noise Reduction Results

Distance to Barrier (m)	Depth (m)	Barrier Height (m)	Predicted Noise Level at Receiver dB(A)	Noise Loss Due Excavation + Barrier dB(A)
5	0	0	85	0
5	0	2	68	17
10	0	0	81	0
10	0	2	67	14
5	1.5	2	64	>20*
10	1.5	2	63	18
50	0	0	69	0
50	0	2	57	12
50	1.5	2	56	13
50	5	2	53	16
50	10	2	50	19

\*Note: ISO9613-02 is limited to a barrier attenuation reduction of 20 dB

As can be seen the barrier reduces noise levels by greater than 12 dB(A) depending on the location of the noise sources. This is a significant reduction. When the excavations are 1.5 m below ground level, the noise is further reduced by 3-4 dB(A) at areas close to the barrier (<10 m) and 1 dB(A) at locations further from the barrier (50 m).



## 6. CONSTRUCTION CONTRACTOR ACTIONS IN AREA A

Whilst excavations are being undertaken within the area adjacent to the childcare centre play area boundary (Area A shown in Figure 3-1) the following actions will be taken by the Construction Contractor:

- Install a 2 m high boundary fence between the site and adjacent childcare centre prior to any construction works at the site;
- Undertake excavation work in Area A first, before excavation works occur elsewhere on the site (excluding excavation necessary for access) until the floor of Area A is 1.5 m below ground level.
- Provide noise respite time (where no equipment with sound power level greater than 80 dB(A) is in operation) as follows:
  - ▶ 2 hours per day for 4 weeks or until the floor of Area A is 1.5 m below ground level, whichever is greater;
  - ▶ Consult with the manager/director of the childcare centre before 9am each Monday during this period to agree on specific respite times. Where respite times cannot be agreed upon 10am-11am and 2-3pm will be provided.
- Undertake construction works during standard construction hours.

Monday to Friday:	7am to 6pm
Saturday:	8am to 1pm
Sunday and Public Holidays:	No works permitted

- Implement Work Practices from section 6 of the *Interim Construction Noise Guideline* as detailed in the Noise Management Procedure within the site's Construction Environmental Management Plan (Ref: 181043\_CEMP\_Rev4).





## 7. CONCLUDING REMARKS

At the request of the Hills Shire Council, this document has been prepared to satisfy the requirements made by council in the email sent on Tuesday, 17 December 2019 4:01 PM. This report specifically relates to management of construction noise at 318 Annangrove, Road Rouse Hill adjacent to the childcare centre play area located at 320 Annangrove Rd, Rouse Hill.

This report satisfies the additional requirements from the Hills Shire Council.

With the controls detailed in this report, appropriate reasonable and feasible noise measures will be implemented in accordance with the NSW Interim Construction Noise Guideline. No further controls are warranted. Approval is requested.

This concludes the report.

A handwritten signature in blue ink, appearing to read 'Emma Hansma'.

Emma Hansma  
Senior Engineer

A handwritten signature in blue ink, appearing to read 'R T Benbow'.

R T Benbow  
Principal Consultant



## 8. LIMITATIONS

Our services for this project are carried out in accordance with our current professional standards for site assessment investigations. No guarantees are either expressed or implied.

This report has been prepared solely for the use of Cattai Developments Pty Ltd, as per our agreement for providing environmental services. Only Cattai Developments Pty Ltd is entitled to rely upon the findings in the report within the scope of work described in this report. Otherwise, no responsibility is accepted for the use of any part of the report by another in any other context or for any other purpose.

Although all due care has been taken in the preparation of this study, no warranty is given, nor liability accepted (except that otherwise required by law) in relation to any of the information contained within this document. We accept no responsibility for the accuracy of any data or information provided to us by Cattai Developments Pty Ltd for the purposes of preparing this report.

Any opinions and judgements expressed herein, which are based on our understanding and interpretation of current regulatory standards, should not be construed as legal advice.



### CLAUSE 4.6 – “WITHOUT PREJUDICE” REQUEST TO VARY DEVELOPMENT STANDARD FOR FLOOR SPACE RATIO

For abundant caution, and if Council takes an alternate view on the issue of FSR a ‘without prejudice’ Clause 4.6 departure is provided. We reiterate our view that the FSR is consistent with the definition contained in the Hills LEP 2012 and is compliant with the FSR control and therefore the Clause 4.6 is provided on a without prejudice basis and we maintain full compliance with Clause 4.4 of the LEP.

A detailed discussion against the relevant provisions of Clause 4.6 are provided below with further discussion against the relevant case law ‘tests’ set down by the Land and Environment Court.

As shown on the sections below, the proposed development could be considered to vary the FSR control as it relates to the floor space allocated to the proposed self storage facility which is to be located within part of the proposed basement levels 3 and 4.

The proposed self storage facility being located within the basement stems from the vision to make efficient use of the site but also to deliver a superior planning outcome whereby the use of land for storage purposes is appropriately located within the basement and not above ground where it would contribute to the bulk and scale of the development proposal. There proposal as presented with the self storage facility within the basement allows the components of the building that are low usage and will (for the majority of the day) remain unoccupied to be located within the proposed basement making for the most efficient use of the land within this Enterprise Corridor Precinct.

The proposal may be considered as presenting the following departure to the FSR control:

- The total site area is 16,950m<sup>2</sup> floor space proposed.
- The permitted GFA on the site is therefore 16,950m<sup>2</sup>.
- The proposed GFA inclusive of the basement storage areas is 22,943.32m<sup>2</sup>. This could be seen as delivering 5,993.32m<sup>2</sup> in excess of the GFA permitted which equates to a 35% variation.

Therefore, the proposal may be considered as noncompliant with Clause 4.4 – floor space ratio that stipulates that the floor space ratio of the proposal is not to exceed 1:1 on the subject site.

The location of the proposed self storage facility is completely underground which ensure this component of the development is not visible from the street level. The floor area associated with the self storage facility will have no impact on the streetscape, or the bulk and scale of the development.

Clause 4.6 of the Hills Local Environmental Plan 2012 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclause 3-5 which provide:

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 Director-General has been obtained.
5. In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.

Each of these provisions are addressed individually below.

Therefore, a Clause 4.6 variation request has been prepared, noting that this request addresses a number of recent Land and Environment Court cases including Four 2 Five v Ashfield and Micaul Holdings Pty Ltd v Randwick City Council and Moskovich v Waverley Council.

The key tests or requirements arising from the above judgements is that:

- The consent authority be satisfied the proposed development will be in the public interest because it is "consistent with" the objectives of the development standard and zone is not a requirement to "achieve" those objectives. It is a requirement that the development be compatible with the objectives, rather than having to 'achieve' the objectives.
- Establishing that 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' does not always require the applicant to show that the relevant objectives of the standard are achieved by the proposal (Wehbe "test" 1). Other methods are available as per the previous 5 tests applying to SEPP 1, set out in Wehbe v Pittwater.
- When pursuing a clause 4.6 variation request it is appropriate to demonstrate how the proposal achieves a better outcome than a complying scheme; and
- The proposal is required to be in 'the public interest'.

In relation to the current proposal the keys are:

- Demonstrating that the development remains consistent with the objectives of the floor space ratio standard;
- Demonstrating consistency with the B6 Enterprise Corridor zoning; and
- Satisfying the relevant provisions of Clause 4.6.

These matters are addressed below.

#### Clause 4.6(3)

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved. The objectives of the floor space ratio development standard are stated as:

1. The objectives of this clause are as follows:
  - a. to ensure development is compatible with the bulk, scale and character of existing and future surrounding development,
  - b. to provide for a built form that is compatible with the role of town and major centres.

The proposal remains consistent with the objectives based on the following:

- The proportion of the building that is to be developed for the self storage facility is completely underground and will have no impact on the bulk, scale and character of existing and future surrounding environment. The proposed self storage floor space does not result in an overdevelopment of the site. The proposed use of additional basement space is a suitable contextual response to the topographical fall on the site and will result in the efficient use of land within this enterprise corridor precinct.
- The overall scale of the development as seen from the ground level up is a compatible form of development in this enterprise corridor and the density residential development that are emerging in the locality, noting that the emerging character is for multi-level mixed business, recreation and light industrial buildings. The positioning of the self storage facility within the basement means it will have to perceivable impact on the visual bulk and scale of the development.
- The proposed buildings will present an appropriate bulk and scale on the site with 3 balanced vertical components/proportions that are consistent with the emerging character of this Enterprise Corridor. The architectural expression modulates the façade of the building into 3 parts with a vertical layering from the sandstone base, to the grey clad middle form and recessed green façade above
- The additional GFA does not generate any unreasonable additional amenity impacts given the location of the site and the surrounding site context.

The proposal provides for a better planning outcome as the proposal ensures that the area is provided with a mixed use recreational and business development to support the growth of Rouse Hill and to align with the principles of urban consolidation that seek to ensure the efficient use of community infrastructure by providing a mixed business, recreation, warehouse and self storage facility in this strategic location. Noting that both the site is well connected to the local and arterial road network as well as being located on a primary connection through to the expanding residential area at Rouse Hill.

- The proposal has been designed to that the proposal will not obstruct existing view corridors.
- The deemed non-compliance to the floor space ratio control has no impact on the setting of any items of environmental heritage or view corridors.



- The proposal does not adjoin any residential areas or sensitive interfaces and will integrate with future development to the north, east, south and west.

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable.

#### Clause 4.6(4)

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the B6 Enterprise Corridor zone, being:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.

The proposal will provide a high quality mixed use development in a strategic location within close proximity to the arterial road network and the expanding residential areas surrounding Rouse Hill. The scale of the development will help to revitalise the area with delivery of an activated frontage to Annangrove Road and an attractive overall development.

As a result, the development will contribute towards creating a vibrant and sustainable living and working community that will support both the function and growth of Rouse Hill.

Furthermore, the proposal will complement and enhance the local streetscape by virtue of the strong articulated built form and the use of natural materials within the building materials to provide clear legibility building at the street level.

It is understood that the concurrence of the Director-General can be assumed in the current circumstances.

#### Clause 4.6(5)

As addressed, it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

- a. The contravention of the floor space ratio control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and

- b. There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the floor space ratio control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality. The significant benefits of the proposal must be emphasised in considering the merits of the departure to the floor space ratio control and the proposal is a site-specific response and is not replicated elsewhere as such 'precedent' issues are not relevant.

Strict compliance with the prescriptive floor space ratio requirement is unreasonable and unnecessary in the context of the proposal and its unique circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The design response aligns with the intent of the control and provides for an appropriate and efficient use of this land within the Enterprise Corridor.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and considering the absence of adverse environmental, social or economic impacts, it is requested that Council support the development proposal.

#### **Land and Environment Court Case Law**

The Land and Environment Court, through case law, provides guidelines for the consideration of Clause 4.6 departures.

Two cases that it is appropriate to discuss are:

- *Wehbe v Pittwater Council* (2007) NSWLEC 872; and
- *Four2Five Pty Ltd v Ashfield Council* (2015) NSWLEC 2009.

*Wehbe v Pittwater Council* and *Wehbe v Pittwater* related to a SEPP 1 objection and outlines that there are 5 methods to establish that the application of a development standard is unreasonable or unnecessary in the circumstances of the case.

1. The development achieves the objectives of the development standard;

2. The underlying objective or purpose of the development standard is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose of the development standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. 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; and
5. The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.

The case law indicates that if any of these methods are satisfied then the departure to the standard can be supported. In respect of this site, it is considered that the proposal satisfies method 1 for the reasons outlined above.

#### Four2Five Pty Ltd v Ashfield Council

Four2Five Pty Ltd v Ashfield Council relates to a consideration of a clause 4.6 departure to a building height development standard. The court indicated that merely showing that the development achieves the objectives of the development standard will be insufficient to justify that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6, (and 4.6(3)(a) in particular). The previous discussion clearly confirms that the objectives of the development standard are achieved.

Further, the requirement in cl4.6(3)(b) to justify that there are sufficient environmental planning grounds for the variation, may well require identification of grounds particular to the circumstances of the proposed development. As opposed merely to grounds that would apply to any similar development on the site or in the vicinity.

There are circumstances associated with this site and the perceived floor space ratio departure. The proposal seeks to deliver a building that is consistent with the emerging character of developments along Annangrove Road and the actual self storage facility will not be visible at all from the public domain. The additional GFA forms an integral part of the overall development and means that the proposal provides a better outcome as this facility can be delivered within a basement rather than occupying valuable above ground and visible floor space.

The proposed building has been designed to present with 3 vertical proportions, the more solid lower level which has used natural sandstone material from the site, moving up to the more prominent middle component with lots of vertical windows creating an interesting feature of the design. There is then the less prominent upper portion of the building which introduces a natural earthy orange colour and planter boxes to create

an interesting green design feature. The potential placement of basement storage above ground would completely change the design of the building which would stand to ruin the balance of these 3 proportions of the building and reduce the architectural flare and statement that is being presented. The proposed building design delivers a better outcome in terms of architectural style and urban design outcomes.

The placement of the proposed self storage facility within the basement makes logical sense as basement storage areas do not need to be given access to natural light and ventilation. Storage areas are better to be delivered in the basement where natural sunlight and weather conditions do not impact on the facility. The placement of areas where higher amenity is desirable is better located in the above ground locations of the development scheme.

The proposal achieves a higher level of amenity for the above ground uses and an appropriate location of storage areas which the proposed basement arrangement, therefore a better design outcome is achieved.

Strict compliance is clearly not a preferred outcome on environmental planning grounds there are specific grounds to warrant departure to the floor space ratio control that satisfy the test in Four2Five V Ashfield.

Therefore, the current proposal is a preferable outcome from an environmental planning perspective and demonstrates that there is merit in varying the floor space ratio control to achieve a better design response on the site. Therefore, the departure to the height control satisfies the test set down under Four 2 Five V Ashfield.

### **Conclusion**

Strict compliance with the prescriptive floor space ratio control is unreasonable and unnecessary in the context of the proposal and its particular circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal will not have any adverse effect on the surrounding locality, and is consistent with the future character envisioned, while supporting the role of Rouse Hill as a strategic centre. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the proposed variation.



## ATTACHMENT 10 – RURAL FIRE SERVICE APPROVAL

*All communications to be addressed to:*

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



The General Manager  
The Hills Shire Council  
PO Box 7064  
BAULKHAM HILLS BC NSW 2153

Your Ref: 2245/2018/JP  
Our Ref: D18/6055  
DA18062113615 AS

**ATTENTION:** Robert Buckham

6 July 2018

Dear Sir/Madam

### **Development Application - 318 Annangrove Road Rouse Hill 2155**

I refer to your correspondence dated 19 June 2018 seeking advice regarding bush fire protection for the above Development Application in accordance with Section 4.14 of the 'Environmental Planning and Assessment Act 1979'.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

#### **Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. New construction is required to be fitted with appropriate ember protection measures. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

#### **Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

3. Unobstructed pedestrian access shall be provided along all boundaries of the property to aid in firefighting activities.

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

4. Internal roads shall comply with the requirements of section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

#### **Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

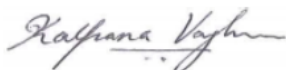
5. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

#### **Landscaping**

6. Future landscaping to the site is required to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Should you wish to discuss this matter please contact Adam Small on 1300 NSW RFS.

Yours sincerely



Kalpana Varghese

**A/Team Leader - Development Assessment and Planning**

For general information on bush fire protection please visit [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



## ATTACHMENT 11 – NATURAL RESOURCES ACCESS REGULATOR APPROVAL



Natural Resources  
Access Regulator

### General Terms of Approval

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

**Reference Number:** IDAS1107842  
**Issue date of GTA:** 30 July 2018  
**Type of Approval:** Controlled Activity  
**Description:** Demolition of existing structures and construction of a mixed commercial and industrial development  
**Location of work/activity:** 318 Annangrove Road ROUSE HILL  
**DA Number:** DA2245/2018  
**LGA:** The Hills Shire Council  
**Water Sharing Plan Area:** Greater Metropolitan Region Unregulated River Water Sources

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

Condition Number	Details
<b>Design of works and structures</b>	
GT0009-00010	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
GT0013-00001	A. Any proposed controlled activity carried out under a controlled activity approval must be directly supervised by a suitably qualified person. B. A copy of this approval must be: i. kept at the site where the controlled activity is taking place, and ii. provided to all personnel working on the controlled activity.
<b>Erosion and sediment controls</b>	
GT0006-00003	The following plan(s): - Erosion and Sediment Control Plan; Storm Water Management Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0014-00007	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021-00002	The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.
<b>Plans, standards and guidelines</b>	
GT0002-00440	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 2245.2018 provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be

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water.enquiries@dpi.nsw.gov.au | www.water.nsw.gov.au



## General Terms of Approval

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

<b>Reference Number:</b>	IDAS1107842
<b>Issue date of GTA:</b>	30 July 2018
<b>Type of Approval:</b>	Controlled Activity
<b>Description:</b>	Demolition of existing structures and construction of a mixed commercial and industrial development
<b>Location of work/activity:</b>	318 Annangrove Road ROUSE HILL
<b>DA Number:</b>	DA2245/2018
<b>LGA:</b>	The Hills Shire Council
<b>Water Sharing Plan Area:</b>	Greater Metropolitan Region Unregulated River Water Sources
required.	
GT0005-00190	A. The application for a controlled activity approval must include the following plan(s): <ul style="list-style-type: none"><li>- Sediment and Erosion Control Plan, Stormwater Drainage Plan, Stormwater Outlet Structure Plan.</li></ul> B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <a href="https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities">https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities</a> .
GT0030-00006	The application for a controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <a href="https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities">https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities</a> .
<b>Rehabilitation and maintenance</b>	
GT0023-00001	Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).
<b>Reporting requirements</b>	
GT0016-00003	The consent holder must inform Natural Resources Access Regulator in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.

## **SCHEDULE 1**

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA2245/2018 as provided by Council:

- 1) Statement of Environmental Effects;
- 2) Stormwater Report;
- 3) Bushfire Risk Assessment;
- 4) Floor Plan;
- 5) Site Analysis Plan; and
- 6) Environmental Site Assessment.