COUNCIL ASSESSMENT REPORT

Panel Reference	2018SWC096
DA Number	DA 192/2019/JP
LGA	The Hills Shire Council
Proposed Development	Demolition of existing structures and construction of three 6-9 storey residential flat buildings comprising 258 units and basement car parking
Street Address	Lot 33 DP 246981, Lot 32 DP 246981, Lot 3 DP 583999, Lot 128 DP 250610, Lot 127 DP 250610, Lot 126 DP 250610, Lot 18 DP 255722, Lot 19 DP 255722, Lot 20 DP 255722, Lot 21 DP 255722, Lot 22 DP 255722 & Lot 23 DP 255722 16-26 Chapman Avenue and 17-27 Dawes Avenue, Castle Hill
Applicant	CG Group Projects Pty Ltd
Owners	Mr G M Braybon Mrs S E Braybon Ms M H Qu Mrs R Sie Mr S H Sie Mr S Surya Ms M M Herliman Ms N Reljanovic Mr C S Lumb Mrs M J Lumb Mrs E L Burge Mr M D Burge Mr C Bai Mrs L Zhang Ms C P Pisano Mr P G Meek Mr T P Armstrong Mrs M E Armstrong Mr N R Duffy Mr S H Kwon Ms T Kim
Consultant/s	Ethos Urban Pty Ltd LFA (Pacific) Pty Limited Survey plus Cam Consulting Paul Scrivener Varga Traffic Arcadis CBD Core Pty Ltd Taylor Smith Consulting Acoustic Logic Vista Access Architects Redgum Horticultural Windtech JPQS Pty Ltd
Date of DA lodgement	1 August 2018
Number of Submissions	8 submissions from 12 property owners all in support of the proposal

Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV exceeding $30 million ($95,351,601.4)
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (State and Regional Development 2011) • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • The Hills Local Environmental Plan 2012 • Apartment Design Guide • DCP 2012 Part C Section 1 – Parking • DCP 2012 Part C Section 3 – Landscaping • DCP 2012 Part D Section 19 – Showground Precinct
List all documents submitted with this report for the Panel's consideration	• Clause 4.6 • Submissions
Report prepared by	Cynthia Dugan Development Assessment Co-ordinator
Report date	19 September 2019

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)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**No**
Conditions Have draft conditions been provided to the applicant for comment? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*	**Yes**

EXECUTIVE SUMMARY

The Development Application is for the construction of three 6-9 storey residential flat buildings comprising 258 units with 55 x 1 bedroom units, 149 x 2 bedroom units and 54 x 3 bedroom units and basement car parking for 432 vehicles.

The site is within the Showground Station Precinct under The Hills Local Environmental Plan 2012. The subject site consists of twelve existing residential lots. The site is unique in that the development standards are split across the lots with two western lots (26 Chapman Avenue and 27 Dawes Avenue) comprising a maximum base Floor Space Ratio (FSR) of 1.9:1, maximum incentive FSR of 2.7:1 and maximum height of 27m. The remaining 10 lots have a maximum base FSR development standard of 1.6:1, maximum incentive FSR of 2.3:1 and maximum height standard of 21m.

The Development Application is accompanied by a request to vary development standards under Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). The proposal seeks to vary Clause 4.3 Height of Buildings and Clause 9.7 Residential development yield on certain land. The variation to height is for an exceedance of up to 35.7% (7.5m) to the development standard. The largest height exceedance relates to Building A which is located on land that is mapped with two different height limits (27m and 21m). In this instance, it is considered that compliance with the standard is unreasonable as a fully complaint scheme would result in an inferior design outcome, a lack of height transition and inhibit the provision of a functional building envelope for the site. The height variation to Building B is up to 19.7% (4.14m) for a lift overrun and 12.2% (2.58m) for the main roof. Approximately 410m2 of gross floor area (GFA) on level 7 exceeds the height standard for up to half a storey. Notwithstanding, the upper floor is substantially setback from the front façade (Dawes Ave) and is not visible from the public domain. The height variation to Building C only relates to lift overruns which are imperceptible from the streetscape.

Clause 9.7 permits an incentivised FSR for residential development if the site area is over 10,000m², provides for larger apartment sizes, a more diverse unit mix and minimum car parking provisions. The Clause 4.6 variation to Clause 9.7 is only for a technical non-compliance for a portion of the development over two lots (26 Chapman Ave and 27 Dawes Ave) which is over land mapped with a maximum FSR of 2:7:1 in the LEP instrument. Clause 4.6 written submissions have been prepared for each development standard and the variations can be supported as 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 4.3 Height of Building, Clause 9.7 Residential Development of certain land and the R4 High Density zone objectives; compliance with the standard is unnecessary in this instance and there are sufficient environmental grounds to justify the contravention; and the proposed development will be in the public interest.

The proposal complies with SEPP 65 and the Apartment Design Guide with the exception of building separation and minimum balcony depths. The Apartment Design Guide requires that habitable rooms/balconies require a building separation of 12m for 4 storeys, 18m for 5-8 storeys and 24m for over 9 storeys. Variations occur to habitable room windows and and/or balconies on the southern portion of the development between Buildings A and B and B and C. Notwithstanding, the placement of windows are angled to prevent direct overlooking and screening devices set at oblique angles have been incorporated into the windows on the western elevations of Buildings B and C to further minimise direct overlooking. The Apartment Design Guide requires a minimum balcony depth of 2.4m for 3 bedroom units. Five units (2%) within the development do not comply with the minimum balcony depth by up to 0.4m however all units exceed the minimum area criteria. It is considered that there is sufficient space to accommodate outdoor furniture and provide appropriate amenity for residents of these units.

The proposal complies with DCP 2012 Part D Section 19 – Showground Precinct with the exception of an exceedance in height to the structure plan, site coverage, front setbacks for entry awnings and courtyards, façade and building length, level of ground floor units above street level, solar access to adjoining public open space, car parking location and access and adaptability controls. The DCP variations predominately relate to siting the development, built form, design and streetscape and public domain interface and amenity controls. The proposal has been reviewed by Council's Design Review Panel (DRP) on two occasions. The DRP offered qualified support of the proposal at its second meeting on 27 February 2019 and made recommendations to ensure the proposal exhibits design excellence. All concerns raised by the Design Excellence Panel have been addressed and incorporated into the current proposal. The amendments made include a reduction in the overall gross floor area exceeding the height development standard (745.73m²), increased deep soil and soft landscaping, retention of 17 existing trees, deletion of subterranean units originally proposed in Building C, deletion of northern units fronting Chapman Avenue improving solar access to communal open space areas and improved interface with the adjoining Chapman Reserve by providing a significant recess in the middle of the building. It is considered that the proposal exhibits design excellence, is consistent with the desired future character of the Showground Station Precinct, follows transit oriented development principles, provides for a high quality architectural design incorporating transitions in heights and substantial landscaping within the frontages and provides appropriate residential amenity for future occupants of the site and adjoining properties.

The application was notified for a period of 14 days on two occasions. Seven submissions from 11 property owners were received during the first notification period and two submissions were received during the second notification period. All submissions received are in support of the proposed development.

The Development Application is recommended for approval subject to conditions of consent.

BACKGROUND

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

The subject Development Application was lodged on 1 August 2018. The proposal was notified for 14 days and seven submissions in support of the proposal were received following the notification period. The original application proposed 266 units and was accompanied by a request to vary development standards for the Height of Buildings pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). This original request included significant variations to the height standard incorporating the maximum incentive FSR (2.7:1 or 5,114.61m² GFA) available for the entire site

A request for additional information was sent to the applicant on 3 August 2018 raising concerns relating to height and building length, variations to SEPP 65 Apartment Design Guide and requested an electronic model be provided. The letter also noted that development consent could not be granted unless the development is reviewed by Council's Design Review Panel.

Amended plans were submitted on 19 October 2018 which addressed some of these concerns. These plans were renotified to affected property owners.

Council's Design Review Panel convened its first meeting on 17 January 2019 and reviewed the subject application. The Panel did not support the proposal, concluded that the proposal did not meet the requirements of design excellence and recommended the applicant address

the issues identified in the minutes and provide a revised application to the Panel. Amended concept plans were submitted to address concerns raised by the Design Review Panel and reviewed by the Panel at its meeting on 27 February 2019. The Panel provided qualified support of the proposal on the basis that all comments from the minutes are addressed.

A meeting was held between Council staff, the applicants and their consultants on 2 March 2019 to discuss the outstanding issues for the Development Application.

Amended plans and associated documentation was submitted by the Applicant on 7 May 2019. These plans were renotified to affected property owners. The amendments resulted in a reduction of the unit yield from 266 units to 258 units (GFA of 745.73m²), thus reducing the extent of gross floor area breaching the height standard.

Amended plans and associated documentation were also submitted between June 2019 to August 2019 to address outstanding landscaping and planning concerns in relation to SEPP 65 Apartment Design Guide (visual privacy, solar and daylight access, balcony depths, apartment storage) and DCP 2012 concerns relating to site coverage, open space and landscaping, façade length, upper level setback, streetscape and public domain interface, finished floor levels of apartments, solar access to adjoining public open space and parking. A Clause 4.6 written submission for a technical non-compliance to the incentive FSR under Clause 9.7 has been submitted at the request of Council officers.

DETAILS AND SUBMISSIONS

Owners:	Mr G M Braybon Mrs S E Braybon Ms M H Qu Mrs R Sie Mr S H Sie Mr S Surya Ms M M Herliman Ms N Reljanovic Mr C S Lumb Mrs M J Lumb Mrs E L Burge Mr M D Burge Mr C Bai Mrs L Zhang Ms C P Pisano Mr P G Meek Mr T P Armstrong Mrs M E Armstrong Mr N R Duffy Mr S H Kwon Ms T Kim
Zoning:	R4 High Density Residential
Area:	11,322.7m²,
Existing Development:	12 residential dwellings
Section 7.11 Contribution	$3,110,364.10
Exhibition:	N/A
Notice Adj Owners:	Yes, 14 days on two occasions
Number Advised:	30 properties on both occasions
Submissions Received:	1st notification period: 7 submissions from 11 property owners 2nd notification period: 2 submissions from 2

	property owners

PROPOSAL

The proposed development seeks consent for demolition of existing structures, site preparation works, excavation, tree removal and construction of three residential flat buildings comprising a total of 258 units with a mix of 55 x 1 bedroom units, 149 x 2 bedroom units and 54 x 3 bedroom units. The proposal comprises three built forms known as Building A (6-9 storeys), Building B(6-8 storeys) and Building C(6-8 storeys) with frontages to both Chapman Avenue and Dawes Avenue. Terrace style apartments are incorporated into Building C fronting Chapman Avenue and Building A fronting Dawes Avenue.

A basement car park comprising two levels with a total of 432 car parking spaces is provided. 327 resident spaces (including 102 stacked spaces), 52 visitor spaces and 1 car wash bay is proposed.

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

Communal open space areas are provided on ground level between Buildings A and B and Buildings B and C. Roof top communal open space areas are also provided on Building B, a northern side of Building C and the southern side of Building A.

A maximum height of 29.74m (lift overrun) is proposed for Building A. A maximum height of 25.14m (lift overrun) is proposed for Building B and a maximum height of 21.58 (main roof). The Application is accompanied by a written Clause 4.6 request to vary the maximum height of 21m and 27m as required under Clause 4.3 of The Hills LEP 2012.

The proposal seeks to utilise the 'incentive' floor space ratio provision under Clause 9.7 of The Hills LEP 2012 which permits a maximum incentive FSR of 2.7:1 (maximum GFA of 5,114.61m²) for 26 Chapman Avenue and 27 Dawes Avenue and 2.3:1 (maximum GFA of 21,685.32m²) for the remainder of the lots. The total GFA permissible for the whole site is 26,799.93m². The proposed total floor area of 26,054.2m^2 results in a floor space ratio of 2.301:1 apportioned for the whole site. The Application is accompanied by a written Clause 4.6 request to vary a technical non-compliance to the maximum incentive FSR 26 Chapman Avenue and 27 Dawes Avenue.

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

STRATEGIC CONTEXT

Greater Sydney Region Plan – A Metropolis of Three Cities

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

A key objective within the Greater Sydney Region Plan which is relevant to the subject Development Application is 'Objective 10 Greater housing supply'. The Greater Sydney Region Plan highlights that providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population. The Plan also notes that 725,000 additional homes will be needed by 2036 to meet demand based on current population projections. To achieve this objective, planning authorities will need to ensure that a consistent supply of housing is delivered to meet the forecast demand created by the growing population.

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

Central City District Plan

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

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

ISSUES FOR CONSIDERATION

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

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

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

The proposed development has a Capital Investment Value of $95,351,601.40 and therefore requires referral to, and determination by, the Sydney Central City Planning Panel.

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

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

Clause 7 of the SEPP states:

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

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

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

Council's Environmental Health Officer has reviewed the Preliminary Site Investigation prepared by EI Australia, report number E23379 AA_Rev 3 dated 31 July 2018. The investigation revealed that there is potential for soil contamination to be present on site. In this regard a hazardous materials survey on existing structures as well as intrusive investigation to verify the quality of the soil is warranted. However, the report considers that the conditions of the site soil are unlikely to constrain the site from being redeveloped as a residential flat building development and the site can be made suitable for its intended use, subject to recommended conditions.

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

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

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

a. Design Quality Principles

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

Principle 1: Context and neighbourhood character

The proposal is compatible with the desired context and neighbourhood character of the Showground Station precinct. The proposal seeks to respond to and contribute to the desired future character Showground Station precinct which is to become an attractive and well-connected neighbourhood that achieves housing targets, creates vibrant, safe and desirable places, reinforces the garden shire character and lifestyle, and is supported by necessary infrastructure. The subject development is located within a R4 High Density Residential zone. The future desired character for residential areas are to be green and walkable, providing a lifestyle alternative to the traditional suburban context, focused highly on an appropriate scale and an attractive environment for pedestrians. The proposal has addressed comments made by Council's Design Review Panel and it is considered that the amended proposal provides an attractive streetscape presentation, generous apartment sizes, a diverse unit mix within a landscaped setting which reinforces the garden shire character and lifestyle. In this regard, the proposal is compatible with the desired neighbourhood character of the Showground Station precinct.

Principle 2: Built form and scale

The proposal is consistent with the requirements of the Hills Council LEP, and is appropriately designed and articulated to minimise the perceived scale. The height transition of the buildings, the podium level setback and street setbacks provide an appealing scale to pedestrians. The variety of finishes along the elevations and layering of façade elements assist in creating a well-articulated street frontage which enhances the development's relationship with the public domain. In addition, the interface between the development and the public open space area has been duly considered with appropriate setbacks and façade treatments to ensure a high level of amenity is provided.

Principle 3: Density

The subject proposal provides for 258 dwellings for the site. The applicant initially sought consent for 266 units however has reduced the dwelling yield to ensure the proposal meets

design excellence. As the development site is within the Showground Precinct and has an area exceeding 10,000m², the proposal seeks to utilise an incentivised FSR provision under Clause 9.7 of LEP 2012. The density is consistent with the site's strategic location and the surrounding character of adjoining development as Council's strategic vision for the Showground Station Precinct is to locate highest density development closest to the station and local centre and reduce the densities further from the station. In this regard, the proposal is appropriate for the site and future Showground Station precinct.

Principle 4: Sustainability

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

Principle 5: Landscape

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

Principle 6: Amenity

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

Principle 7: Safety

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

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

Principle 8: Housing diversity and social interaction

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development complies with the unit mix and internal floor areas as required under the Apartment Design Guide and The Hills DCP 2012. The application includes 55 x 1 bedroom units, 149 x 2 bedroom units and 54 x 3 bedroom units where 21% of the units are 1 bedroom units and 21% of the units are three bedroom units. 60 of the 2 bedroom units (40%) have a minimum area of 110m² and 22 of the 3 bedroom units (41%) have a minimum area of 135m². The larger unit sizes would encourage appropriate housing diversity and family friendly units within the Showground Station precinct.

Principle 9: Aesthetic

The proposed buildings provide a visually interesting and modern built form with a variety of buildings elements including terrace style apartments fronting the streets (Buildings A and C) and a transition of building heights ranging from 6 – 9 storeys. This, together with the use of a limited materials palette ensures that feature elements such as different brick colours provides for interesting façades to address the streets. Each building provides for a distinct base and top and integrates a number of building recesses, projections and vertical blade walls into the façade structure to articulate the overall mass and form. As recommended by Council's Design Review Panel, the façade facing the public open space (Chapman Reserve) has been redesigned with larger indentations to break up the building mass. The lower levels have also been amended to provide for a sense of fine grain and architectural diversity. The aesthetic of the built forms is appropriate for the area.

b. Apartment Design Guide

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

Clause	**Design Criteria**	**Compliance**
Siting		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Yes. 30% of the development site area (3,320m^2). The principal communal open space area located on the rooftop of Building B will receive at least 50% direct sunlight for 2 hours during midwinter.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m^2 and 15% for sites greater than 1500m^2.	Yes. Approximately 25% of the development site area is true deep soil zones as defined within the ADG.
Separation	For habitable rooms, 12m (6m to boundary) for 4 storeys, 18m (9m to boundary) for 5-8 storeys and 24m (12m to boundary) for 9+ storeys	No. Variations to the building separation between habitable rooms and balconies for Buildings A and B and between Buildings B and C as follows: Buildings A and B: Level 1 – 4: 9m (12m required)

		Level 5: 12m (18m required) Buildings B and C: Levels 1- 4: 9m (12m required) Levels 5- 6: 12m (18m required)
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Yes. The visual privacy of the development has been duly considered with the placement of windows and balconies. Screening devices set at oblique angles, full height privacy screens and louvres have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties.
Car parking	Car parking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. (55) 0.9 spaces per 2 bedroom unit. 159 1.40 spaces per 3 bedroom unit. 52 1 space per 5 units (visitor parking). 52	Yes. The site is located within 800m of the future Showground Station. 318 spaces would be required in accordance with the RMS rate. 319 spaces provided.
Designing the Building		
Solar and daylight access	1. Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	Yes. The proposed development will achieve two hours solar access for 71% (181 of 258) of

		apartments between 9am and 3.00pm.
	2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	Yes. There are 11% (28 of 258) of apartments that will not receive any solar access between 9.00 am and 3.00 pm.
Natural ventilation	1. At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.	Yes. A total of 60% (155 of 258) of units will meet the cross ventilation requirements or can be naturally ventilated.
	2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes. The maximum overall depth is 15 metres for a cross through apartment.
Ceiling heights	For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30^0 minimum ceiling slope.	Yes. Floor to ceiling height approx. 2.7 metres for all apartments.
	If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.	NA
Apartment size	1. Apartments are required to have the following internal size: Studio – $35m^2$ 1 bedroom – $50m^2$ 2 bedroom – $70m^2$ 3 bedroom – $90m^2$	Yes. 1 bedroom 50 - $59m^2$ 2 bedroom 70 - $117m^2$ 3 bedroom 95 - $149m^2$
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by $5m^2$ each.	Where additional bathrooms are proposed, an additional $5m^2$ has been provided. No four bedroom units proposed.
	A fourth bedroom and further additional bedrooms increase the minimum internal	

	area by 12m^2 each. 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows greater than 10% of the floor area of the dwelling.
Apartment layout	Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height. In open plan layouts the maximum habitable room depth is 8m from a window. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts.	Yes. Yes. Yes.
Balcony area	The primary balcony is to be: Studio – 4m^2 with no minimum depth 1 bedroom – 8m^2 with a minimum depth of 2m 2 bedroom – 10m^2 with a minimum depth of 2m 3 bedroom – 12m^2 with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m^2 with a minimum depth of 3m is required.	No, variation required. All balcony sizes comply however the depths do not comply for the following units: A306, B202, B302, C217 & C510. Yes.
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight. However, where the design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes. N/A.
Storage	Storage is to be provided as follows: Studio – 4m^3 1 bedroom – 6m^3 2 bedroom – 8m^3 3+ bedrooms – 10m^3 At least 50% of the required storage is to be located within the apartment.	Yes. Each unit contains the minimum storage area.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	Yes. The apartment mix accords with the Clause 9.7 of The Hills LEP 2012 and is

		considered satisfactory.

i. Building Separation

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

The proposal includes variations to the internal building separation between Buildings A and B and B and C. The variations to Buildings A and B occur on Levels 1 – 4 (shortfall of 3m) and Level 5 (shortfall of 6m) on the southern portion of the buildings. The variations to Buildings B and C occur on Levels 1 – 4 (shortfall of 3m) and Levels 5-6 (shortfall of 6m).

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

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

Comment:
Whilst the separation distance between balconies and habitable room windows to the eastern façade of Building A and western façade of Building B do not meet the design criteria of the Apartment Design Guide, the placement of windows that are angled to prevent direct overlooking of adjoining properties. In addition, screening devices set at oblique angles have been incorporated into the windows on the western elevation of Building B to further minimise direct overlooking.

The separation distance between balconies and habitable room windows between Buildings B and C have also been amended to include screening devices set at oblique angles on the western elevation of Building C to minimise direct overlooking.

It is noted that the variations to building separation only occurs internal within the development site. The proposal fully complies with the building separation design criteria of the ADG with regard to adjoining residential properties. In this regard, the proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties and the visual acoustic privacy and amenity to adjoining developments and open space will not be unduly compromised.

The proposal still provides for a development that is consistent with the desired future character of the Showground precinct, assists in providing residential amenity including visual and acoustic privacy, natural ventilation and solar access and provides for suitable areas for communal open spaces, deep soil zones and landscaping.

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

ii. Balcony depth

The ADG recommends 1 bedroom units be provided with an area of $8m^2$ with a minimum depth of 2m, 2 bedroom units be provided with an area of $10m^2$ with a minimum depth of 2m and 3 bedroom units to be provided with an area of $12m^2$ with a minimum depth of 2.4m. The proposal does not meet the minimum balcony depth criteria for 5 units within the development (units A306, B202, B302, C217 and C510).

The applicant has provided the following justification for the variation:

The overall size of the balcony is consistent with the intent of the control. The proposed balconies provide good overall space and due to the size of the balcony will allow for outdoor furniture to be placed on balconies, so residents can enjoy. If the balcony sizes were increased from 2m to 2.4m this would potentially compromise solar access due to the orientation of the site. Furthermore, the proposed development provides increased communal open space of 30% (3,329,92m2) of the site area, which is 5% above the 25% requirement, which is consistent with the design guidelines.

Comment:
The proposed balconies in 5 out of the 258 apartments (2%) result in a variation to the balcony depth of the ADG design criteria. It is noted that these balconies comply the minimum depth requirement for the majority of the balcony area however have a shortfall of 0.4m for a portion of each balcony. Notwithstanding, each balcony exceed the ADG size requirements and the areas will allow for sufficient space to accommodate outdoor furniture (a table and six chairs).

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

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

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

A BASIX assessment has been undertaken and indicates that the development will achieve the required targets for water reduction, energy reduction and measures for thermal performance. The commitments as detailed in the amended BASIX Certificates will be imposed as a condition of consent.

5. Compliance with LEP 2012

a. Permissibility

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

b. Zone Objectives

The objectives of the R4 High Density Residential zone are:

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

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

c. LEP 2012 – Development Standards

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

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Building Height	27 metres (western lots 26 Chapman Avenue and 27 Dawes Avenue) 21 metres (remaining eastern lots)	Building A 29.74m Building A 28.5m. Building B 25.14m Building C 21.58m	No, refer to discussion below.
4.4 Floor Space Ratio	1.9:1 (western lots) 1.6:1 (eastern lots)	N/A	N/A as the proposal seeks to utilise the 'incentivised' floor space ratio provision under Clause 9.7 of LEP 2012. Refer to discussion below.
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment	A variation to Clause 4.3 Height of Buildings and Clause 9.7 Incentive FSR development standard is proposed and addressed below.	Yes, refer to discussion below.
9.1 Minimum Lot Sizes for Residential Flat Buildings and Shop Top Housing	Residential flat building with a height of 11 metres of more – R4 High Density Residential – 3,600m^2	11,322.7m^2	Yes
9.2 Site Area of Proposed Development includes dedicated land	Road dedication included as part of the site area for the purpose of calculating FSR.	Land dedication area of 277.4m^2 included in FSR calculation.	Yes
9.3 Minimum Building Setbacks	Front Building Setbacks to be equal to, or greater than, the distances shown for the land on the Building Setbacks Map – Chapman Ave and Dawes Ave require a 7.5m setback.	Dawes Ave front setback is 7.5m (from existing property boundary). Chapman Ave front setback is 7.5m.	Yes
9.5 Design	Development	Proposal referred to	Yes, refer to

Excellence	consent must not be granted unless the development exhibits design excellence	Design Review Panel and amended to address concerns raised by the Panel.	discussion below.
9.7 Residential development yield on certain land	If the development is on a lot that has an area of 10,000m² within the Showground Precinct and provides a specific mix, family friendly unit sizes and parking, the following incentivised Floor Space Ratio can be applied as identified on the FSR Mapping instrument: 26 Chapman Avenue and 27 Dawes Avenue 2.7:1 (5,114.61m² GFA) Remainder of lots 2.3:1 (21,685.32m² GFA) Total permitted GFA on consolidated site is: 26,799.93m²	Site Area: 11,322.7m² <u>Proposed FSR</u> 2.74:1 (5,184.4m² GFA) 2.21:1 (20,869.8m² GFA) The total GFA proposed within the consolidated site is: 26,054.2m²	Yes, refer to discussion below. No, exceedance of 1.3% for the portion of land at 26 Chapman Ave and 27 Dawes Ave. Refer to discussion below. Yes Yes
9.8 Maximum Number of Dwellings	Development Consent must not be granted to development that results in more than 5,000 dwellings on land within the Showground Precinct	258 units proposed under the subject Development Application. If this development application is approved, the total number of dwellings approved within the Showground Precinct would be 336 units.	Yes

i. Variation to Clause 4.3 Height of Buildings

Clause 4.3 of LEP 2012 limits the height of the development site to 27 metres for 26 Chapman Avenue and 27 Dawes Avenue and 21 metres for the remaining eastern lots. Proposed Building A has a maximum height of 28.5m and 29.74m. This represents a variation of 35.7% and 10% to the height standard. Building B has a maximum height of 25.14m and Building C has a maximum height of 21.58m which represents a 19.7% and 2.7% variation to the 21m height standard.

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 14.

Clause 4.6 Exceptions to Development Standards states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- *The proposed development for residential flat buildings is permissible and is consistent with the objectives of the Height of Building control contained in HLEP 2012;*
- *The height of building standard does not reflect the incentivised maximum Floor Space Ratio control. Therefore, it is considered that compliance with the development standard would hinder the achievement of the objectives of both the R4 High Density Residential zone and the Clause 4.3 – Height of Buildings standard.*
- *The height variation relates to components of the upper roof plane of each building and the plant rooms, servicing and lift overruns on the roof. These elements are setbacks and not readily visible from the public domain.*
- *The topography is a unique constraint which affects the site and results in a design that exceeds the numerical height limit. The steep 8m site slope from Chapman Ave to Dawes Ave forces a design that follows the topography of the site. It results in an inevitable exceedance of the building height standard, particularly over the centre part of the site where there are dips in the ground level.*
- *Compliance with the building height standard would result in an inferior, arbitrary built form and a poor architectural outcome. Considering the maximum Height of Building controls cover only the western-most lot, following compliance with the setback controls would result in only 12m being available for the depth of the building. This would not be a viable building footprint or architecturally desirable within the Showground Precinct.*
- *The proposal would not result in additional amenity impacts beyond that of a compliant scheme.*
- *All other requirements relating to height and land use are consistent.*

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

Building	Height from Natural Ground Level (NGL)	Maximum LEP Height	Extent of Variation	GFA Exceeding LEP Height
Building A	29.74m (lift overrun) 28.22m (main roof) 28.5m (main roof)	27m 27m 21m	2.74m (10%) 1.22m (4.5%) 7.5m (35.7%)	174m² (Up to 0.2m on Level 8) 155m² (1 storey on Level 8) 133m² (0.5m on Level 7)
Building B	25.14m (lift overrun) 23.58m (main roof)	21m	4.14m (19.7%) 2.58m (12.2%)	410m² (Up to half a storey on Level 7)
Building C	21.58m (lift overrun) 21.2m (main roof)	21m	0.58m (2.7%) 0.2m (1%)	No GFA over height limit

Building A has a maximum height of 28.5m and 29.74m. This represents a variation of 35.7% to the 21m standard and 10% to the 27m height standard. Building B has a maximum height of 25.14m and Building C has a maximum height of 21.58m which represents a 19.7% and 2.7% variation to the 21m height standard.

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

The development facilitates higher densities close to the Showground Station priority precinct. The site was subject to the NSW Government's 'Planning Precinct Program' along the Sydney Metro Northwest corridor which was rezoned for high and medium density development. The site is within the Showground Station Precinct and has been identified as suitable to accommodate residential flat building developments between 6 - 8 storeys in height.

The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints, is compatible with the scale and character of the Showground Station Precinct and minimises amenity impacts to adjoining development including to a public open space area (Chapman Reserve) to the south east of the site. The placement of the highest building elements located to the western portions of the site is considered appropriate in the the context of the Showground Station Precinct as the height standards were based on transit oriented development principles by providing taller buildings in closer proximity to the station.

The amalgamation pattern of development within the immediate context of the site has resulted in split height and FSR standards for the development with only two lots (26 Chapman Ave and 27 Dawes Ave) comprising a height limit of 27m and the remaining eastern portion of the site comprising a height limit of 21m. The largest variation to the height standard of 7.5m (35.7%) occurs within this area for Building A. In this instance, it is

considered compliance with this standard is unreasonable as a fully complaint scheme would result in an inferior design outcome with a lack of height transition and inhibit the provision of a functional building envelope on the site.

The variation to the height standard for Building B occurs to the southern portion of the building fronting Dawes Avenue for up to half a storey on Level 7. Whilst 410m² of GFA exceeds the height standard, the façade is setback a further 6.7m from the upper floor setback on levels 4 – 6 which is already setback 4m from the base of the building or 11.5m from the existing front property boundary. In this regard, the height exceedance is not visible from the public domain. Similarly the height variation for Building C is only for a lift overrun and the roof form which is sufficiently setback from the upper floor setback and therefore not visible from the street or any public space. The lift overrun and roof form would not be a source of significant shadow cast and is considered to integrate well with the form of the building. The edge of the roof which marginally exceeds the height development standard is considered to integrate effectively into the design of the built form given the modulation and angle of the roof which reflects the predominant building lines of the façade.

The proposed departure to the building height development standard will not cause adverse impacts on the amenity of adjoining properties with respect to overshadowing, privacy, view loss and perceived bulk and scale. Any impact would be solely confined within the site. It is noted that the proposal has been reduced in scale from the original design with the deletion of a GFA of 745.73m² (8 units) with the south eastern portion of Building A and northern half of Building B now complying with the standard to ensure that above amenity impacts are reduced.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.3 'Building Height' and the R4 High Density Residential zone. In this regard, the variation to building height will not create a building of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining residential properties. A variation to the building height in this instance is considered to be satisfactory given that the application of the development standard in this instance is considered to have negligible effect on the built form outcome with respect to bulk and scale. In this regard, the variation can be supported.

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

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

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

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

ii. Variation to Clause 9.7 Residential development yield on certain land

Clause 9.7 of LEP 2012 enables the application of an increased FSR that does not exceed the FSR identified on the Floor Space Ratio Incentive Map to development that contain dwellings on a lot that is within the Showground Station Precinct and has an area of 10,000m², if the development includes no more than 25% of the total number of dwellings as 1 bedroom units and at least 20% of the total number of dwellings as 3 bedroom units and that at least 40% of the 2 bedroom units have a minimum internal floor area of 110m² and at least 40% of the 3 bedroom units have a minimum internal floor area of 135m². In addition, 1 car space per dwelling and 1 space per 5 units is required.

Whilst the proposal achieves compliance with the provisions of site area, apartment mix, apartment diversity, the proposal includes a building (Building A) located over the western and eastern lots which are mapped in the LEP planning instrument as comprising different incentive FSR. The mapping instrument indicates the provision of a maximum incentivised FSR of 2.7:1 (5,114.61m² GFA) for two western lots (26 Chapman and 27 Dawes Avenue) and 2.3:1 (21,685.32m² GFA) for the remaining eastern lots on the site. Building A comprises a GFA of 5,184.4m² within the two western lots which results in an FSR of 2.74:1 which exceeds the standard by 0.04:1 (GFA of 69.79m²) or 1.3%.

The applicant has submitted a Clause 4.6 written submission for this variation to Clause 9.7 which is provided at Attachment 14.

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

- *The proposed development for residential flat buildings is permissible and is consistent with the FSR control contained within the LEP;*
- *The proposed exceedance of the GFA relates to the western portion of the site only and complies with the overall FSR for the broader site. The proposed departure from the development standard is therefore a technical non-compliance only. The proposed redistribution of floor space seeks to concentrate density in the western part of the site, away from Chapman Reserve to the east of the site. The overall FSR of the site complies;*
- *The utilisation of the GFA has been transferred across the site and the Design Review Panel considers the proposed development achieves Design Excellence;*
- *The proposal provides for apartment sizes that are on average larger than ADG apartment sizes in order to enhance residential amenity, attract families and deliver a superior product to the market;*
- *The proposal is of a high architectural quality that will make a great contribution to the development of the Showground Precinct and provide a high level of amenity for its occupants, and will achieve Design Excellence to contribute to the built form within the Showground Station Precinct; and*
- *All other requirements relating to FSR and land use are consistent.*
- *Strict adherence to the development standard will not result in a better planning outcome for the land as it will prevent the development of a more meritorious, better considered proposal. This proposal is in the public interest for the reasons outlines above.*

Comment:
The development results in a technical variation to the maximum incentive FSR permitted within the LEP mapping instrument. The built form outcome results in a development that is consistent with the R4 High Density Residential zone, does not result in detrimental amenity impacts to adjoining residential properties, provides for a transition of heights and high quality streetscape and provides a residential development yield that is considered appropriate for the site.

Compliance with the standard is unnecessary in this instance as there are sufficient environmental grounds to justify the contravention. It is noted that Clause 9.7 only applies to development within the Showground Station Precinct if the area is at least 10,000m². In this regard, the increased FSR and subsequent development potential needs to be applied to the entire consolidated lot which has a site area of 11,322.7m². The development provides for a total GFA of 26,054.2m² (FSR of 2.301:1) for the consolidated lot which is under the maximum GFA of 26,799.93m² (FSR of 2.37:1) permitted when apportioning the incentive FSR across the entire site.

Despite the variation, the development would still be consistent with the objectives of Clause 9.7 which is to provide for housing diversity and larger apartments and adequate car parking. The intent of this Clause is to ensure that housing diversity is provided for the demographic in The Hills which is likely to remain family dominant and allows the ageing population to 'age in place' ensuring dwellings are located in close proximity to required services.

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

Apartment Mix	**LEP Development Standard**	**Proposal**	**Compliance**
One bedroom dwellings	25% (Maximum) (65 units)	21.3% (55 units)	Yes
Three or more bedroom dwellings	20% (Minimum) (52 units)	20.9% (54 units)	Yes

Apartment Diversity	**LEP Development Standard**	**Proposal**	**Compliance**
Minimum internal floor area of 2 Bedroom dwellings is 110m²	≥40% (≥60 units)	40**%** (60 units)	Yes
Minimum internal floor area of 3 Bedroom dwellings is 135m²	≥40% (≥22 units)	40.7% (22 units)	Yes

Parking Type	**LEP Development Standard**	**Proposal**	**Compliance**
1, 2, 3 & 4 Bedroom	1 car space per dwelling and 1 space per 5 units	258 residents spaces and 52 visitors spaces required. 377 residents car spaces and 53 visitor spaces provided	Yes

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

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 9.7 Residential development yield on certain land and the R4 High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance and there are sufficient environmental grounds to justify the contravention; and
- The proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

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

iii. Clause 9.5 – Design Excellence

Clause 9.5 of LEP 2012 states the following:

(1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.

(2) This clause applies to development involving the erection of a new building or external alterations to an existing building on land within the Showground Station Precinct.

(3) Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

(4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

(b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,

(c) whether the development detrimentally impacts on view corridors,

(d) whether the development detrimentally impacts on any land protected by solar access controls established in the development control plan referred to in clause 9.4,

(e) the requirements of the development control plan referred to in clause 9.4,

(f) how the development addresses the following matters:

(i) the suitability of the land for development,

(ii) existing and proposed uses and use mix,

(iii) heritage issues and streetscape constraints,

(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(v) bulk, massing and modulation of buildings,

(vi) street frontage heights,

(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

(viii) the achievement of the principles of ecologically sustainable development,

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

(x) the impact on, and any proposed improvements to, the public domain,

(xi) the impact on any special character area,

(xii) achieving appropriate interfaces at ground level between the building and the public domain,

(xiii) excellence and integration of landscape design.

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

(a) if the development is in respect of a building that is, or will be, higher than 21 metres or 6 storeys (or both) but not higher than 66 metres or 20 storeys (or both):

(i) a design review panel reviews the development, and

(ii) the consent authority takes into account the findings of the design review panel, or

(b) if the development is in respect of a building that is, or will be, higher than 66 metres or 20 storeys (or both):

(i) an architectural design competition is held in relation to the development, and

(ii) the consent authority takes into account the results of the architectural design competition.

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

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

(b) a design review panel reviews the development, and

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

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

Comment:

The design excellence of the proposal was considered at a Design Review Panel meeting held on 17 January 2019. The meeting minutes of the Design Review Panel are included at Attachment 15. The Panel concluded that the proposal did not meet design excellence and recommended the following:

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

The following concerns were raised by the Panel:

- Excessive bulk and scale of the eastern façade of Building C facing Chapman Reserve.
- Interface issues for the below grade private courtyards facing Chapman Reserve.
- The encroachment of courtyards within the side setbacks.

- Inaccurate landscaped area calculation and inadequate provision of deep soil.
- Too many paved surfaces and insufficient soft landscaping and lack of large canopy trees provided along the street and park edges.
- Amenity of internal communal open space courtyards.
- Services within the public domain are required to be screened,
- The density sought compromises the residential amenity of the development, in particular the lower level apartments that are situated below ground level.
- No support for the extensive internalised corridors around the perimeter providing access to lower units.
- Building separation does not currently achieve good residential amenity.

The recommendations made to the application in the meeting to ensure the proposal would achieve design excellence include the following:

- Reduction in the FSR to ensure an appropriate design outcome. The Panel considers that the current proposal seeking the maximum allowable FSR has resulted in a comprised design outcome and the lower level subterranean apartments result in inappropriate amenity outcomes.
- Increase soft landscaping across the entire development and its surrounding public domain and incorporate large canopy trees
- Building services to be integrated as part of the landscaping strategy or incorporated into entryways to ensure streetscape amenity is not compromised.
- Consider relocating services if they conflict with the location of existing trees.
- Revise courtyard encroachments from all setbacks and replace with substantial landscaping.
- Submission of arborist report for the removal of any significant trees.
- Sign off from Council's Landscape Assessment Officer for the removal of any trees over 3m in height on the site.
- Superfluous pedestrian circulation to be replaced with soft landscaping.
- Resolve all ADG non-compliances.
- Plan larger apartments on lower levels to achieve good residential amenity.
- Remove subterranean terraces.
- All ground floor apartments addressing the street are to be at a minimum of 300mm above existing ground level.
- Revise the development presentation to Chapman Reserve.
- Reduce internalised corridors.
- Confirm there are no local wind issues emanating from the proposal.
- Consider ways to minimise the heat build-up within the internal courtyards during summer.
- Ensure the siting, design of development and selection of materials and finishes achieve optimum thermal comfort to reduce air conditioning and reduce energy costs.

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

- The FSR has been reduced by 745.73m2 (8 units). The western courtyard between Buildings A and B fronting Chapman Ave has been enlarged and 3 x two storey units have been replaced with a single storey unit at the courtyard to ensure more solar access is provided to the courtyard. In addition, the eastern courtyard between Buildings B and C fronting Dawes Ave has been enlarged by the deletion of 2 units.

7 “sunken units” fronting the reserve have been deleted and replaced with 4 units on Levels 1 and 2. Two units from the uppermost level in Building C have been deleted to break up the building presentation to Chapman Reserve.

- The amended landscaping plans indicate that soft landscaping has been increased across the entire development including the public domain with the deletion of pedestrian pathways along Chapman Ave and Dawes Ave and the provision of deep soil planter (6m x 6m) to the eastern courtyard resulting in the loss of 3 car parking spaces in the basement level. Increased soft landscaping has also been provided to Dawes Ave private terrace courtyards, side boundaries and private open space areas. 17 existing trees will be retained on the site. Large canopy trees provided to street frontages.
- Building services are now screened with landscaping and integrated as part of the landscaping to ensure streetscape amenity is not compromised.
- The substation has been relocated so existing trees along Chapman Ave can be retained.
- All front courtyards have been reduced in scale and substantial landscaping is provided within the frontages. Excess paths along Chapman Ave and Dawes Ave removed and soft landscaping provided to private terraces adjacent to pedestrian paths. Layered vegetation including large canopy trees have been provided to private terraces by reducing paved areas to the side boundaries. All paving to be porous above deep soil zones. Hedges added along the property boundary adjoining Chapman Reserve. Reduction of large terrace to south western corner to allow landscape mound to the corner of the building.
- An arborist report has been submitted for the removal of significant trees. The report has been reviewed by Council’s Landscape Assessment Officer.
- Council’s Landscape Assessment Officer has reviewed the amended proposal and raised no objections to the proposal, subject to recommended conditions.
- Superfluous pedestrian circulation has been replaced with soft landscaping.
- The proposal generally complies with the ADG with the exception of building separation and balcony depths. However, these variations do not warrant refusal of the application (refer to Section 3 for detailed assessment).
- The majority of apartments on the lower levels are the larger apartments as required under Clause 9.7 of the LEP (110m² for 2 bedroom units and 135m2 for 3 bedroom units). Appropriate residential amenity is achieved for these units.
- Seven subterranean terraces fronting Chapman Reserve have been deleted.
- The majority of ground floor apartments addressing the street are at a minimum of 300mm above existing ground level. However there units B002 and C404 are in line or below the existing ground level. This is addressed in detail in Section 6 below.
- Building C’s presentation to Chapman Reserve has been revised substantially. Two units from the uppermost level in Building C have been deleted to break up the building mass. The eastern façade of Building C now reads as two distinct building elements with individual architectural expression.
- Internalised corridors have been reduced where possible.
- There are no local wind issues emanating from the proposal.
- Increased soft landscaping provided to internal courtyards to minimise heat build-up during summer.
- A BASIX Certificate and NATHERS assessment has been submitted to ensure the proposal meets the required energy and sustainable building requirements. Units between Buildings A and B have been removed fronting Chapman Ave to ensure more solar access is provided to the development.

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

6. Compliance with DCP 2012

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

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

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Structure Plan	The structure plan indicates the subject site is for residential development up to 6 – 8 storeys in height.	6 - 9 storeys in height.	No, refer to discussion below.
Site Coverage	The site coverage should not exceed 50% of the site area (excluding land to be dedicated or acquired for a public purpose). Note: The Determination of site cover includes driveways, footpaths and other impervious surfaces	61% (including footpaths) 50% (not including footpaths).	No, refer to discussion below.
Front Setbacks	7.5m from the existing property boundary to Dawes Ave. Balconies shall not protrude into the setback areas.	7.5m (building) 5m (entry awnings to Building A and C). 5m (Units A004, A005, A006 and A007).	No, 4 front courtyard areas and 2 entry awnings encroach within the front setback for Dawes Avenue. Refer to discussion below.
Façade and Building length	On road reserves less than 20m in width, the length of the façade shall not exceed 40m. Buildings are to have a maximum length of 65m. Where a building has a length greater than 30m it is to be separated into at least two parts by a significant recess or projection.	Dawes Ave has a road reserve of 17m in width. The total façade length is 49m. Building A 65m Building B 67m Building C 67m	No, however the design of the building has been assessed as exhibiting design excellence in accordance with Clause 9.5 of the LEP. Refer to discussion below.
Residential Uses on Ground and First Floors	Ground floor residential apartments are to be elevated from the street level by a minimum of 300mm and a maximum of 600mm.	Unit A005, A006 and A007 (Up to 1.7m above Dawes Ave) Unit B002 (Up to 0.7m below Dawes Ave).	No. Refer to discussion below.
Solar Access to	The development shall not	Additional	No. Refer to

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
adjoining public open space	create additional overshadowing of land identified for public open space between the hours of 11am-2pm on 21 June. This includes public open spaces outside and adjacent to the precinct	shadow created for Chapman Reserve between 11am – 2pm during mid-winter.	discussion below.
Parking location	Parking is to be underground and within the footprint of the building above.	Parking exceeds the building footprint.	No. Refer to discussion below.
Adaptable Housing	For more than 30 dwellings, 10% of all dwellings units are to be adaptable or accessible. For 78 dwellings, 8 adaptable or accessible dwellings required.	4 adaptable dwellings provided.	No, however proposal complies with the 5% requirement that applied when the Development Application was lodged.

a. Showground Precinct Structure Plan

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

The proposal includes residential development of up to 6-9 storeys for the subject site.

The DCP provides the following objectives relating to the control:

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

Comment:

The Showground Station Structure Plan is indicative only and has not taken into consideration the additional heights required if the incentive FSR is applied to sites which meet the provisions under Clause 9.7 of LEP 2012. The proposal meets the provisions for housing diversity as required under the Clause and seeks to utilise the incentive FSR. The proposal provides for development that consists of a height transition that is consistent with the principles of transit oriented development. A Clause 4.6 written variation to the height development standard has been submitted and is supported as the variation is consistent with the LEP objectives of Clause 4.3 Height of Building and the R4 High Density zone objectives; compliance with the standard is unreasonable in this instance and there is sufficient environmental grounds to justify the contravention; and the proposal is in the public interest. Refer to Section 5 for detailed discussion.

In this regard, the variation is considered satisfactory.

b. Site Coverage

The DCP requires site coverage should not exceed 50% of the site area (excluding land to be dedicated or acquired for a public purpose) and notes that determination of site cover includes driveways, footpaths and other impervious surfaces. The proposal provides for a site coverage of 61% of the site area (including footpaths).

The DCP provides the following objectives relating to the control:

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

The Applicant has provided the following justification for the variation:

The built form complies with the site coverage controls however the paths are included in the calculation as per the DCP definition, and therefore creates a non-compliance. The non-compliance is considered acceptable for the following reasons:

- *The proposal provides landscaping to 51.2% (5,707.5m2) of the site area in accordance with Section 6.3 of the DCP, ensuring there is sufficient area of landscaping provided for future residents. Additional layered vegetation including tall trees to private terraces will be provided, which will complement the building form and enhance the landscape character of the street.*
- *The proposal will retaining 17 existing trees ensuring there is an existing canopy retained and protected on the site and provide significant deep soil landscaping on the site and will enhance the landscape character of the street.*
- *The proposed softscape will enhance the built form character as viewed from Chapman Gardens and also assist with the management of water quality on the site and provide a high-quality landscape setting for future residents.*
- *The proposal provides a 15% (1660m2) of the site area as deep soil landscaping which is compliant with the ADG for sites over 1500m2.*
- *The proposal will provide two levels of basement car parking and a vehicle access from Dawes Avenue. 430 car parking spaces are proposed which will ensure that all parking demands would be accommodated on site and would not have adverse impacts to the availability of on-street parking.*
- *The building setbacks and separation have bene designed in accordance with the site specific DCP controls and the ADG.*

Comment:
The DCP requires footpaths to be included in the site coverage calculation. If the footpaths (11% of the site coverage) were not included in the calculation, the proposal would comply with the control. The proposal exceeds the minimum 50% landscaped area control of the DCP and provides for 15% deep soil landscaping which accords with the design criteria of the Apartment Design Guide. In addition, the amount of soft landscaping and deep soil has been substantially increased as recommended by the Design Review Panel and 17 existing trees are retained on site. It is considered that the proposal provides sufficient space for landscaping that will complement the building form and enhance the character of Chapman Avenue and Dawes Avenue. To ensure sufficient landscaping is maintained for areas designated as deep soil, a condition is recommended that all paths above deep soil zones are to be of pervious material (refer condition No. 24).

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

c. Front Setbacks

The DCP requires that buildings are to provide a 7.5m front setback to Chapman Ave and Dawes Ave. The DCP requires that balconies shall not protrude into the setback areas. The buildings comply with the front setback requirements with the exception of two front entry awnings that provide a setback of 5m to the front property boundary to Dawes Avenue. In addition, whilst technically not "balconies", five front courtyards elevated from street level are located within the Dawes Avenue front setback.

The DCP provides the following objectives relating to the Building Setbacks control:

- *To provide strong definition to the public domain and create a consistent streetscape.*
- *To set taller building elements back from the street to reduce building scale and bulk and enable adequate sunlight access to the public domain.*
- *To provide articulation zones to complement building mass and emphasise key design elements such as entrance points and respond to environmental conditions including solar access, noise, privacy and views.*
- *To ensure adequate separation between buildings on different sites to alleviate amenity impacts, including privacy, daylight access, acoustic control and natural ventilation.*

Comment:

The entry awnings for Buildings A and C encroach within the 7.5m front setback of Chapman Avenue. The entry awnings provide for functional yet clear building entrance points which integrate with the façades and the streetscape. The encroachment of 1.5m into the front building setback adds to the articulation of the Dawes Avenue façade, provides for better amenity for residents, would not impact on the site coverage, landscaping, solar access, or add to the bulk and scale of the overall building mass.

The front courtyards for Apartments A004, A005, A006 and A007 encroach within the front setback by 1.5m. It noted that whilst Apartments B002 and B003 also encroach within the front setback, they are within 1m of natural ground level and are calculated as landscaped open space in accordance with the DCP definition. The submitted landscape plans indicates that 8 x *Magnolia grandflora* (Magnolia 'Little Gem) trees growing to a mature height of 6m with a 5m spread would be planted along the frontage screening these apartments from the street. The proposal also provides for 15% deep soil as recommended by the Apartment Design Guide and 51.2% landscaping for the site meeting the control for landscaped area in accordance with the DCP.

Despite the variations to the front setback, the proposed buildings when viewed from Dawes Avenue still provide for a high quality architectural design, articulation zones that complement each building and emphasize entry points and attractive building facades integrated with landscape screening. Residential amenity is not compromised and sufficient solar access and privacy is provided for residents.

In this regard, the variation is considered satisfactory.

d. Façade Length and Maximum Building Length

The DCP requires that on road reserves of less than 20m in width, the length of the facade shall not exceed 40m. The DCP also requires that buildings are to have a maximum length of 65m. Where a building has a length greater than 30m it is to be separated into at least two parts by a significant recess or projection.

The proposal includes a total building facade length of 49m fronting Dawes Avenue (local road with a road reserve of 17m) which does not comply with the control. Buildings A, B and C have building lengths of 65m, 67m and 67m, respectively.

The DCP provides the following objective relating to the control:

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

The applicant has provided the following justification for the variation:

Façade Length Building A – Dawes Avenue

- *Whilst the overall façade length proposed is 48.8m to Dawes Avenue for Building A, the front façade is broken into two distinct building elements as the main entry provides a recess which is 8m deep by 3m wide and extends for five levels.*
- *The western face of the front elevation measures 18m and the eastern face of the front elevation measures 27.8m*
- *The indentation in the middle of the building incorporates a vertical emphasis which further breaks up the building mass into two distinct building elements, each with its own individual roof form.*
- *The break-up of the built form and articulation is further supported by upper level setback of 4m.*
- *The proposed building length is considered to respond effectively to the desired streetscape character to further reinforce a fine-grained scale and character to the street, the following measures have been incorporated:*
    - *The symmetric patter between building elements has been moderated through carefully considered openings and fenestration, sensitive patterning of horizontal and vertical components and the incorporation of a material and colour palette that has variety and helps break down the mass of the building.*
    - *The treatment of the base of the building to include a brick base, powdercoat to match "Champagne Kinetic (Matt)" at levels 1 to 4 and PC1 – Powerdercoat to match Dulux "Surfmist" at upper levels. The materials and colours help break down the horizontal mass.*
    - *The roof level is setback on the southern side and incorporates dark colours and materials to reinforce the recessed nature of the upper levels.*
    - *Further, the roof form is diverse, recessive and separated into four distinct elements which help diminish the perceived height and bulk of the building.*

- *These elements coupled together ensure the development achieves a high quality architectural design and provides a positive streetscape.*

Building Length A, B and C

- *The external side facades of Buildings A and C are provided with significant indents. The indents extend the full height of the building.*

- *The indents have ensured that the buildings will read as two distinct building elements with individual architectural expression and features as opposed to one elongated building.*
- *The indents will reduce the bulk and scale of the buildings as viewed from Chapman Reserve and the neighbouring properties to the east.*
- *The variation in the expression and materiality presented to Chapman Reserve and to the west of Building A have been incorporated into the design including the intentional placement of vertical and horizontal architectural elements and the incorporation of a variety of materials and colours that further break up the building mass. The proposed materials and architectural elements will create a positive streetscape as viewed from Chapman Avenue and ensure the development achieves a high-quality architectural design.*
- *Additional layered vegetation including all trees to private terrace will be provided, which will complement the building form and enhance the landscape character of the street.*
- *The perceived visual bulk of the buildings from the internal communal open space will be broken up by the trees planted in deep soil landscaping which will filter out the views to the proposed internal building facades and will enhance the pedestrian experience of the internal courtyards.*

Comment:

Whilst the overall front facade length for Building A proposed is 49m, the front facade is broken into two distinct building elements with a 8m deep x 3m wide x 5 storeys high recess provided by the main entry. The built form is further broken into two distinct elements by the varying roof levels and individual roof forms. The upper level setbacks further break up the building mass and the use of a moderation of horizontal and vertical building elements, openings and fenestration as well as varying materials and colours to differentiate between a distinct base, middle and top results in a high-quality architectural façade.

The north to south building lengths of Buildings A, B and C have maximum building lengths between 65m – 67m. Notwithstanding, Buildings A and C have been provided with significant recesses in the middle of the facades to break up the building mass. In addition, the varying steps into the building from the upper level setbacks from the street frontage reduce the overall bulk of the façade length. The colour palette and architectural expression provide for a high level of amenity and quality design.

The proposal has been reviewed by Council's Design Review Panel. Recommendations made by the Panel to revise the presentation of Building C to Chapman Reserve have been incorporated into the design. Two units from the uppermost level in Building C have been deleted to break up the building mass. The eastern façade of Building C now reads as two distinct building elements with individual architectural expression. It is noted that the Design Review Panel did not raise concern regarding the architectural expression or façade length of Building B.

The proposal has been amended to exhibit design excellence and achieves a high-quality design (refer Section 5). In this regard, the proposal meets the intent of the control and the variation is considered satisfactory.

e. Residential Uses on Ground Floor

The DCP requires ground floor residential apartments to be elevated from the street level by a minimum of 300mm and a maximum of 600mm. Apartments A005, A006, A007 and B002 front Dawes Avenue and do not comply with this control.

The relevant objective of the control is:

- To provide residential activation to streets.
- To provide for residential identity and legibility.
- To introduce a fine grain-built form and architectural diversity within a street block and/or building development.

The Applicant has provided the following justification for the variation:

Although the street slopes away from the apartment, apartment B002 will provide level access for all. The proposal will provide residential activation to streets through the provision of ground level front courtyards. The proposal will provide residential identity and legibility through clearly identified pedestrian entries and glazing onto Dawes Avenue. Through the use of a variety of materials such as brick and powder coating, plus 50% transparent front fences, the proposal will introduce a fine grain-built form and architectural diversity within Dawes Avenue.

Comment:
Due to the steep topography of the site from north to south and fall of Dawes Avenue, a number of ground floor level units fronting Dawes Avenue do not meet the recommended 300mm – 600mm level above the street. It is noted that the Design Review Panel recommended that all units were to be at least 300mm above the street level. One unit (B002) out of a total of 258 units (0.4%) is below this recommendation. Notwithstanding, it is considered that the proposal still provides for residential activation to the streets by landscaped courtyards and ground floor units. The submitted landscape plans indicates that 8 x *Magnolia grandflora* (Magnolia 'Little Gem) trees growing to a mature height of 6m with a 5m spread are planted along the frontage which would screen these apartments from the street.

The terrace style apartments fronting Dawes Avenue introduces a fine grain-built form which provides human scale and architectural diversity. The amenity of these units is not comprised by the variation and landscaping is integrated with the overall design which softens the overall appearance of the facades when viewed from the street. .

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

f. Solar Access to adjoining public open space

The DCP requires that development shall not create additional overshadowing of land identified for public open space between the hours of 11am-2pm on 21 June. This includes public open spaces outside and adjacent to the precinct.

Chapman Reserve adjoins the site to the south east. Additional overshadowing of land within Chapman Reserve will occur between the hours of 11am – 2pm during midwinter.

The objectives of the control are:

- To ensure that overshadowing from new development does not result in significant loss of sunlight and diminish the enjoyment of public and private open spaces.
- To protect, and where possible, increase the level of sunlight to public and private open spaces during the times of the year when outdoor spaces are most commonly used.
- To facilitate the equitable sharing of future impacts of new development on the public domain.

The Applicant has provided the following justification for the variation:

Chapman Reserve is located to the south east of the site and will maintain full sunlight between 9am – 12pm on June 21. Due to the orientation of the site, Chapman Reserve will experience some overshadowing between 12-12pm, however the shadow case it not greater than that of a compliant scheme. The proposed development will provide 4 hours of solar access to Chapman Reserve and ensure that adequate solar access is provided and protected to Chapman Reserve, ensuring that a high level of amenity is achieved for both future and adjoining residents.

Comment:

The shadow diagrams indicate that additional overshadowing of 85m² - 1,530m² would occur to Chapman Reserve during 11am – 2pm midwinter. The Showground Precinct Structure Plan indicates that two additional lots to the east will be acquired to extend Chapman Reserve which would result in a public open space rea of approximately 4,280m². In this regard, the additional overshadowing would occur to approximately 2% - 36% of the public open space area during these hours. 2,750m² of Chapman Reserve would still receive solar access during lunchtime hours.

Due to the orientation of the site, it is inevitable that some overshadowing would occur as a result of any residential flat building development. It is noted that the height variation to the development standard is only for lift overruns that are located to the western side of Building C and roof form to the units fronting Dawes Avenue to the south of the building. Therefore the proposal would not result in further overshadowing impacts to that of a fully compliant scheme.

It is considered that there would be sufficient solar access and amenity provided for future occupants for the broader public open space area within Chapman Reserve. In this regard, the variation is considered satisfactory.

g. Parking Location

The DCP requires that for residential flat buildings, parking is to be underground and within the footprint of the building above.

The proposal includes basement car parking that exceeds the building footprint.

The DCP provides the following objective relating to the Parking control:

- *To ensure that car parking is appropriately located and visual impacts of access and parking facilities on the public realm are minimised.*

The applicant has submitted the following justification:

Parts of the basement structure encroach beyond the building footprint however the basement is set back from the rear and side boundaries by a minimum distance of 6 metres which provides a platform for deep soil and canopy tree landscaping along the periphery of the boundaries. A large part of the predominate basement encroachment will be used as the principle communal open space area accommodating communal lawns, trees in deep soil. The area will be turfed and will accommodate a large area for recreational space. The basement encroachment will therefore not undermine the predominate intended function for

communal open space. The variation in this instance is considered to be justified given compliance with landscaping, communal open space, site coverage and deep soil area requirements for the site.

Comment:
Whilst portions of the basement encroach beyond the building footprint, this only occurs to the rear and side property boundaries and internally within the site and is not visible from the public realm. Despite this variation, the basement is still setback at least 6m from all side and rear property boundaries which would allow for adequate deep soil planting for large canopy trees. In this regard, the underground parking is considered to be appropriately located and visual impacts of parking facilities on the public realm are minimised.

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

h. Adaptable Housing

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

The proposal provides 16 adaptable dwellings (6.2%) which does not comply with this control.

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

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

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

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

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

The proposal was lodged prior to the newly adopted DCP controls for Access and Adaptability coming into force. The proposal includes the reduction of eight dwellings from the original plans and several design changes. Full compliance with the new control may result in further variations to Clause 9.7 development standard and further amenity impacts to the proposal. Whilst there is a shortfall of 10 adaptable/accessible units to the newly adopted control, the proposal provides for 20.5% of the total apartments (53 units) which incorporate the Livable Housing Guideline's silver level universal design features. Whilst

these are not governed by AS 4299-1005 Adaptable Housing, the universal design principles in the apartment designs allow for a diverse range of lifestyle needs and future changes in use. In this regard, the proposal meets the intent of the Access and Adaptability control which is to provide for the needs of disabled people and the aging population by incorporating design measures that improve accessibility.

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

7. Issues Raised in Submissions

The application was notified for 14 days on two occasions. Seven submissions from 11 property owners were received during the first notification period and two submissions were received during the second notification period. All submissions received are in support of the proposed development.

8. External Referrals

The application was referred to the following external authorities:

NSW POLICE COMMENTS

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

ENDEAVOUR ENERGY COMMENTS

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

SYDNEY WATER COMMENTS

The proposal was referred to Sydney Water. No objections were raised to the proposal. Standard conditions have been imposed (refer Condition Nos. 51, 58 and 94).

9. Internal Referrals

The application was referred to the following sections of Council:

SUBDIVISION ENGINEERING COMMENTS

No objections to the proposal subject to conditions.

ENVIRONMENTAL HEALTH COMMENTS

No objection is raised to the proposal subject to conditions.

RESOURCE RECOVERY COMMENTS

No objections to the proposal subject to conditions.

TRAFFIC COMMENTS

No objection is raised to the proposal.

TREE MANAGEMENT COMMENTS

No objections to the proposal subject to conditions.

FORWARD PLANNING (SECTION 7.11 CONTRIBUTIONS) COMMENTS

No objection is raised to the proposal subject to conditions.

LAND INFORMATIONS SYSTEMS COMMENTS

No objection is raised to the proposal subject to conditions.

CONCLUSION

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

The variation to the LEP Height control and Incentive FSR under Clause 9.7 the LEP is addressed in the report and considered satisfactory.

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

The variations to DCP with respect to the Structure Plan, site coverage, front setbacks, façade and building lengths, residential uses on ground floors, solar access to adjoining public open space, parking locations and adaptable housing have been assessed on merit and are considered worthy of support.

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

No submissions were received objecting to the proposed development.

Accordingly approval subject to conditions is recommended.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

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

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

Amendments in red are to include the following:

- All ground floor residential fences are to be no more than 1.2m in height with a minimum 50% transparency.
- All services and service provision visible from the street, public domain and nearby taller buildings are required to be carefully and substantially screened in a manner to match the aesthetic of the approved development.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA-01-100	Site Plan	C	306/2019
DA-10-100	B02 Floor Plan	D	3/05/2019
DA-10-0020	B01 Floor Plan	D	3/06/2019
DA-10-1000	Ground Floor Plan	E	20/08/2019
DA-10-1100	Level 01 Floor Plan	E	20/08/2019
DA-10-1200	Level 02 Floor Plan	E	20/08/2019
DA-10-1300	Level 03 Floor Plan	E	20/08/2019
DA-10-1400	Level 04 Floor Plan	E	20/08/2019
DA-10-500	Level 05 Floor Plan	E	20/08/2019
DA-10-1600	Level 06 Floor Plan	E	20/08/2019
DA-10-1700	Level 07 Floor Plan	F	22/08/2019
DA-10-1800	Level 08 Floor Plan	D	3/05/2019
DA-10-1900	Roof Plan	D	3/05/2019
DA-30-0100	Section 1 – Building A	C	3/05/2019
DA-30-0200	Section 2 – Building B	C	3/05/2019
DA-30-0300	Section 3 – Building C	C	3/05/2019
DA-30-0400	Section 4 – Site Cross Section	C	3/05/2019
DA-43-0200	North East Corner	A	3/05/2019
DA-43-0300	North Elevation - Part	A	3/05/2019
DA-50-0100	Materials and Finishes Board	C	30/04/2019
DA-70-0100	Adaptable Apartments	C	3/05/2019
L001	Planting Schedule	C	28/06/2019
L500	Planting Plan	C	28/06/2019
L501	Rooftop Planting Plan	B	30/04/2019
L800	Typical Sections	B	30/04/2019
L801	Typical Sections	C	28/06/2019

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. External Finishes

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

3. Building Work to be in Accordance with BCA

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

4. Construction Certificate

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

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

5. Compliance with NSW Police Requirements

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

Surveillance:

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

Lighting:

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

Territorial Reinforcement:

- All public access points are to be well marked.

Environmental Maintenance:

- Use of anti-graffiti building materials.

Access Control:

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

- Park smarter signage to be installed around the car park.
- Signage to be installed in the car park warning residents to watch those who come in the entry/exit door behind them.

6. Compliance with Endeavour Energy requirements

- **Network Capacity / Connection**

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

  The applicant will need to submit an application for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined. Depending on the outcome of the assessment, any required indoor / chamber or padmount substation/s will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

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

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

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

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

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

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

- **Vegetation Management**

  The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity

infrastructure. Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant. Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the ***Electricity Supply Act 1995*** (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

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

  - Asbestos

  Endeavour Energy's G/Net master facility model indicates that the site is in a location identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network. Whilst Endeavour Energy's underground detail is not complete within G/Net in some areas, in older communities, cement piping was regularly used for the electricity distribution system and in some instances containing asbestos to strengthen the pipe; for insulation; lightness and cost saving.

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

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

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

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

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

- **Public Safety**
  Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached

Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures

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

- **Emergency Contact**

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

7. 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.

8. Air Conditioner Location

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

(i) During peak time-at a noise level that exceeds 5 dB above the ambient background noise level measured at any property boundary, or

(ii) During off peak time-at a noise level that is audible in habitable rooms of adjoining residences.

9. Contamination Assessment & Site Remediation

The recommendations of the Site Assessment and Report prepared by EI Australia, referenced as E23379 AA_Rev3, dated 31 July 2018 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- A Hazardous Materials Survey should be completed prior to demolition to identify any hazardous materials that may be present within the building structure, to ensure that the identified materials are appropriately managed and human health is protected;
- Upon removal of the existing buildings and concrete hardstand, a site inspection is performed by a suitably qualified environmental consultant to visually inspect the existing ground conditions, identify any possible yet unknown contamination sources, and evaluate potential secondary contamination of soil resulting from demolition;
- All filling material from the site footprint is to be sampled and analysed in accordance with the NSW EPA (2014) *Waste Classification Guidelines* for excavation and offsite disposal;
- Following removal of filling soils from site, a site walkover is to be performed to visually confirm the removal of filling soils. Soil validation samples are to be collected from proposed deep soil area and analysed for chemicals of potential concern detailed in Section 4.4.2 prior to ongoing excavation of underlying natural soils; and

- Validation samples collected from underlying natural soils may be utilised for Virgin Excavated Natural Material (VENM) classification, in accordance with the NSW EPA (2014) *Waste Classification Guidelines*; this will be done after site-wide excavation and removal of the fill materials. On completion of validation and classification, the site will be suitable for the proposed development. Any material to be removed off-site, including VENM, MUST be classified for off-site disposal in accordance with the NSW EPA (2014) *Waste Classification Guidelines*. This will include any fill material identified during bulk excavation for the construction of the basement car park and where fill material is identified. Any material being imported to the site for backfilling purposes should be assessed for potential contamination in accordance with the EPA guidelines.

10. Control of early morning noise from trucks

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

11. Control of Noise from Trucks

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

12. Communal Composting Areas

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

13. 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.

14. 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.

15. Commencement of Domestic Waste Service

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

16. Construction of Central Waste Collection Room and Garbage Chute Rooms

The central waste collection room and the garbage chute rooms must be designed and constructed in accordance with the following requirements. The central waste collection room must provide for a minimum of 18 x 1100 litre garbage bins and 31 x 1100 litre recycling bins. The garbage chute rooms must be sized to accommodate all waste equipment (2 x 2-1100 litre bin linear tracks) as specified in the Operational Waste Management Plan – Revision H submitted as part of the development application.

1. The central waste collection room and garbage chute rooms must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins and associated waste infrastructure as specified above.

2. The layout of the rooms must ensure that each bin is easily accessible and maneuverable in and out of the areas with minimal or no manual handling of other bins.

3. The walls of the rooms must be constructed of brickwork.

4. The floor of the rooms must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).

5. The rooms must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors and caretakers. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).

6. The rooms must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors.

7. All doors of the rooms, when fully opened, must be flush with the **outside walls** and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.

8. The rooms must be adequately ventilated (mechanically). Vented areas should not be connected to the same ventilation system supplying air to the units.

9. The rooms must be provided with a hose tap (hot and cold mixer), connected to a water supply, to facilitate bin washing. If the tap is located inside the rooms, it is not to conflict with the space designated for the placement of bins.

10. The rooms must be provided with an internal light (artificial) such as automatic sensor lights.

11. The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance are these grades to be exceeded. It is to allow the safe and efficient servicing of bins.

12. The rooms must have appropriate signage (Council approved designs), mounted in a visible location on an internal wall and is to be permanently maintained by the Owners Corporation.

13. Finishes and colours of the rooms are to complement the design of the development.

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

17. Access and Loading for Waste Collection

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

1. All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 4.5m. Any nearby areas where the clear headroom is less than 4.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.

2. All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.

3. Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.

4. The requirement for reversing on site must be limited to a single reverse entry into the designated service bay (typical three point turn).

5. The designated waste service bay must allow additional space for servicing of bins (wheeling bulk bins to the back of the waste collection vehicle for rear load collection).

6. The loading area must have a sufficient level of lighting and have appropriate signage such as “waste collection loading zone”, “keep clear at all times” and “no parking at any time”.

7. Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of heavy vehicles, remote access or alternative solution which ensures there is no requirement for waste collection contractors to exit the cab. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

18. Dual Waste Chute System

The development must incorporate a dual chute system with a total of 12 chutes (6 x garbage chute rooms). Chute openings must be provided on every residential floor within the building corridors. The waste chutes must terminate into the garbage chute rooms. Garbage must discharge into 1100 litre bins housed on a linear conveyor with compactor (2:1 compaction ratio). Recyclables must discharge into 1100 litre bins housed on a linear conveyor. No compaction is permitted for recycling. The waste chute system must be maintained in accordance with manufactory standards.

19. Provision of Floor Level Bin Cupboards

A separate bin cupboard must be provided next to chute openings on every residential floor to allow for the disposal of items unsuitable for chute disposal or a third waste stream. The

cupboards must be sized to store at least a single 240 litre bin. The dimensions of a 240 litre bin are 735mm deep, 580mm wide and 1080mm high.

20. Property Numbering for Multi Unit Housing

The responsibility for property numbering is vested solely in Council.

The overall property address for this development is: 21-25 Dawes Avenue Castle Hill

Approved unit numbering is as per plans submitted marked as DA-10-1000/1800, Revision D and as marked up within consent documentation; and as follows:

Level	**Building A**	**Building B**	**Building C**
	25 Dawes Ave	**23 Dawes Ave**	**21 Dawes Ave**
Ground	G01 – G11	G12 – G24	G25 – G31
One	101 – 107	NIL	108 – 110
Two	201 – 215	216 – 226	227 – 244
Three	301 – 315	316 – 326	327 – 339
Four	401 – 415	416 – 426	427 – 439
Five	501 – 513	514 – 524	525 - 536
Six	601- 609	610 – 620	621 – 630
Seven	701 – 709	710 – 717	718 – 724
Eight	801 – 807	NIL	NIL

Under no circumstances can unit numbering be repeated or skipped throughout the development regardless of the building name or number. Unit numbering must continue on from the previous building within the same level.

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

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

Three (3) separate mail box banks are to be accessible from the public road and be located at the pedestrian entrance to each building. The number of mail boxes provided is to equal the number of units with one additional mail box for the proprietors of the development to be located within the cluster addressed as 21 Dawes Avenue. All mail boxes are to be as per Australia Post size requirements and be easily accessible for the mail delivery provider.

21. Excavation/ Anchoring Near Boundaries

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

- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or the RMS in the case of a classified road.
- Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment.

- All anchors must be temporary. Once works are complete, all loads must be removed from the anchors.
- A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed.
- The anchors must be located clear of existing and proposed services.

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

22. Tree Removal

Approval is granted for the removal of Tree 2, 3, 4, 6, 7, 8, 9, 11, 12, 13-16, 22 – 33, 37, 38, 39, 40, as numbered in Arboricultural Impact Assessment prepared by Redgum Horticultural dated 10 April 2019.

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

23. Planting Requirements

a) 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^2.

b) Planting layout to Dawes Road to be adjusted to align with Showground Precinct Verge Treatment Indented Parking Detail Layout Plan Sheet 01- Sheet 04, with trees and planting to rear of verge.

c) Provide and additional minimum three (3) trees to northern boundary between boundary and ramp to Building B

d) For all planting on slab and planter boxes allow the following minimum soil depths:
A soil depth plan is a useful way to illustrate proposed 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.

24. Permeable paving

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

25. Retention of Trees

Trees 1, 5, 10, 27, 17, 18, 19, 20, 21, 34, 35, and 36 to be retained with remedial work to be carried out in accordance with the Arborist report by Redgum Horticultural dated 10 April 2019 and in accordance with Section 14 Tree Management Plan.

Planting to indented parking to Dawes Avenue is to be in accordance with Showground Precinct, Verge Treatment Indented Parking Detail Layout Plan, Sheet 01- Sheet 04 and allow for retention of trees 1 and 10 in consultation with project Arborist.

26. Street Trees

Street trees must be provided for the sections of Dawes Avenue and Chapman Avenue fronting the development site. The location of street trees must be considerate of driveways,

services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. This includes the Showground Precinct Public Domain Plan. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

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

27. Water Sensitive Urban Design Handover Process

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

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

For the purposes of complying with the above a WSUD treatment system is considered to include all functional elements

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 is issued. Any damage must be made good in accordance with the requirements of Council and to the satisfaction of Council.

31. Structures Adjacent to Piped Drainage Easements

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

32. Requirements for Council Drainage Easements

No works are permitted within existing or proposed public drainage easements unless approved by Council. Where works are permitted, the following requirements must be adhered to:

- Provision for overland flow and access for earthmoving equipment must be maintained.
- The existing ground levels must not be altered. No overland flow is to be diverted out of the easement.
- No fill, stockpiles, building materials or sheds can be placed within the easement.
- Open style fencing must be used. New or replacement fencing must be approved by Council.

33. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following additional requirements apply:

- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.
- The width of parking aisle fronting the Onsite Stormwater Detention (OSD) tank on Basement Level 1 must be 6.1m (minimum) as per the Standard.
- The length of the basement ramps (and associated transitions) must be included to demonstrate compliance with the Standard.

- The car wash bay on Basement Level 2 must be reallocated to a different visitor parking space. The required bunding around this car wash bay to separate stormwater from wastewater conflicts with the required grading/ access noting this is also nominated as a disabled parking space (148).
- The recommendations of the traffic report by Ason dated 18/04/2019 and submitted with the development application must be followed.

34. 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 contactor is known and the driveway is going to be constructed.

35. Minor Engineering Works

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

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

a) Driveway Requirements

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

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

The driveway must be 9m wide (minimum) at the boundary splayed to 11m wide at the kerb to provide access for a Heavy Rigid Vehicle (HRV) to/ from Dawes Avenue as per the swept path analysis included with the traffic report by Ason dated 18/04/2019 submitted with the development application.

Only one driveway crossing is approved/ permitted.

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

b) Disused Layback/ Driveway Removal

All disused laybacks and driveways must be removed and replaced with kerb and gutter together with the restoration and turfing of the adjoining footpath verge area. Specifically, this includes the removal of any existing laybacks, regardless of whether they were in use beforehand or not.

c) Footpath Verge Formation

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

The steeper grades in the verge in Chapman Avenue shown on the sections included with the civil works plans by AT&L Revision F dated 30/04/2019 submitted with the development application are not approved/ permitted.

d) Site Stormwater Drainage

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

36. 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.

37. Stacked/ Tandem Parking Spaces

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

38. Design Verification

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

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

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

a) 35 dB (A) in any bedroom between 10pm am 7am.

b) 40dB (A) elsewhere (other than garage, kitchen, bathroom and hallway) anytime.

40. Erosion & Sediment Control Plan

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

a) Allotment boundaries

b) Location of the adjoining roads

c) Contours

d) Existing vegetation

e) Existing site drainage

f) Critical natural areas

g) Location of stockpiles

h) Erosion control practices

i) Sediment control practices

j) Outline of a maintenance program for the erosion and sediment controls

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

41. 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:-

Stage 1

Stage 1: Building A	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Subdivision	Purpose: Credit	No. of 1 Bedroom Units: 25	No. of 2 Bedroom Units: 59	No. of 3 Bedroom Units: 16	No. of Lots: 1	Sum of Units	No. of Credits: 12	Total S7.11
Open Space - Land	$4,180.59	$5,852.81	$7,246.34	$8,867.05	$9,475.66	$ 104,514.75	$ 345,315.79	$ 115,941.44	$ 8,867.05	$ 574,639.03	$ 113,707.92	**$ 460,931.11**
Open Space - Capital	$2,113.14	$2,958.40	$3,662.78	$4,482.00	$4,789.63	$ 52,828.50	$ 174,545.60	$ 58,604.48	$ 4,482.00	$ 290,460.58	$ 57,475.56	**$ 232,985.02**
Transport Facilities - Land	$1,039.74	$1,455.63	$1,802.21	$2,205.29	$2,356.66	$ 25,993.50	$ 85,882.17	$ 28,835.36	$ 2,205.29	$ 142,916.32	$ 28,279.92	**$ 114,636.40**
Transport Facilities - Capital	$1,617.97	$2,265.16	$2,804.48	$3,431.73	$3,667.27	$ 40,449.25	$ 133,644.44	$ 44,871.68	$ 3,431.73	$ 222,397.10	$ 44,007.24	**$ 178,389.86**
Water Management - Capital	$422.44	$591.42	$732.24	$896.01	$957.51	$ 10,561.00	$ 34,893.78	$ 11,715.84	$ 896.01	$ 58,066.63	$ 11,490.12	**$ 46,576.51**
Administration	$55.60	$77.85	$96.38	$117.92	$126.02	$ 1,390.00	$ 4,593.15	$ 1,542.08	$ 117.92	$ 7,643.15	$ 1,512.24	**$ 6,130.91**
Total	**$9,429.48**	**$ 13,201.27**	**$ 16,344.43**	**$ 20,000.00**	**$ 21,372.75**	**$ 235,737.00**	**$ 778,874.93**	**$ 261,510.88**	**$ 20,000.00**	**$ 1,296,122.81**	**$ 256,473.00**	**$ 1,039,649.81**

Stage 2

Stage 2: Building B & C	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom Units: 30	No. of 2 Bedroom Units: 90	No. of 3 Bedroom Units: 38	Sum of Units	No. of Credits: 1	Total S7.11
Open Space - Land	$4,180.59	$5,852.81	$7,246.34	$9,475.66	$ 125,417.70	$ 526,752.90	$ 275,360.92	$ 927,531.52	$ 9,475.66	**$ 918,055.86**
Open Space - Capital	$2,113.14	$2,958.40	$3,662.78	$4,789.63	$ 63,394.20	$ 266,256.00	$ 139,185.64	$ 468,835.84	$ 4,789.63	**$ 464,046.21**
Transport Facilities - Land	$1,039.74	$1,455.63	$1,802.21	$2,356.66	$ 31,192.20	$ 131,006.70	$ 68,483.98	$ 230,682.88	$ 2,356.66	**$ 228,326.22**
Transport Facilities - Capital	$1,617.97	$2,265.16	$2,804.48	$3,667.27	$ 48,539.10	$ 203,864.40	$ 106,570.24	$ 358,973.74	$ 3,667.27	**$ 355,306.47**
Water Management - Capital	$422.44	$591.42	$732.24	$957.51	$ 12,673.20	$ 53,227.80	$ 27,825.12	$ 93,726.12	$ 957.51	**$ 92,768.61**
Administration	$55.60	$77.85	$96.38	$126.02	$ 1,668.00	$ 7,006.50	$ 3,662.44	$ 12,336.94	$ 126.02	**$ 12,210.92**
Total	**$9,429.48**	**$ 13,201.27**	**$ 16,344.43**	**$ 21,372.75**	**$ 282,884.40**	**$ 1,188,114.30**	**$ 621,088.34**	**$ 2,092,087.04**	**$ 21,372.75**	**$ 2,070,714.29**

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

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

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

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

42. Tree Removal on Public Land

Prior to the issue of a Construction Certificate, the applicant is required to contact Council's Infrastructure & Works team to coordinate the removal of existing trees which are located on the adjoining Nature strip which may be impacted by works associated with the development due to the proximity of trees.

43. Internal Pavement and Turntable Structural Design Certification

Prior to a Construction Certificate being issued, a Certified Practicing Engineer (CPEng) must submit a letter to Council confirming the structural adequacy of the internal pavement design. The pavement design must be adequate to withstand the loads imposed by a loaded 12.5m long heavy rigid waste collection vehicle (i.e. 28 tonne gross vehicle mass) from the boundary to the waste collection point including any manoeuvring areas.

44. Dust Management Plan

Due to the size of the area being disturbed by the earthworks a site specific dust management plan must be developed by a suitably qualified and experienced construction management consultant in conjunction with the civil contractor to proactively address this issue. This plan must be submitted to Council's Manager – Subdivision and Development Certification for written approval before works commence. The plan must address/ include the following matters, at a minimum:

- Water carts must be used to regularly wet down exposed areas. The number of water carts on site at all times (and additional carts available on demand) must be nominated and justified.
- Additives that can be mixed with the water to aid dust suppression.
- A dust cloth must be installed along the perimeter of the site.
- A sprinkler/ misting system along the perimeter of the site.

- Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- Heavy vehicle speed control on haul routes.
- Stockpile management such as location, orientation, volume and height must be carefully considered to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- Final topsoil placement and planting or seeding exposed areas as soon as possible.
- Jute matting of the core riparian zone within the creek/ riparian corridor.
- Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- Education of all site personnel on reducing dust.
- Complaints management and community engagement plan.

The plan must also demonstrate how the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.
The dust management plan must be implemented until the site works are completed and the site is stable and covered in either vegetation or bonding agent. The dust management plan must be provided to any contractor involved in the demolition, excavation, provision of fill or any other dust generating activity.

45. Engineering Works and Design

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

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

The following engineering works are required:

a) Dawes Avenue – Indented Parking Bays/ Road Widening

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

The existing 3.5m wide footpath verge measured from the face of kerb must be widened by 2m to 5.5m (and this road widening dedicated to the public as road at no cost to Council as conditioned separately). Within this widened verge the required formation is as follows, generally in accordance with Council's Showground Precinct Public Domain Plan (PDP), Council's Showground Precinct Verge Treatment Detail/ Plans dated 15/02/2019, the above documents and Council's standard drawings/ details relating to these works:

- Pedestrian Pavement:
- Type 3 (Showground Precinct PBP)
- Street Lighting:
- Category P3 (Showground Precinct PBP)
- Width/ Formation:

- 2.5m parking bay (separated from the existing roadway by a dish crossing aligned with the existing kerb and gutter on either side)/ 0.15m kerb and tray/ 1.5m footpath/ 1.350m verge (landscaped) (5.5m)

The parking bays are to be no longer than two spaces/ 12.6m long generally as shown on the civil works plans by AT&L Revision F dated 30/04/2019 submitted with the development application (excepting as amended below) creating five 12.6m bays and two 6.3m long bays providing for 12 on-street parking spaces in total. The civil works plans by AT&L Revision F dated 30/04/2019 submitted with the development application must be amended to match the above.

With respect to the civil works plans by AT&L Revision F dated 30/04/2019 submitted with the development application specifically:

- The existing street drainage in Dawes Avenue and Chapman Avenue will need to be adjusted to match as detailed below under Stormwater Drainage – Adjustments.
- The pavement plan is not approved. The pavement design and surface treatments must comply with these conditions of consent.
- The 8m wide driveway shown must be amended to match the Minor Engineering Works condition included earlier which calls for a 9m/ 11m wide driveway consistent with the traffic report by Ason dated 18/04/2019 submitted with the development application.
- The 2m strip of road widening and resultant building setback needs to be amended to match the actual building setback shown on the stamped approved architectural plans referred to in Condition 1 above.

b) Stormwater Drainage – Adjustments

The existing Council/ public street drainage that dissects the site between Chapman Avenue and Dawes Avenue must be relocated to the north-western site boundary generally as shown on the civil works plans by AT&L Revision F dated 30/04/2019 submitted with the development application but with the following necessary amendments included in the detailed design submitted to Council for approval at the Construction Certificate stage:

- The stormwater line between pits A/1 and A/3 within the front boundary setback parallel to Chapman Avenue must be removed and relocated to within Chapman Avenue under the alignment of the existing kerb and gutter. This will limit the extent of public easement/ pipework required within private land and allow the existing street drainage in Chapman Avenue to be more appropriately directed to the new alignment away from the existing sag point as detailed below.
- Where pit A/3 is relocated into Chapman Avenue and made into a kerb inlet pit as above a new piped connection to the existing kerb inlet pit on the opposite side of Chapman Avenue is required so that the upstream runoff from the catchment to the north is directed into the new pipework/ easement alignment at the north-western site boundary (as opposed to continuing south-east to the existing sag point and then piped back upslope as proposed). The pipework heading south-east will need to be capped off at this existing pit too.
- Pit A/3 needs to have additional inlet capacity (at a minimum commensurate with that required for a sag pit) so that as much of the upstream catchment runoff in Chapman Avenue is collected and directed through the site via the new public easement/ pipework and away from the existing sag point.
- The new pipework within the site between pits A/3 (as relocated above) and A/6 in Dawes Avenue must be increased from a 525mm diameter pipe to a 600mm diameter pipe for the same reason.

- Pit A/6 in Dawes Avenue must be relocated to be located under the kerb and gutter as adjusted according to Dawes Avenue – Indented Parking Bays/ Road Widening above. A junction pit under the road carriageway as proposed is not supported. The pipework on either side needs to be surveyed and replaced as necessary to connect to this relocated pit. The short length of downstream pipework between this pit and the existing kerb inlet pit fronting 29 Dawes Avenue will need to be replaced as part of these works (and increased to a 600mm diameter pipe to match the upstream pipework above noting the survey plan submitted with the development application notes the diameter of this pipe to be 650mm whereas our records show it to be 525mm currently). There is scope to coordinate these works with the development over 29-35 Dawes Avenue approved by Development Consent 320/2019/JP noting a similar requirement has been conditioned on that development relating to this same section of street drainage.
- The existing sag pit in Dawes Avenue shown to be converted to a grated/ butterfly lid pit must stay as a kerb inlet pit because it is a sag point as per the above documents. This will mean the indented parking bay at this location will need to be removed/ reduced to a single 6.3m long bay only. This loss is to be offset by the introduction of a second single 6.3m long bay fronting 17 Dawes Avenue at the south-eastern extent of works which provides for the 12 on-street parking spaces referred to under Dawes Avenue – Indented Parking Bays/ Road Widening above.
- There is no need to extend the street drainage in Dawes Avenue south-east beyond this existing sag pit (as proposed now) unless the stormwater calculations show excessive/ non-compliant ponding in the kerb and gutter or dish crossing through the affected part of the Dawes Avenue street frontage complying with the above documents.
- The surface profile along the length of the 3m wide easement along the north-western side boundary must be shaped to form a swale to convey water along the length of the easement/ away from the neighbouring property and the adjacent units within the development site. The adjacent private open space areas must be set higher than the adjacent easement/ swale surface level and any building openings set a minimum of 500mm above the adjacent easement/ swale surface level to protect against nuisance stormwater impacts.
- The proposed 3m wide easement must be unlimited in height and depth. No part of the basement below or building above is to encroach into the easement.

c) Signage and Line Marking Requirements/ Plan

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

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

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

Street name signs and posts must be provided in accordance with the above documents and Council's Standard Drawing 37.

d) Concrete Footpath

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided along Dawes Avenue and Chapman Avenue fronting the development site in accordance

with the DCP and the above documents. This includes Council's Showground Precinct Public Domain Plan:

- Pedestrian Pavement:
- Type 3 (Showground Precinct PBP)
- Street Lighting:
- Category P3 (Showground Precinct PBP)

e) Footpath Verge Formation

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

The steeper grades in the verge in Chapman Avenue shown on the sections included with the civil works plans by AT&L Revision F dated 30/04/2019 submitted with the development application are not approved/ permitted.

46. Stormwater Management Requirements

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters for the site storage requirement and permissible site discharge.

The civil works plans by AT&L Revision F dated 30/04/2019 and the civil report also by AT&L Revision 2 dated 01/05/2019 submitted with the development application are for development application purposes only and are not to be used for construction. The detailed design must reflect the approved concept plan and the following necessary changes:

a) The requirements listed under the Engineering Works and Design condition above.

b) The overflow pipe from both OSD tanks must be properly sized to protect the basement from flooding.

c) The access pits for both OSD must be clearly detailed so that both tanks can be readily accessed to check for blockages (again to protect the basement from flooding) and for maintenance purposes.

d) No pit inserts (where proposed) are to be installed along the street drainage or easement/ public drainage line along the north-west site boundary.

e) The volume of the two OSD tanks must match the approved concept plan (212 cubic metres and 221 cubic metres for OSD 1 and OSD 2 respectively).

f) The two 28m and 20m long grassed swales referred to in the accompanying MUSIC model associated with the civil report by AT&L Revision 2 dated 01/05/2019 submitted with the development application are to be clearly shown on the detailed design.

Water sensitive urban design elements, consisting of a gross pollutant trap, jellyfish (or an approved equivalent), 28,000 litre rainwater reuse tank annexed to OSD 1 above and the two grassed swales referred to above are to be located generally in accordance with the plans and information submitted with the application.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative

longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

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

All model parameters and data outputs are to be provided.

The design and construction of the OSD system must be approved by either Council or an accredited certifier. A Compliance Certificate certifying the detailed design of the OSD 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 an accredited OSD designer.
- A completed OSD Drainage Design Summary Sheet.
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes.
- A completed OSD Detailed Design Checklist.
- A maintenance schedule.

47. 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.

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

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

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

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

- Sediment fencing.
- Barrier fencing and no-go zones.

- Stabilised access.
- Waste receptacles.
- Stockpile site/s.

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

An ESCP is required for this development.

49. 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 $99,000.00 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 rate of $88.00 per square metre based on the road frontage of the subject site plus an additional 50m on either side (150m) multiplied by the width of the road (7.5m).

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

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

50. 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 minimum bond amount is $10,000.00. The bond amount must be confirmed with Council prior to payment.

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

The bond is refundable upon written application to Council and is subject to all work being completed to Council's satisfaction.

51. 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.

52. Construction Management Plan

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

PRIOR TO WORK COMMENCING ON THE SITE

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

Details

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

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

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

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

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

54. 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.

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

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

56. 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.

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

58. Sydney Water Building Plan Approval
A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.
A copy of the building plan approval and receipt from Sydney Water Tap in™ (if not already provided) must be submitted to the Principal Certifying Authority upon request prior to works commencing.
Please refer to the website http://www.sydneywater.com.au/tapin/index.htm, Sydney Water Tap in™, or telephone 13 20 92.

59. 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.

60. 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.

61. 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.

62. 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.

63. 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.

64. Construction and Demolition Waste Management Plan Required

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

65. 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.

66. Contractors Details

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

67. Erection of Signage – Supervision of Work

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

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

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

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

68. 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.

69. Dilapidation Survey

Prior to work commencing a practicing professional structural engineer shall carry out a dilapidation survey of the adjoining dwelling at No. 29, 31 Dawes Avenue and 28 Chapman Avenue and submit a copy of the survey both to Council and the property owner.

70. Tree Protection Fencing

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

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

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

71. Tree Protection Signage

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

72. Mulching within Tree Protection Zone

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

73. Trenching within Tree Protection Zone

Any trenching for installation of drainage, sewerage, irrigation or any other services or excavation shall not occur within the Tree Protection Zone of trees identified for retention without supervision of a project arborist.

Certification of supervision must be provided to the Certifying Authority within 14 days of completion of trenching works.

Excavation or retaining wall footings to be hand excavated within the vicinity of TPZ of existing trees to be retained under the supervision of the Project Arborist.

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

74. Engagement of a Project Arborist

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

a) Name:

b) Qualification/s:

c) Telephone number/s:

d) Email:

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

75. Service Authority Consultation – Subdivision Works

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

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

76. Pavement Design

A pavement design based on Austroads (A Guide to the Structural Design of Road Pavements) and prepared by a suitably qualified and experienced civil or geotechnical engineer must be submitted to Council for approval before the commencement of any pavement works.

The pavement design must be based on sampling and testing by a NATA accredited laboratory of the in-situ sub-grade material and existing pavement material. Details of the pavement design and all tests results, including design California Bearing Ratio values for the subgrade and design traffic loadings, are to be provided.

77. Separate OSD Detailed Design Approval

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

78. Property Condition Report – Public Assets

A property condition report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. This includes, but is not limited to, the road fronting the site along with any access route used by heavy vehicles. If uncertainty exists with respect to the necessary scope of this report, it must be clarified with Council before works commence. The report must include:

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

DURING CONSTRUCTION

79. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

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

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

80. Survey Report and Site Sketch

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

81. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No. 927115_03 is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate. A Section 4.55 Application **may** be required should the subsequent version of this BASIX Certificate necessitate design changes to the development. However, a Section 4.55 Application **will** be required for a BASIX Certificate with a new number.

82. Critical Stage Inspections and Inspections Nominated by the PCA

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

An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspection or other inspection required by the

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

83. Standard of Works

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

84. Stockpiles

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

85. Asbestos Removal

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

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

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

86. Dust Control

The emission of dust must be controlled to minimise nuisance to the occupants of the surrounding premises. A dust management plan is to be developed with a copy submitted to Council.

In the absence of any alternative measures, the following measures must be taken to control the emission of dust:

- 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;
- All exposed / disturbed areas which is not an active work area is to be sealed by way of hydro-seeding, hydro-mulching or other soil binding product or turfed; and
- All stockpiles of materials that are likely to generate dust must be kept damp or covered.

The dust management plan must be implemented until the site works are completed and the site is stable and covered in either vegetation or bonding agent. The dust management plan must be provided to any contractor involved in the demolition, excavation, provision of fill or any other dust generating activity.

87. 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.

88. 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).*

89. Washing of Vehicles

The car wash bay is to be roofed and bunded to exclude rainwater. All wastewater from car washing is to be discharged to the sewer under a suitable Trade Waste Agreement from Sydney Water.

90. 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.

91. Dilapidation Report

On completion of the excavation, the structural engineer shall carry out a further dilapidation survey at the properties referred to in condition 69 above and submit a copy of the survey both to Council and the property owner.

92. Landscape Batter

Mass planted landscape batter to eastern boundary is to have a maximum slope of 1:3, no steeper. Any batter at a 1:3 slope shall be reinforced using erosion control matting.

93. Project Arborist

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

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

PRIOR TO ISSUE OF ANY OCCUPATION AND/OR SUBDIVISION CERTIFICATE

94. Section 73 Certificate must be submitted to the Principal Certifying Authority before the issuing of an Occupation Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Building and developing > Developing your land > water Servicing Coordinator or telephone 13 20 92.
The Section 73 Certificate must be submitted to the Principal Certifying Authority before occupation of the development/release of the plan of subdivision.

95. Design Verification Certificate

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

96. Internal Pavement Construction (Stage 1)

Prior to any Occupation Certificate being issued, a Certified Practicing Engineer (CPEng) must submit a letter to Council confirming that the internal pavement has been constructed in accordance to the approved plans, and is suitable for use by 12.5m long waste collection vehicle when fully laden (i.e. 28 tonnes gross vehicle mass).

97. Final Inspection of Bin Rooms (Stages 1 & 2)
Prior to any Occupation Certificate being issued, a final inspection of the bin rooms and associated management facilities must be undertaken by Council's Resource Recovery Project Officer. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for domestic waste collection by Council. The time for the inspection should be arranged at least 48 hours prior to any suggested appointment time.

98. Provision of Signage for Bin Rooms (Stages 1 & 2)
Prior to any Occupation Certificate being issued, a complete set of English and traditional Chinese waste education signage (garbage, recycling, and no dumping) must be installed in a visible location on every internal wall of all bin rooms. One set of English and translated English garbage and recycling signage must be provided above every chute opening on every floor. The signage must comply with the minimum specifications below and must be in accordance with Council's approved artwork. Contact Council's Resource Recovery Education Officer (02) 9843 0505 to obtain artwork designs.

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

99. Waste Chute System Installation Compliance Certificate (Stages 1 & 2)
Prior to any Occupation Certificate being issued, a letter of compliance must be submitted to and approved by the Principal Certifying Authority. The letter must be prepared by the equipment supplier/installer confirming that the Council approved waste chute system, including all associated infrastructure, has been installed to manufacture standards and is fully operational and satisfies all relevant legislative requirements and Australian standards.

100. Domestic Waste Collection Risk Assessment (Stage 1)
Prior to an Occupation Certificate being issued, a risk assessment must be undertaken on site by Council's Resource Recovery Project Officer. The time for the assessment must be arranged when clear unobstructed circulation in and out of the site is available for Council's Domestic Waste Contractor to perform a mock collection run at the site.

101. Landscaping Prior to Issue of any Occupation Certificate
Landscaping of the site shall be carried out prior to issue of any Occupation Certificate (within each stage if applicable). The Landscaping shall be either certified to be in accordance with the approved plans 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 plans.

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

103. Registration of Drainage Easement
A 3m wide drainage easement in gross/ favour of Council must be created over the subject site adjacent to the north-western boundary prior to an Occupation Certificate being issued in place of the easement proposed to be removed that dissects the site in two currently. A copy of the registered easement plan and associated documents must be submitted to Council.

104. Removal Existing Easement

The existing drainage easement in gross/ favour of Council that dissects the site in two must be removed. As Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges.

105. 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.

106. 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.

107. Subdivision Works – Submission Requirements

Once the subdivision works are complete the following documentation (where relevant/ required) must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments and submitted to Council's Construction Engineer for written approval:

- Works as Executed Plans
- Stormwater Drainage CCTV Recording
- Pavement Density Results
- Street Name/ Regulatory Signage Plan
- Pavement Certification
- Public Asset Creation Summary
- Concrete Core Test Results
- Site Fill Results
- Structural Certification

The works as executed plans must be prepared by a suitably qualified engineer or registered surveyor.

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

A template public asset creation summary is available on Council's website and must be used.

108. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the subdivision works is required to be submitted to Council. The bond will be held for a minimum defect liability period of six months from the certified date of completion of the subdivision works. The minimum bond amount is $5,000.00. The bond is refundable upon written application to Council and is subject to a final inspection.

109. Confirmation of Pipe Locations

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

110. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

- One copy of the final plan.
- The original administration sheet and Section 88B instrument.

- All certificates and supplementary information required by this consent.
- An AutoCAD copy of final plan (GDA 1994 MGA94 Zone56).

111. Consolidation of Allotments

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

112. OSD System Certification

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

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

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

113. 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.

114. 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 – Bedroom Numbers

The subject site must be burdened with a restriction using the "bedroom numbers" terms included in the standard recitals.

b) Restriction/ Positive Covenant – Onsite Stormwater Detention

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

c) 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.

d) 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

115. 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.

116. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated central Waste Collection room and garbage chute rooms, which must include provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. A caretaker must be appointed to manage waste operations on site including undertaking all instructions issued by Council to enable waste collection. The central Waste Collection room and the garbage chute rooms must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

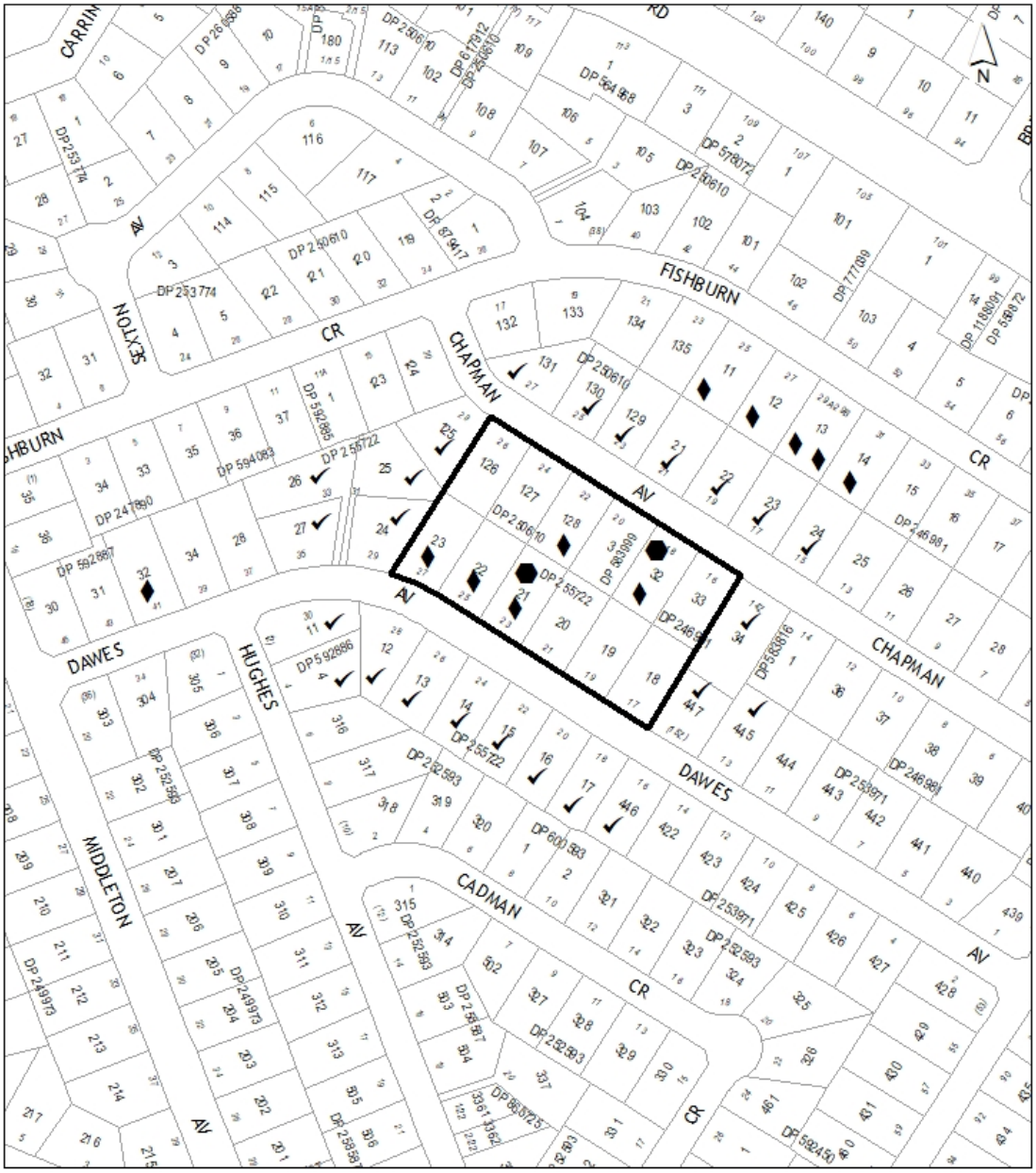
117. Lighting

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

ATTACHMENTS

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

ATTACHMENT 1 – LOCALITY PLAN



✓ PROPERTIES NOTIFIED

♦ IN SUPPORT OF DEVELOPMENT - 1ST NOTIFICATION

● IN SUPPORT OF DEVELOPMENT - 2ND NOTIFICATION

□ SUBJECT SITE

NOTE: ONE SUBMISSION IN SUPPORT RECEIVED OUTSIDE THE SCOPE OF THIS MAP

THE HILLS Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

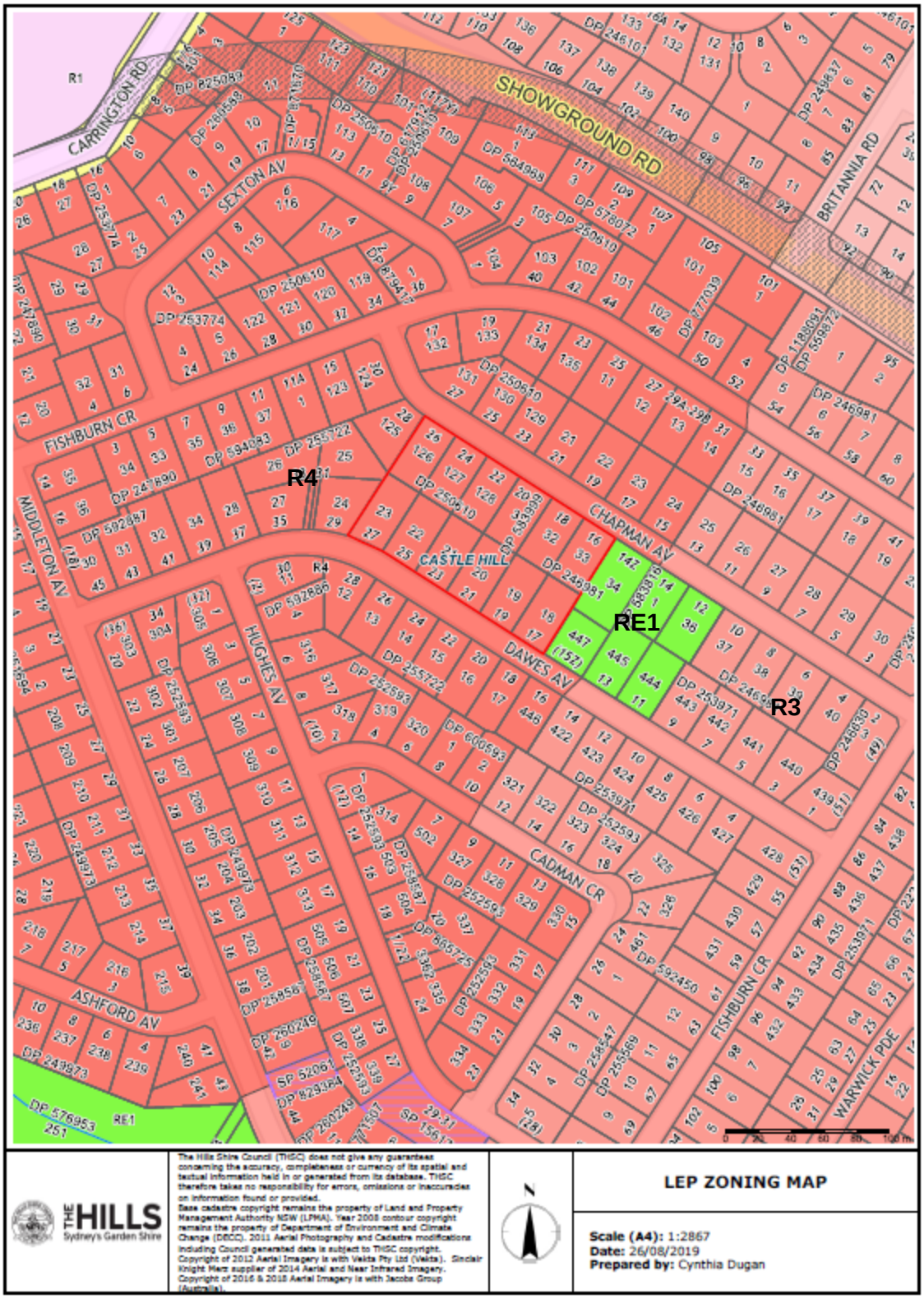
ATTACHMENT 2 – AERIAL PHOTOGRAPH

SUBJECT SITE

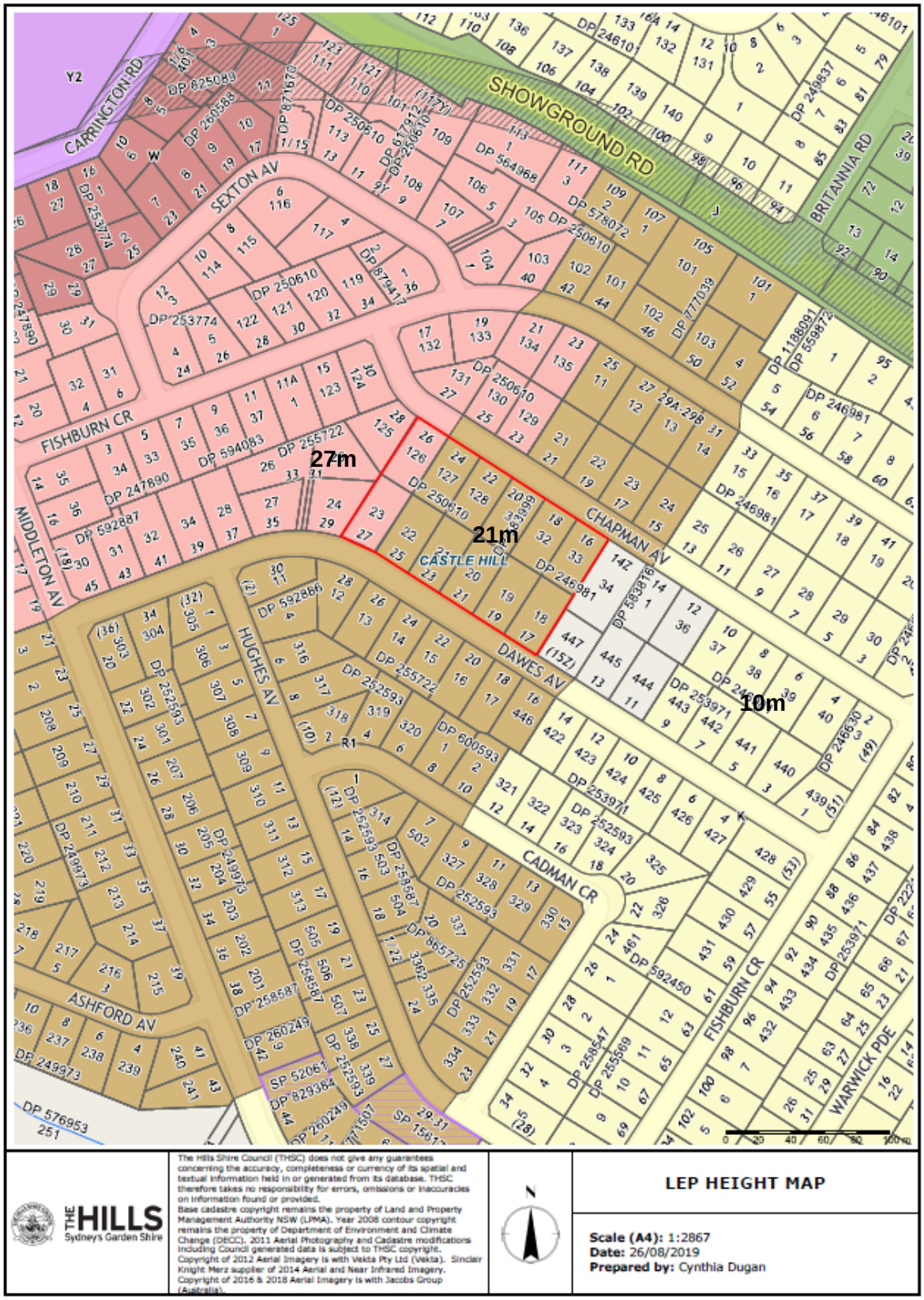
THE HILLS Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

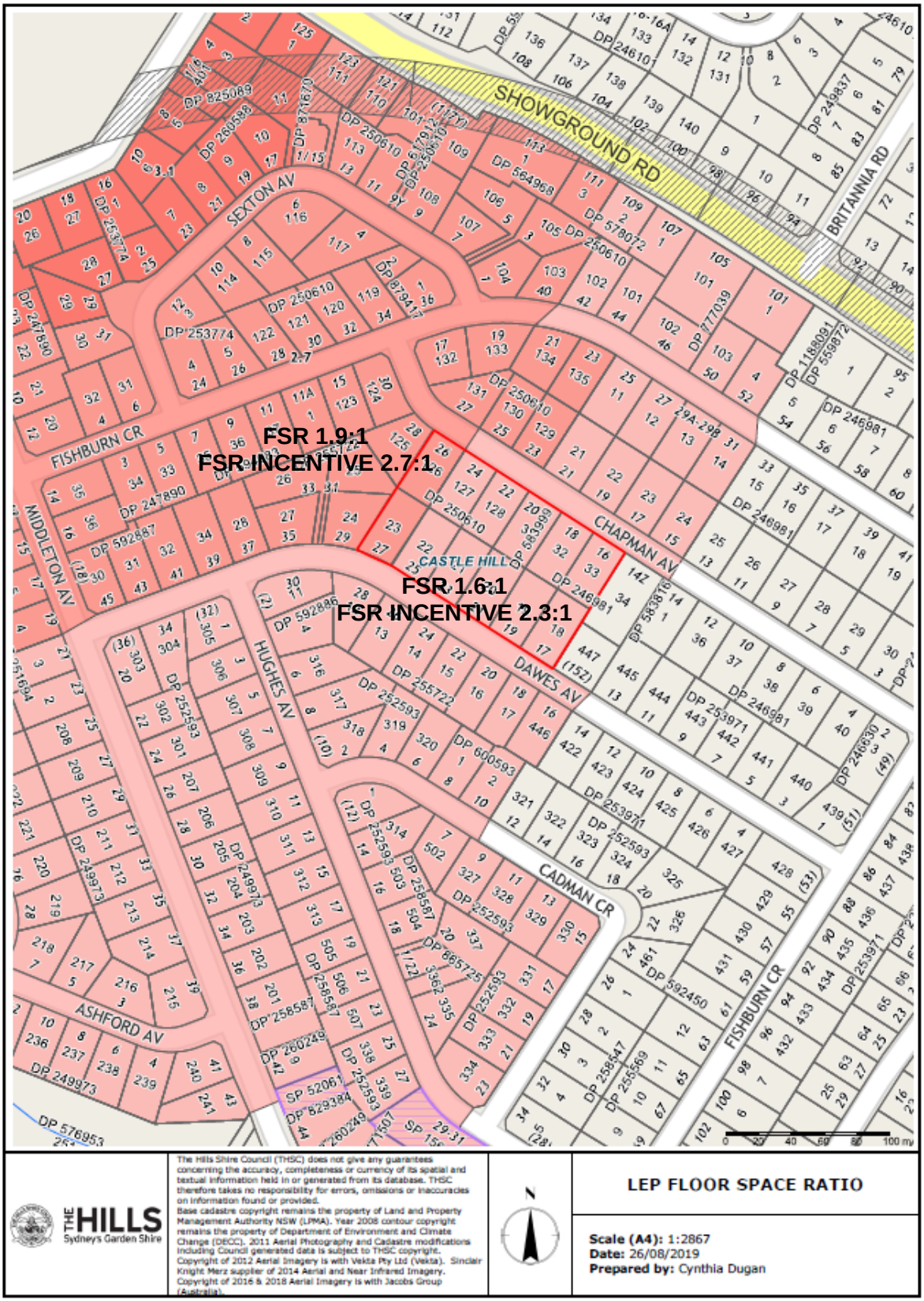
ATTACHMENT 3 – LEP ZONING MAP



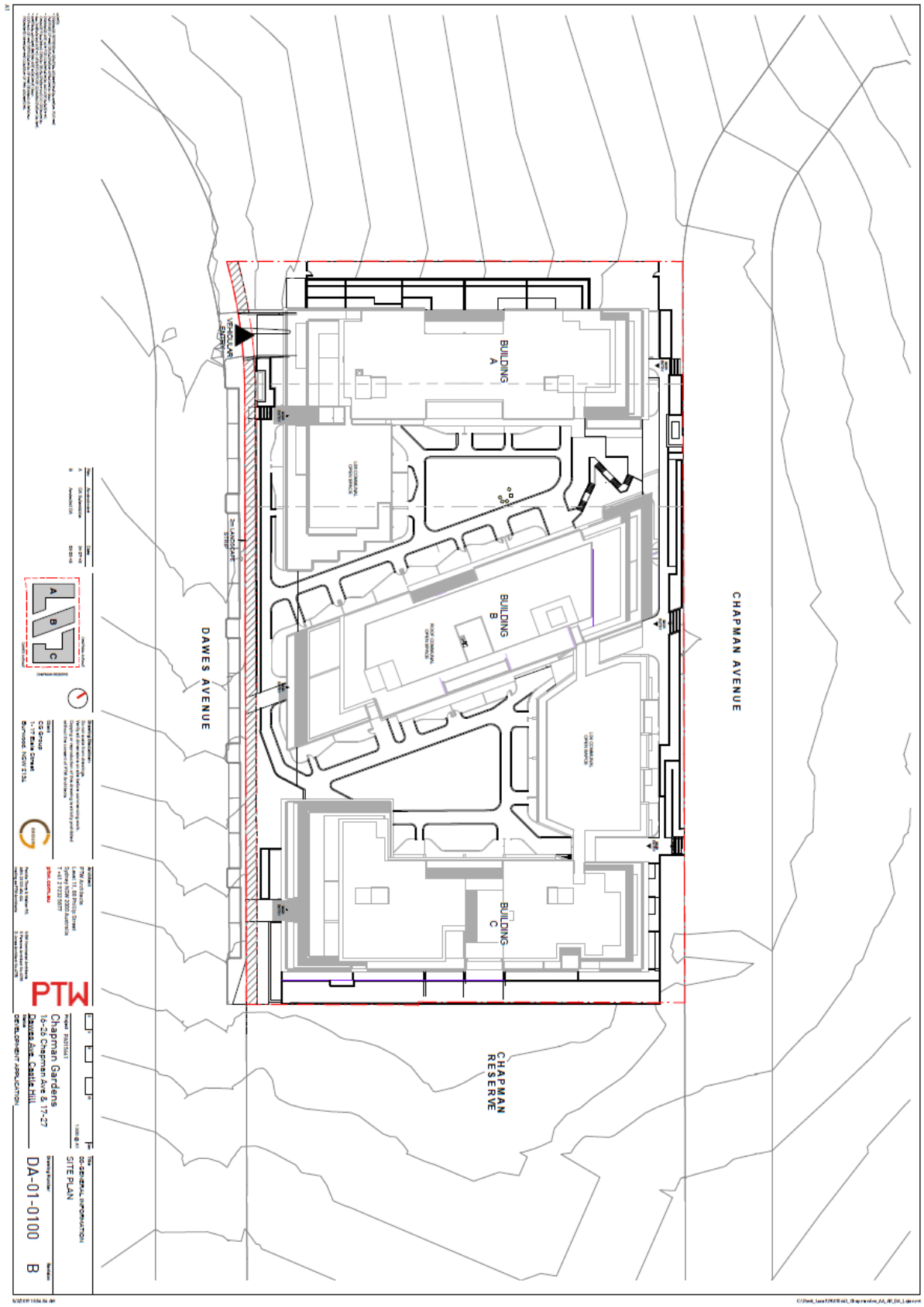
ATTACHMENT 4 – LEP HEIGHT MAP



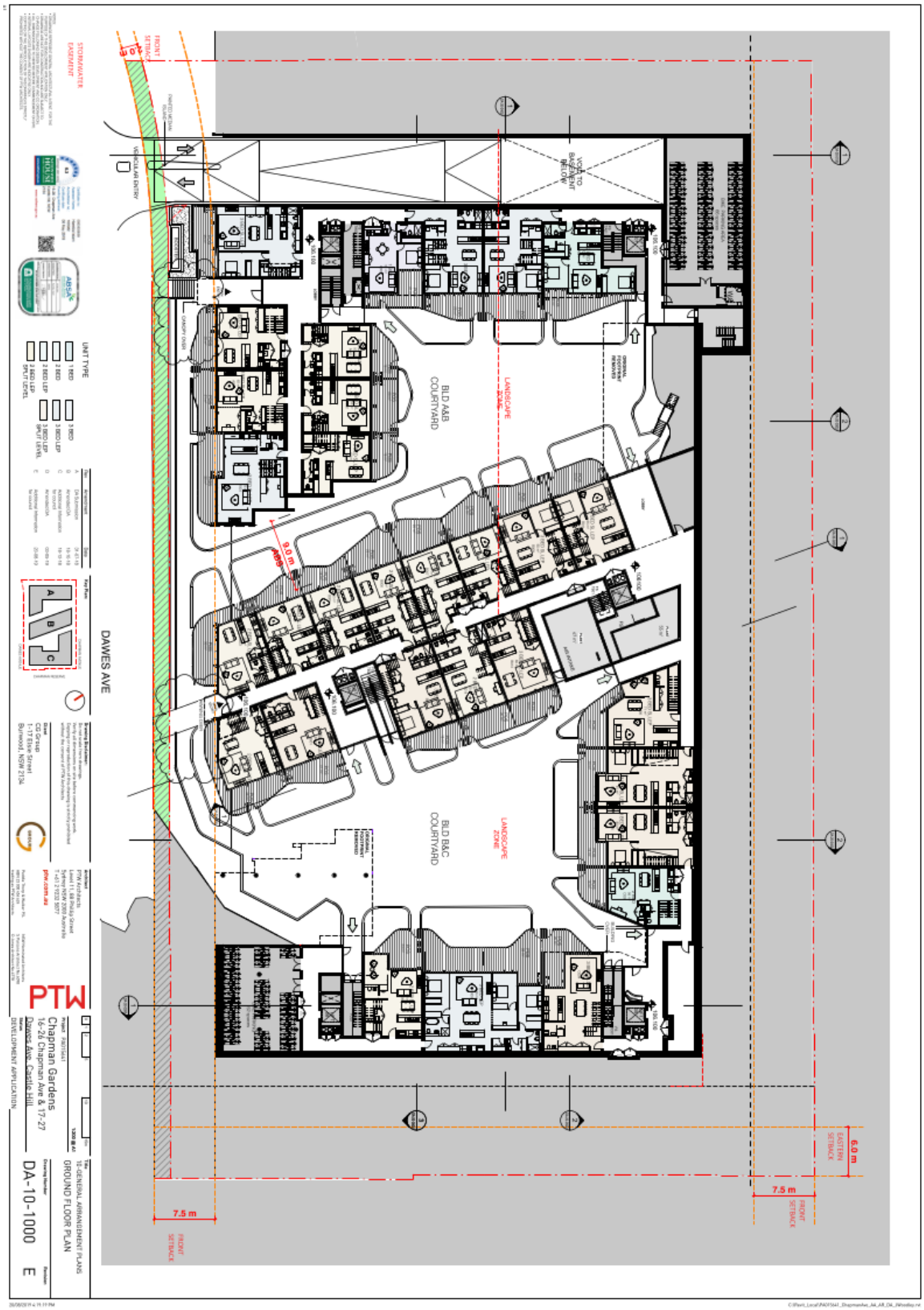
ATTACHMENT 5 – FLOOR SPACE RATIO

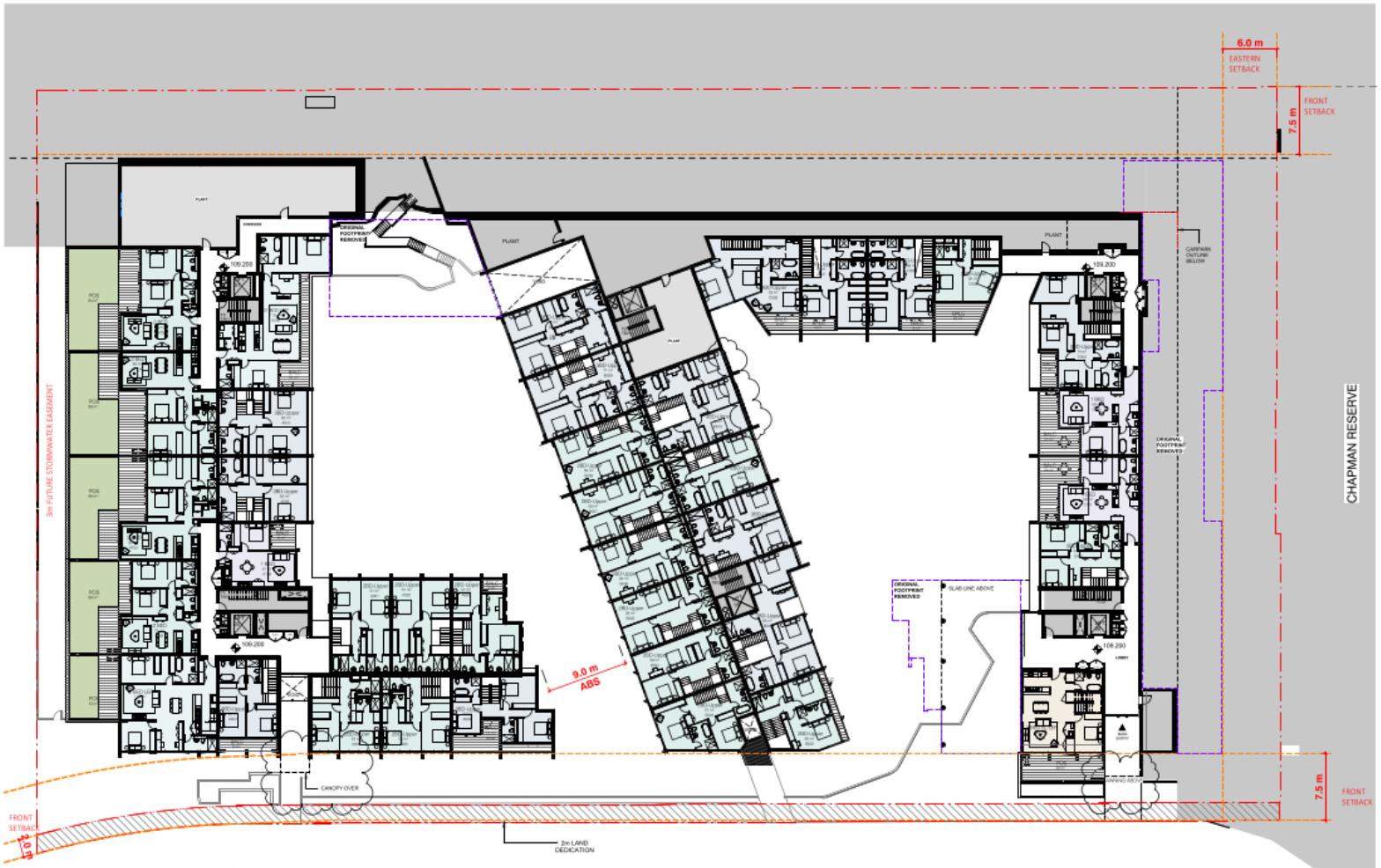


ATTACHMENT 6 – SITE PLAN



ATTACHMENT 7 – FLOOR PLANS





UNIT TYPE

- 1 BED
- 2 BED
- 2 BED LEP
- 2 BED LEP SPLIT LEVEL
- 3 BED
- 3 BED LEP
- 3 BED LEP SPLIT LEVEL

Rev	Amendment	Date
A	DA Submission	31-07-15
B	Amended DA	18-10-16
C	Additional information for council	16-12-16
D	Amended DA	03-05-19
E	Additional information for council	28-08-19

Key Plan:

Drawing Disclaimer:
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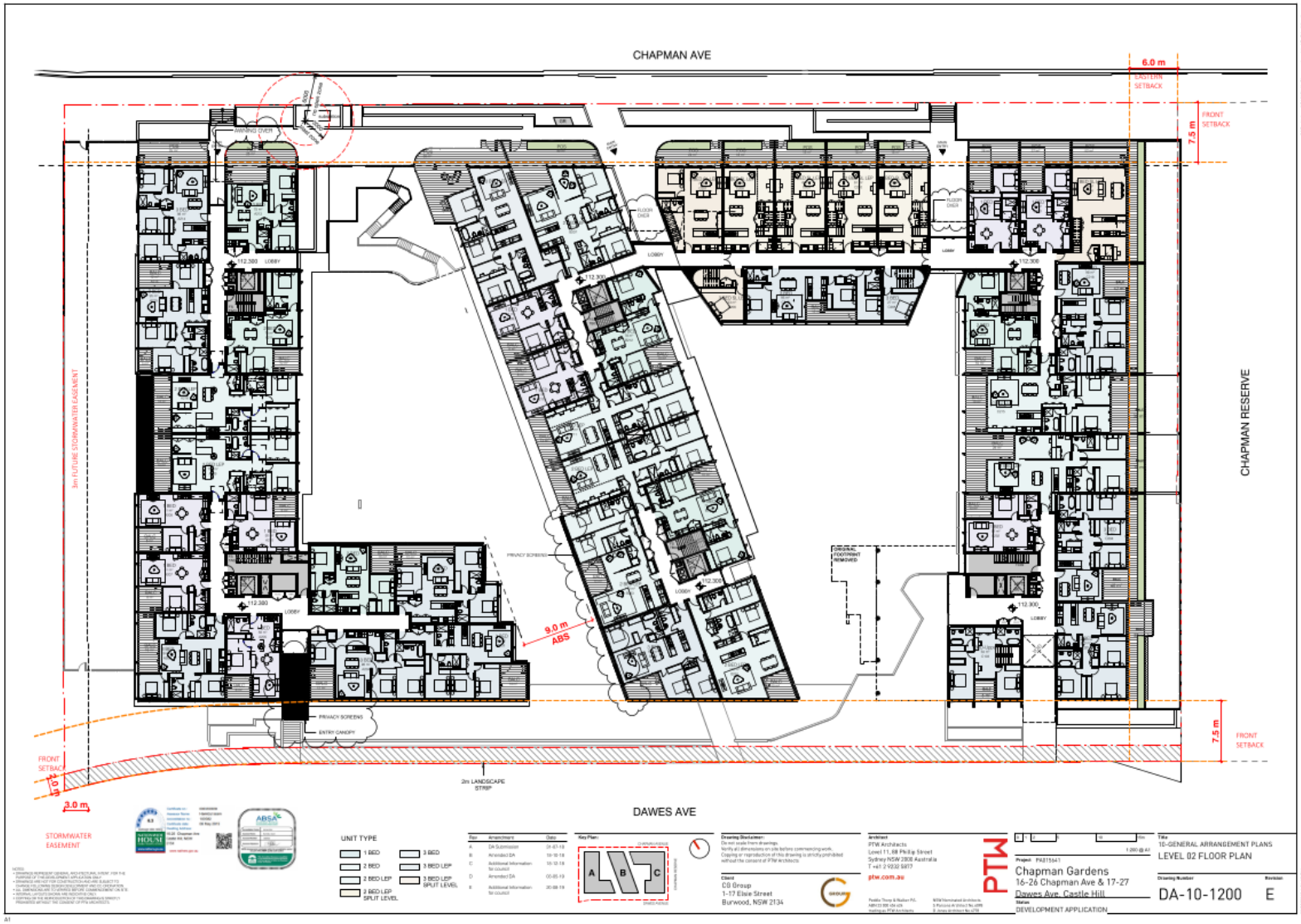
PTW

Project PA015547
Chapman Gardens
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill

Status
DEVELOPMENT APPLICATION

Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 01 FLOOR PLAN

Drawing Number: DA-10-1100
Revision: E



UNIT TYPE

- 1 BED
- 2 BED
- 2 BED LEP
- 2 BED LEP SPLIT LEVEL
- 3 BED
- 3 BED LEP
- 3 BED LEP SPLIT LEVEL

Rev	Amendment	Date
A	DA Submission	21-07-15
B	Amended DA	10-10-18
C	Additional Information for council	15-12-18
D	Amended DA	02-05-19
E	Additional Information for council	30-08-19

Key Plan:

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Project PA015641
Chapman Gardens
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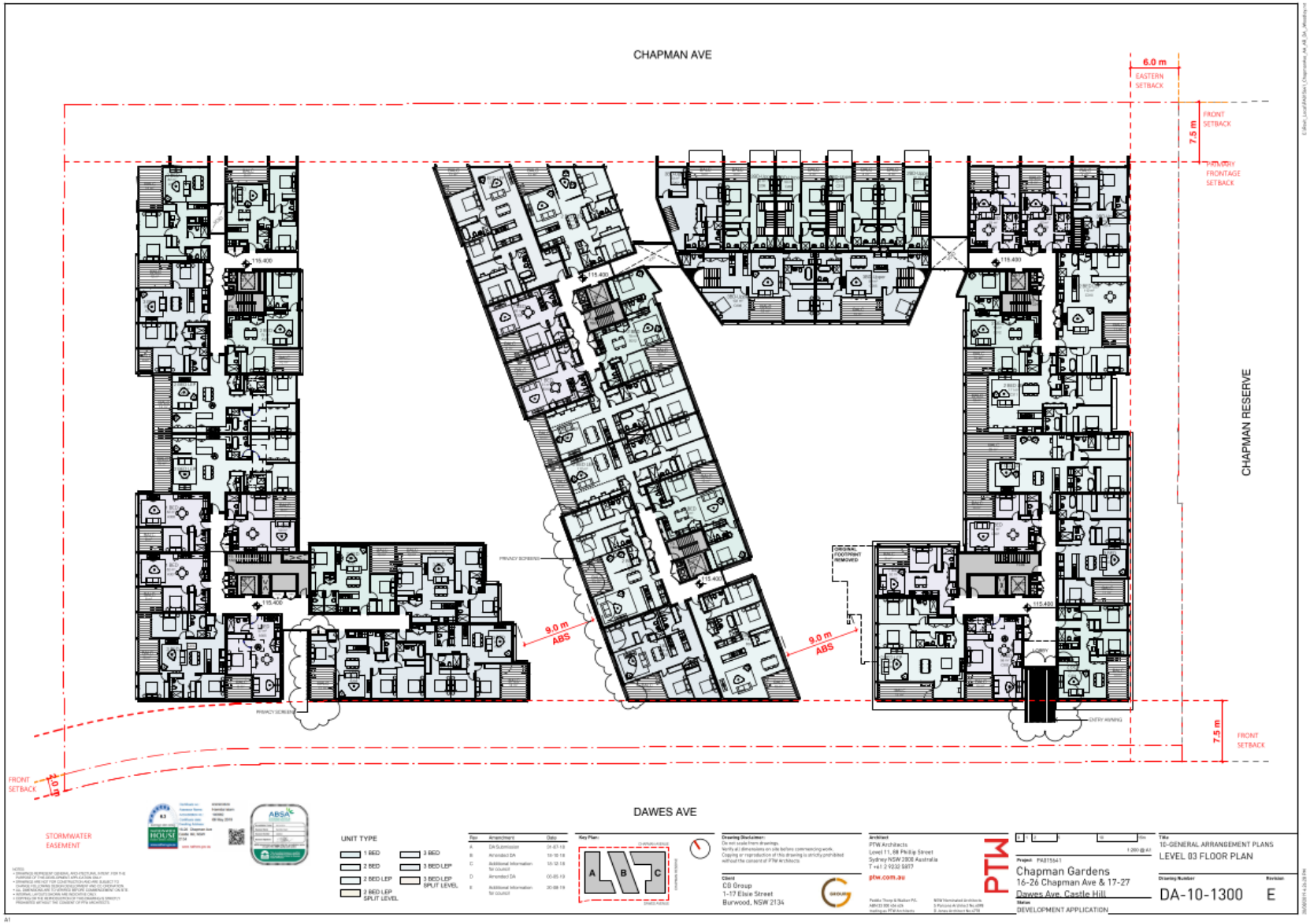
Status
DEVELOPMENT APPLICATION

Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 02 FLOOR PLAN

Drawing Number DA-10-1200 Revision E

A1


CHAPMAN AVE
6.0 m
EASTERN SETBACK
7.5 m
FRONT SETBACK
PRIMARY FRONTAGE SETBACK
CHAPMAN RESERVE
9.0 m ABS
9.0 m ABS
7.5 m
FRONT SETBACK
FRONT SETBACK
DAWES AVE
STORMWATER EASEMENT
UNIT TYPE
1 BED
2 BED
2 BED LEP
3 BED LEP SPLIT LEVEL
3 BED
3 BED LEP
3 BED LEP SPLIT LEVEL
Key Plan:
A
B
C
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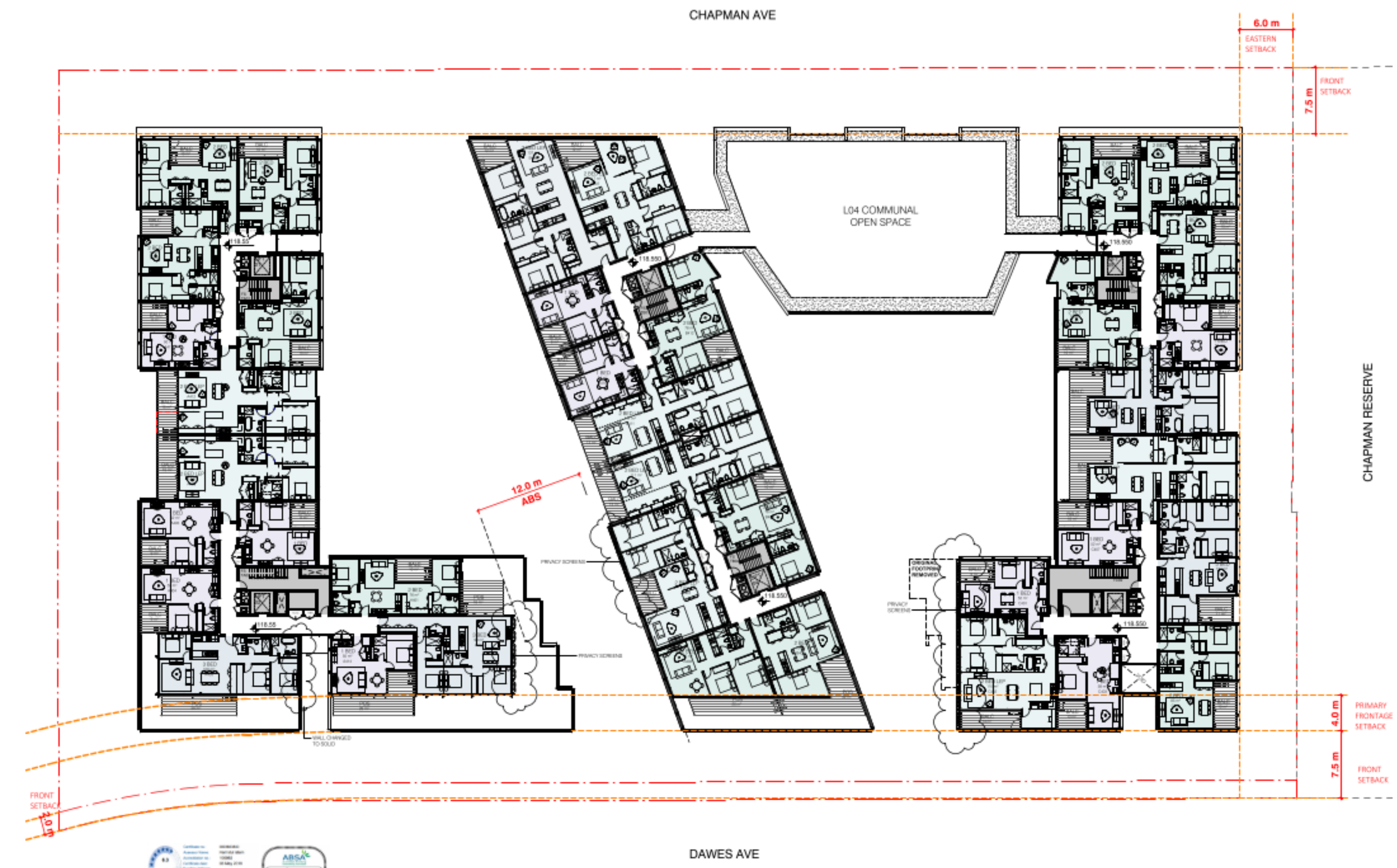
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill
Status
DEVELOPMENT APPLICATION
1:200 @ A1
Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 03 FLOOR PLAN
Drawing Number
DA-10-1300
Revision
E



UNIT TYPE

- 1 BED
- 2 BED
- 2 BED LEP
- 3 BED
- 3 BED LEP

Rev	Amendment	Date
A	DA Submission	01-07-18
B	Amended DA	10-10-18
C	Additional Information for council	10-12-18
D	Amended DA	00-05-19
E	Additional Information for council	20-08-19

Key Plan: A B C

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1:200 @ A1

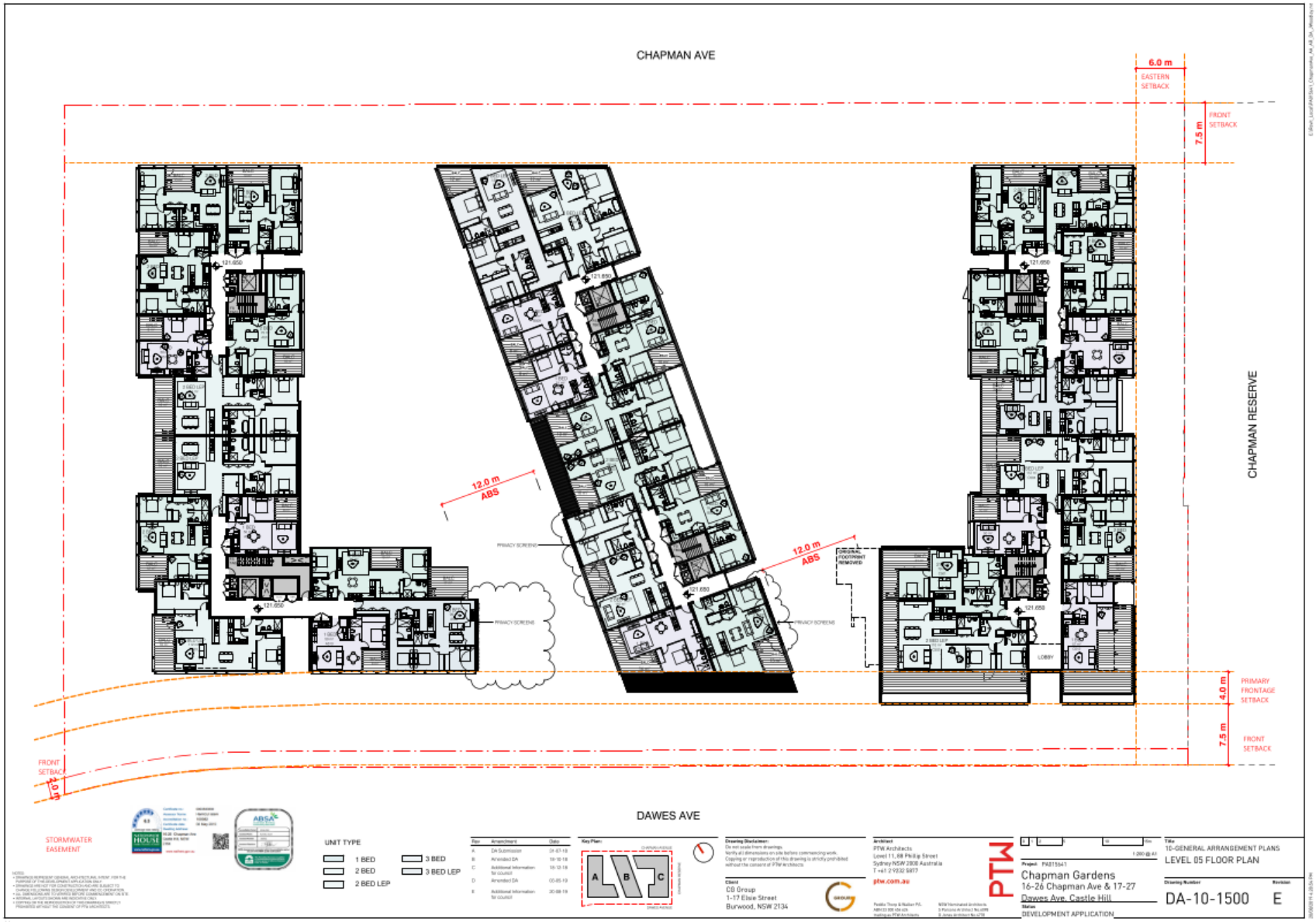
Project PA015641
Chapman Gardens
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill

Status
DEVELOPMENT APPLICATION

Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 04 FLOOR PLAN

Drawing Number
DA-10-1400

Revision
E



Rev	Amendment	Date
A	DA Submission	31-07-18
B	Amended DA	19-10-18
C	Additional Information for council	16-12-18
D	Amended DA	03-05-19
E	Additional Information for council	20-08-19

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1:200 @ A1

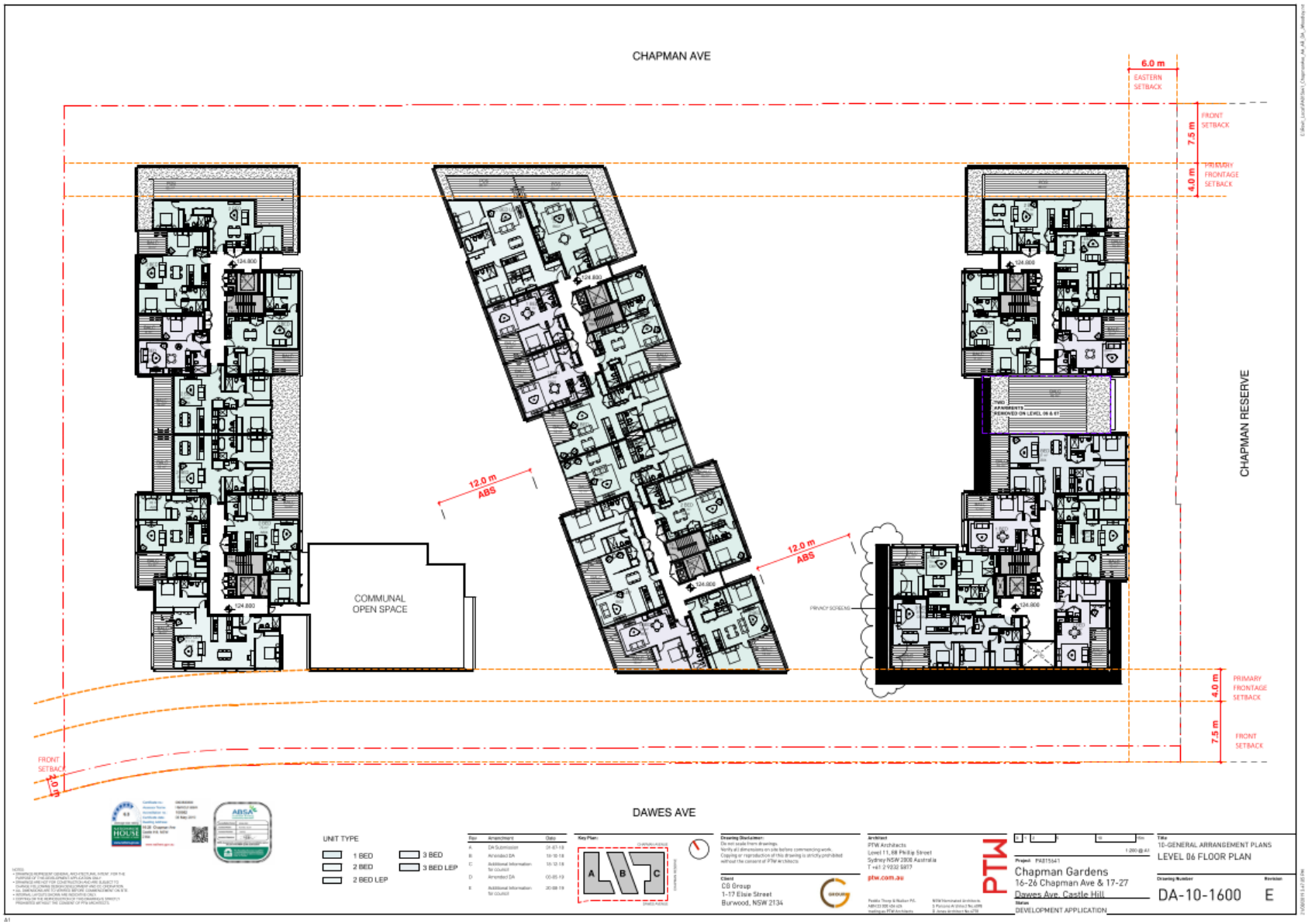
Project PA815641
Chapman Gardens
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill

Status
DEVELOPMENT APPLICATION

Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 05 FLOOR PLAN

Drawing Number
DA-10-1500

Revision
E



UNIT TYPE

- 1 BED
- 2 BED
- 2 BED LEP
- 3 BED
- 3 BED LEP

Rev	Amendment	Date
A	DA Submission	31-07-18
B	Amended DA	10-10-18
C	Additional Information for council	16-12-18
D	Amended DA	02-05-19
E	Additional Information for council	30-08-19

Key Plan:

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PTW

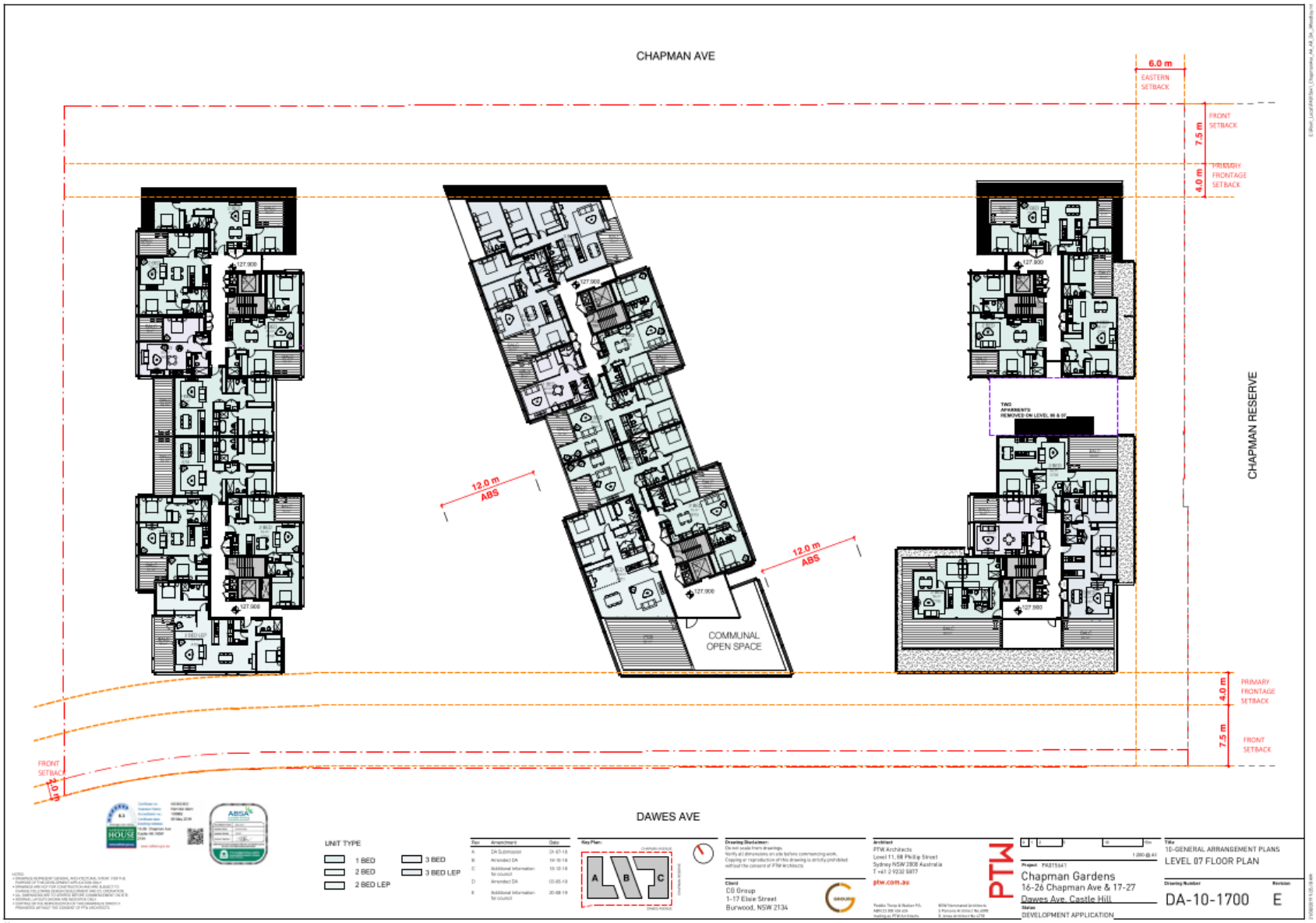
1:200 @ A1

Project PW815541
Chapman Gardens
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill

Status
DEVELOPMENT APPLICATION

Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 06 FLOOR PLAN

Drawing Number: DA-10-1600
Revision: E



UNIT TYPE

- 1 BED
- 2 BED
- 2 BED LEP
- 3 BED
- 3 BED LEP

Rev	Amendment	Date
A	DA Submission	31-07-18
B	Amended DA	10-10-18
C	Additional Information for council	15-12-18
D	Amended DA	02-05-19
E	Additional Information for council	30-08-19

Key Plan:

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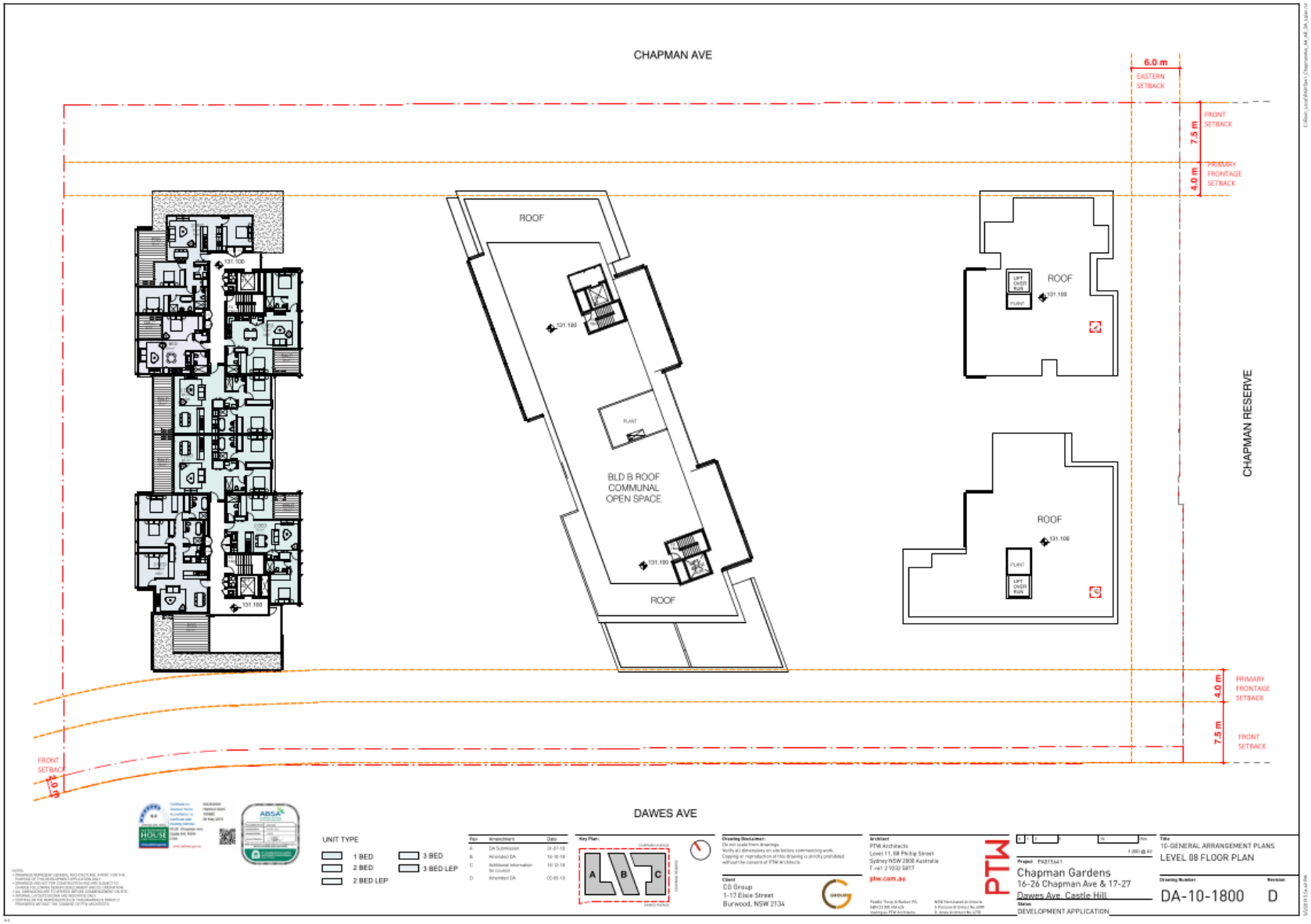
1:200 @ A1

Project P4015647
Chapman Gardens
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill

Status
DEVELOPMENT APPLICATION

Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 07 FLOOR PLAN

Drawing Number DA-10-1700 Revision E


CHAPMAN AVE
6.0 m
EASTERN SETBACK
7.5 m
FRONT SETBACK
4.0 m
PRIMARY FRONTAGE SETBACK
ROOF
131.100
PLANT
BLD B ROOF COMMUNAL OPEN SPACE
LIFT OVER RUN
CHAPMAN RESERVE
4.0 m
PRIMARY FRONTAGE SETBACK
7.5 m
FRONT SETBACK
FRONT SETBACK
4.0 m
DAWES AVE
UNIT TYPE
1 BED
2 BED
2 BED LEP
3 BED
3 BED LEP
A
B
C
Key Plan:
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PTW
1:200 @ A1
Project P4015641
Chapman Gardens
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill
Status
DEVELOPMENT APPLICATION
Title
10-GENERAL ARRANGEMENT PLANS
LEVEL 08 FLOOR PLAN
Drawing Number
DA-10-1800
Revision
D

ATTACHMENT 8 – ELEVATIONS

1 North Elevation - Chapman Avenue
1 : 200

2 South Elevation - Dawes Avenue
1 : 200

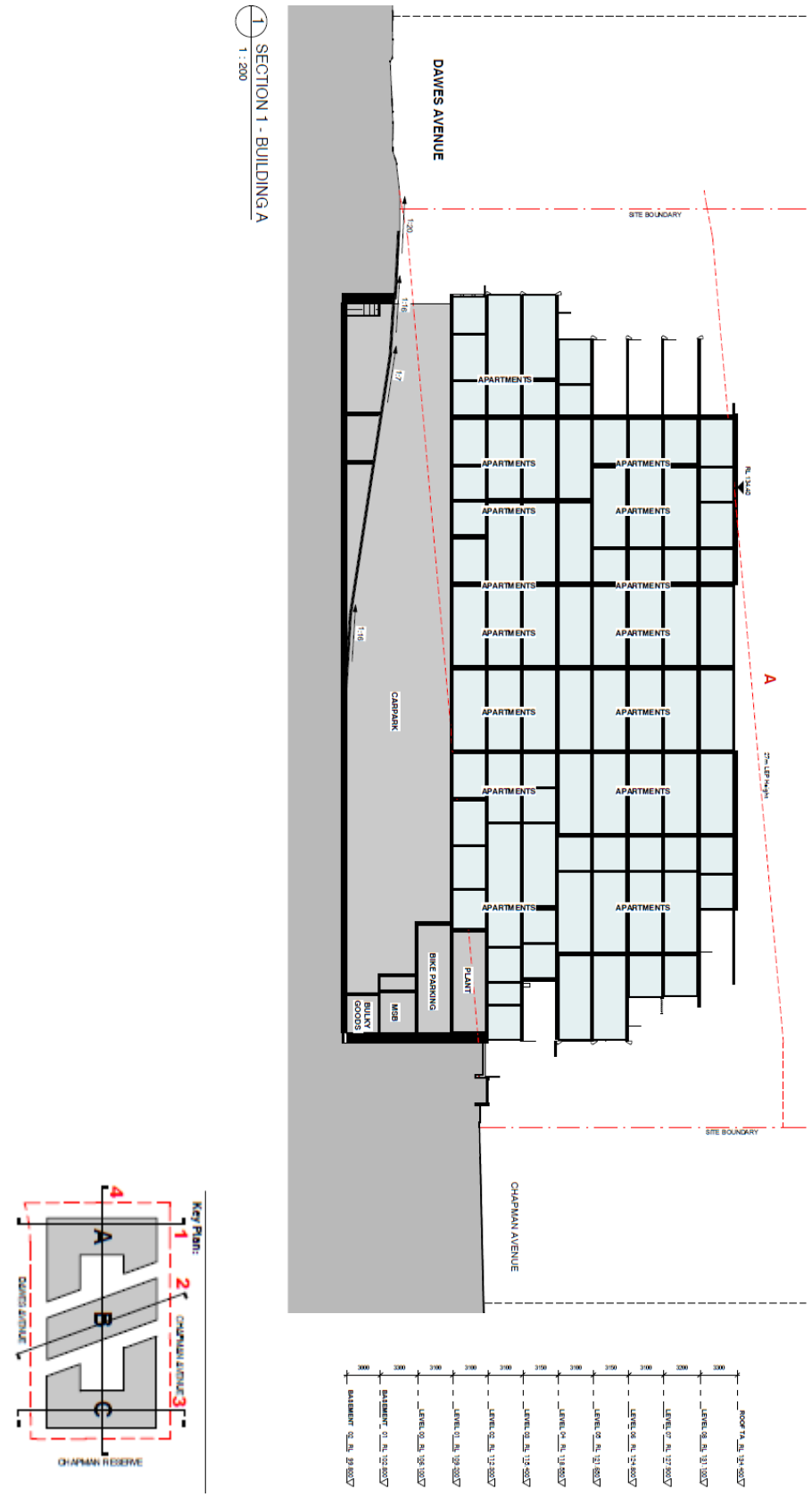
1 East Elevation - Chapman Reserve
1 : 200

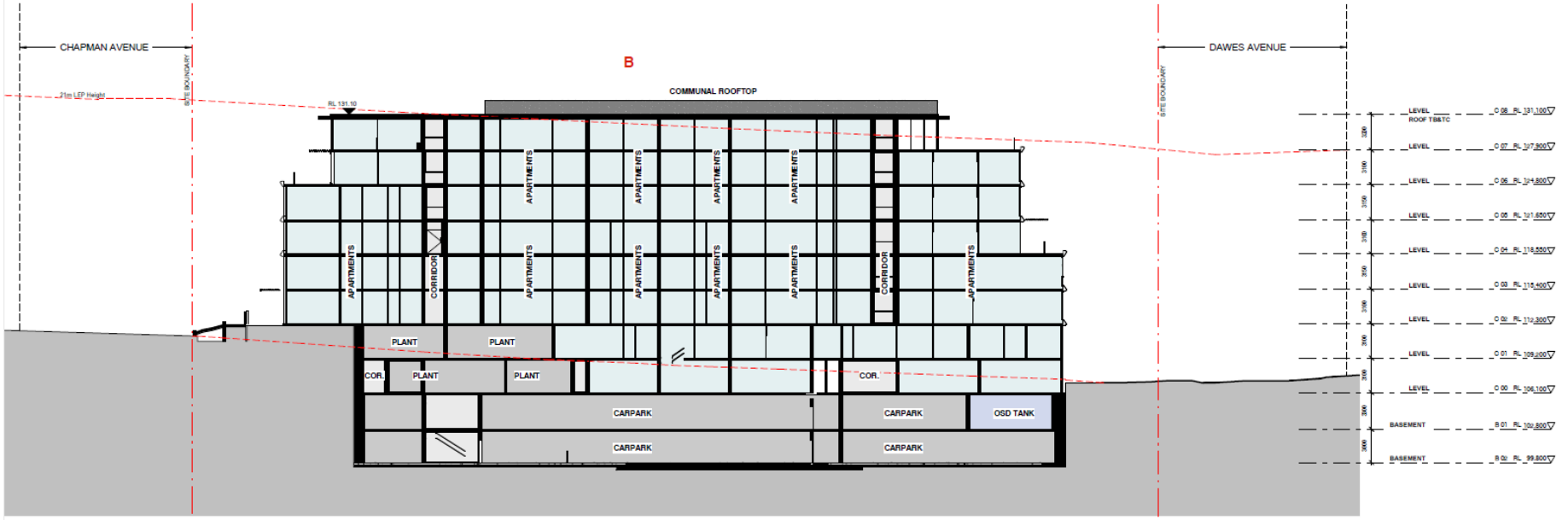
2 West Elevation
1 : 200

1 West Elevation Bld B
1 : 200

2 East Elevation Bld A
1 : 200

ATTACHMENT 9 – SECTIONS





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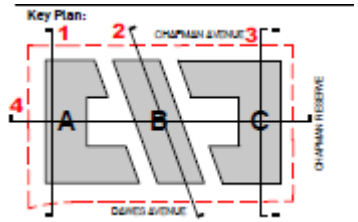

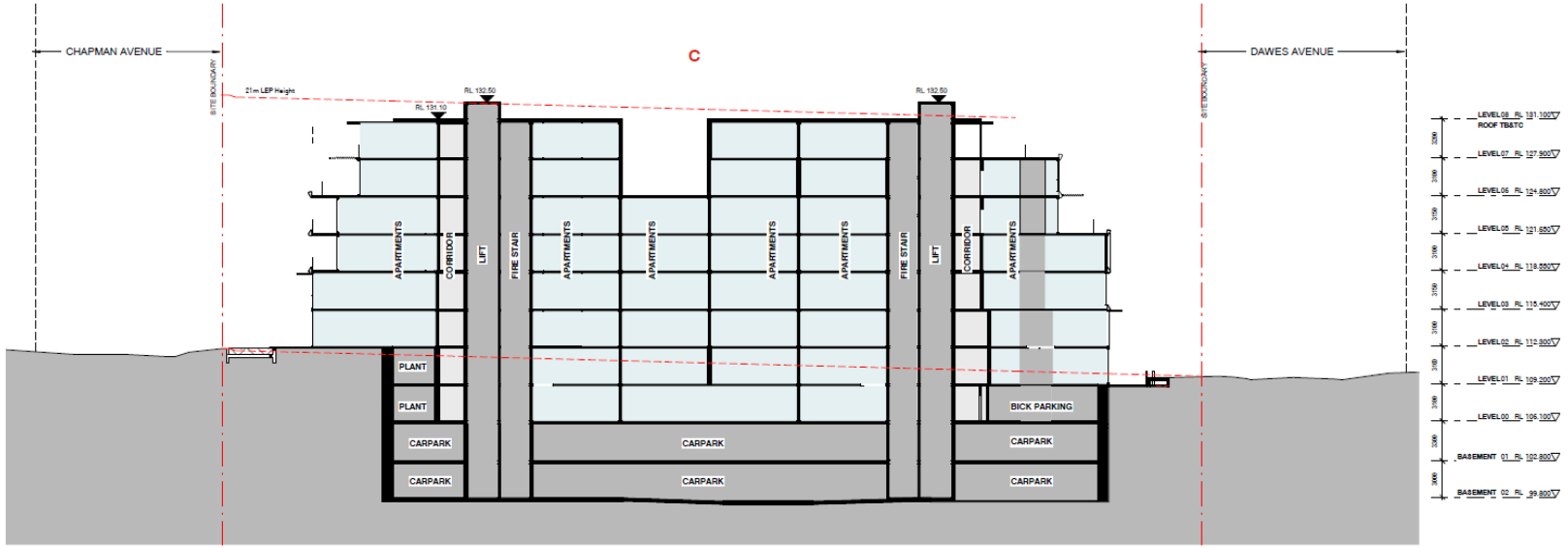

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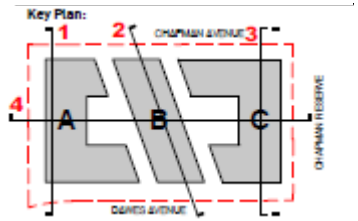

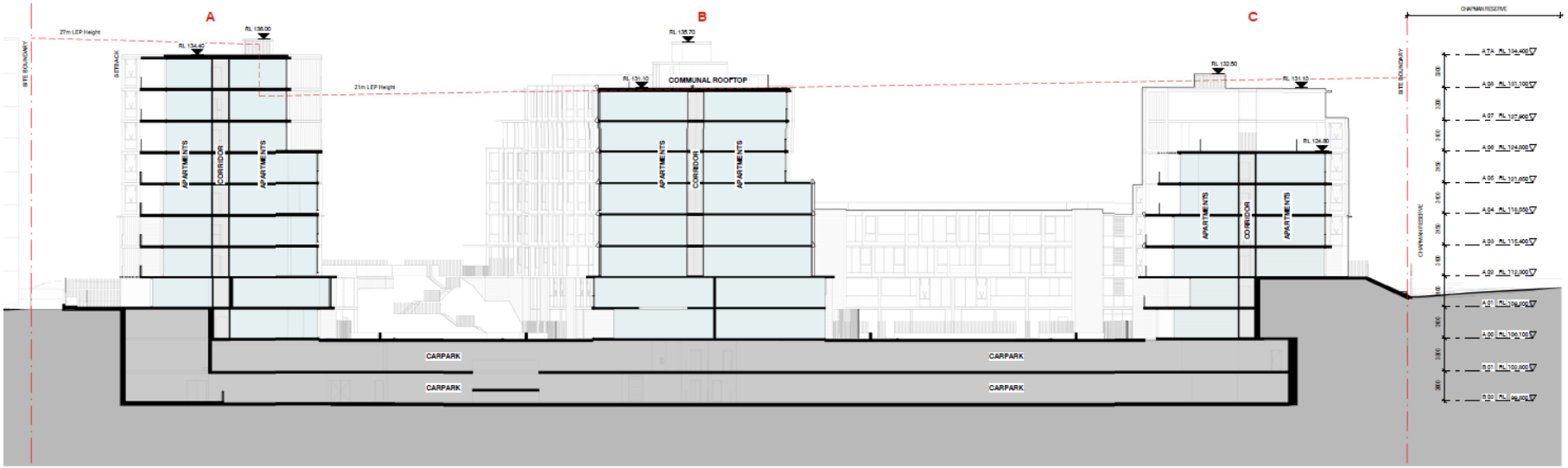

1 SECTION 4 - SITE CROSS SECTION
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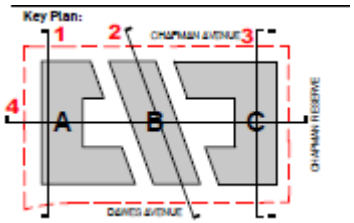
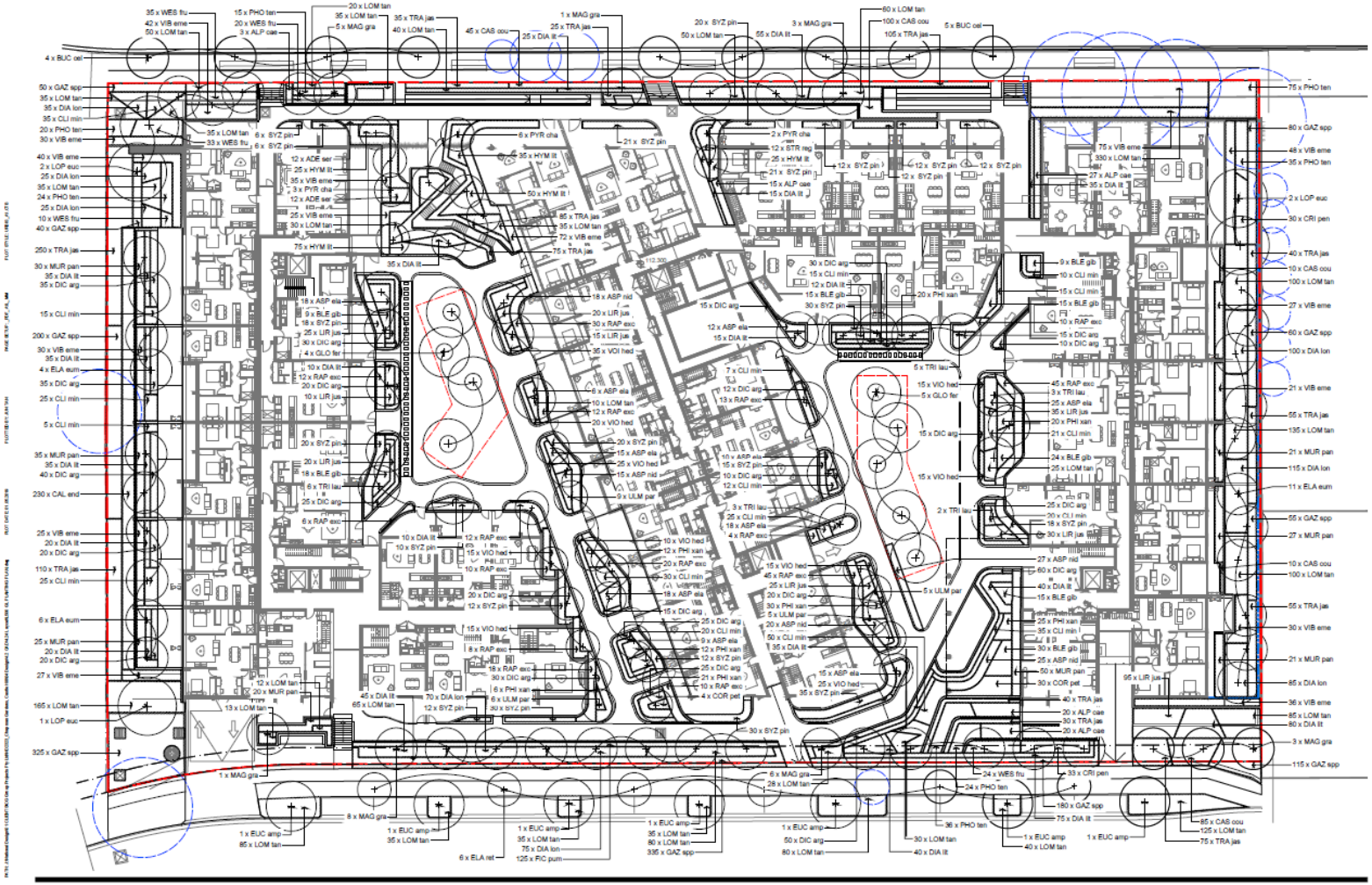


ATTACHMENT 10 – LANDSCAPE PLAN



URBIS

PROJECT
CHAPMAN GARDENS, CASTLE HILL

KEY PLAN

REV	DESCRIPTION	DWN	CHK	DATE
B	DEVELOPMENT APPLICATION	JT	MK	30.04.19
A	DEVELOPMENT APPLICATION	JT	CG	12.12.18

PROJECT DIRECTOR: MK

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CLIENT
PTW + CG GROUPS

DRAWING TITLE
GL PLANTING PLAN

ISSUE
NOT FOR CONSTRUCTION

SCALE
1:200 @ A1 1:400 @ A3

NORTH

PROJECT NO.
ND2323

DRAWING NO.
L500

REVISION
B

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GROUND LEVEL LANDSCAPE PLAN

CHAPMAN AVENUE

LEGEND

1. Arrival entries
2. Existing vegetation to be retained (refer to Arborists report for tree numbers)
3. Turf verge and public pedestrian footpath
4. Private terraces
5. Communal lawn (Refer detail plans)
6. Trees in deep soil (1500mm depth)
7. Deep soil zones
8. Stepping stones
9. Proposed street trees
10. 2m Easement
11. Booster
12. Basement driveway access
13. Parking bays refer engineer's drawings

P1/2 Proposed paving refer to materials strategy

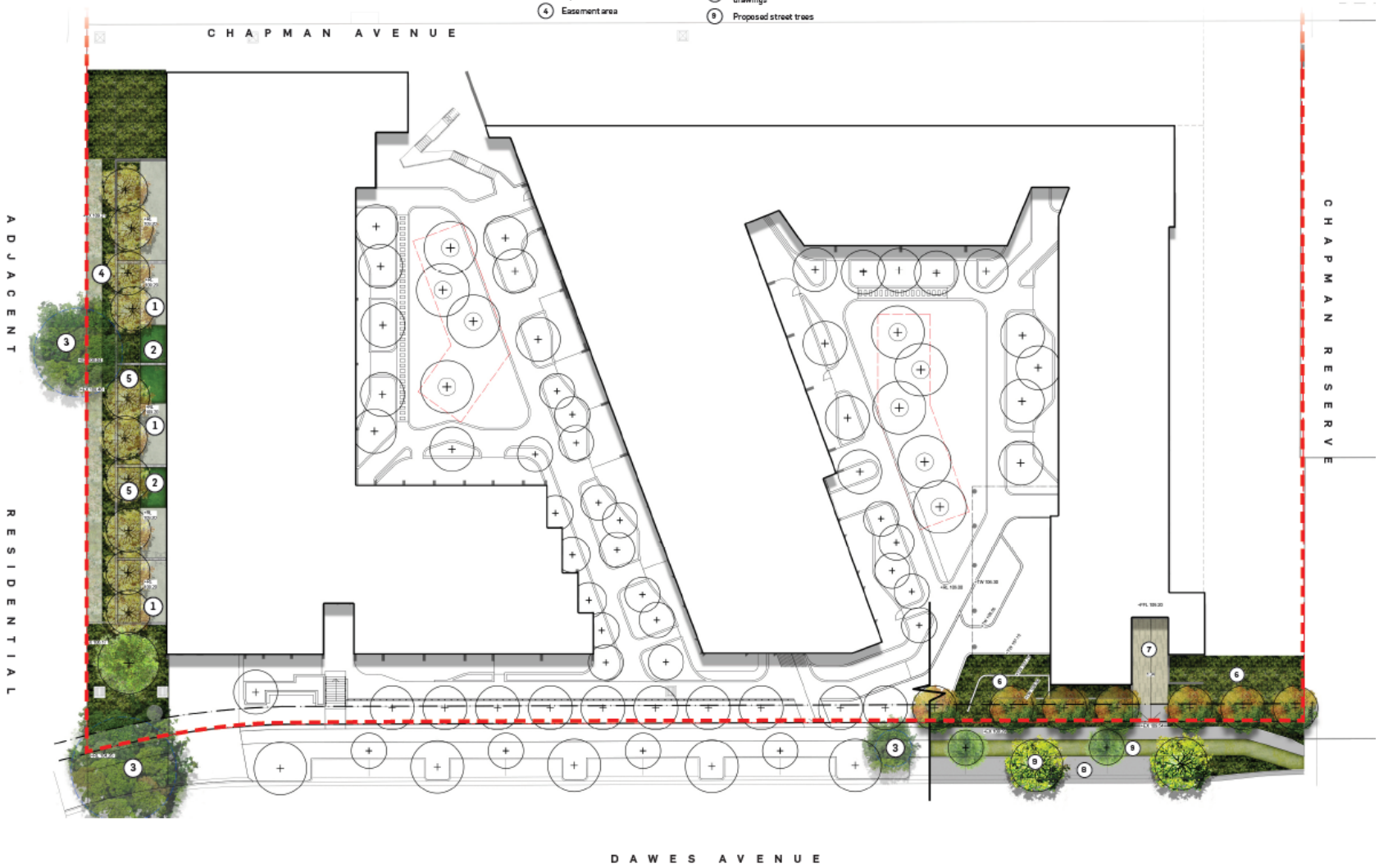
NOTE: Refer architect's drawings for all private terrace and communal fence details.

LEVEL 1 LANDSCAPE PLAN

LEGEND

1. Private terraces
2. Synthetic turf
3. Existing vegetation to be retained (refer to Arborists report for tree numbers)
4. Easement area
5. Private terrace buffer planting
6. Communal garden
7. Arrival entries
8. Parking bays refer engineer's drawings
9. Proposed street trees

NOTE: Refer architect's drawings for all private terrace and communal fence details.

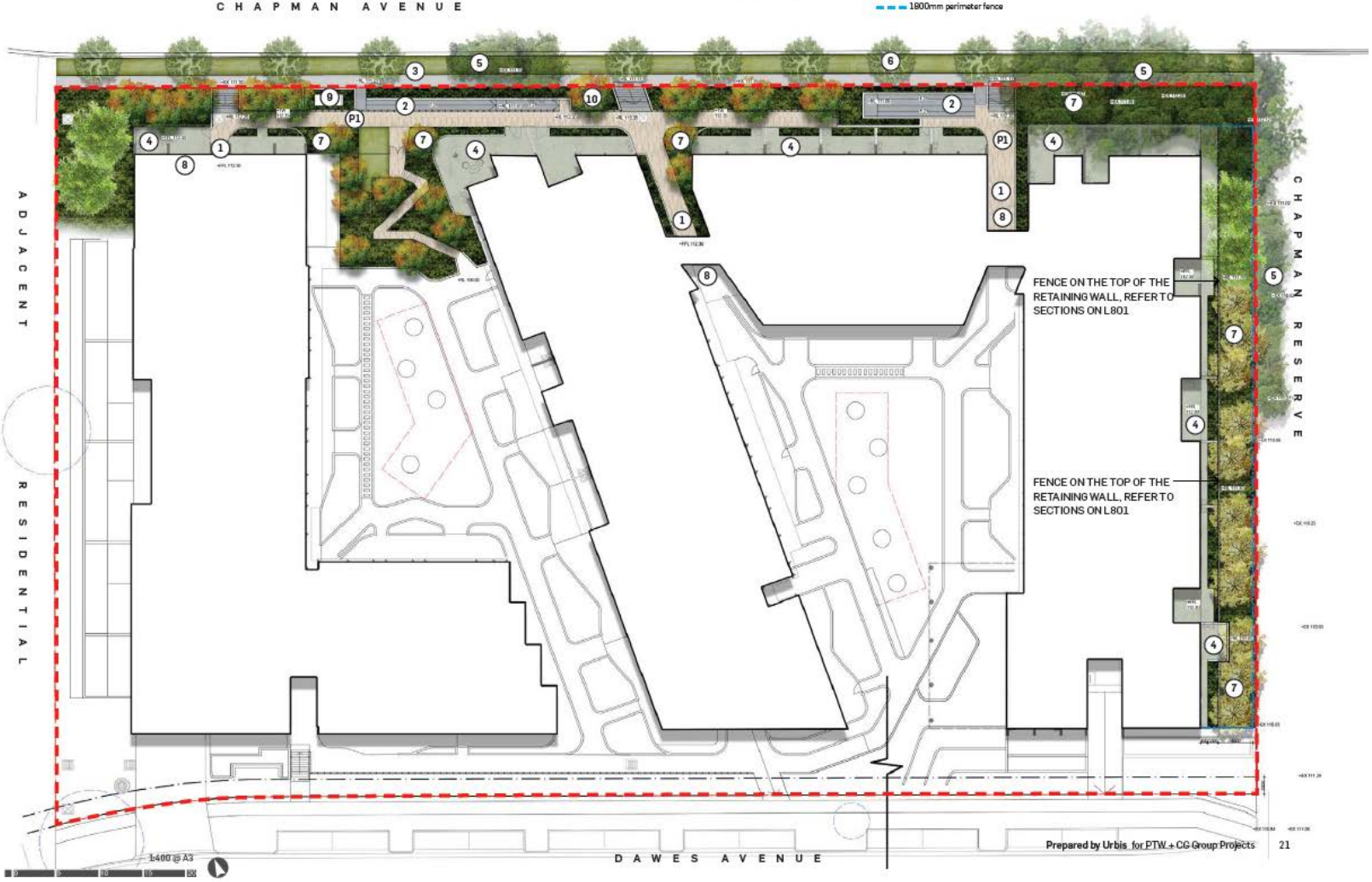


LEVEL 2 LANDSCAPE PLAN

LEGEND

1. Arrival entries
2. Accessible 1:20 ramp entries
3. Turf verge and public pedestrian footpath
4. Private terraces
5. Existing vegetation to be retained (refer to Arborists report for tree numbers)
6. Proposed street trees
7. Non accessible communal garden
8. Refer architect's drawings for entry facade details
9. Substation
10. Gas regulator
- P1 Proposed paving refer to materials strategy
- 1200mm high palisade fence
- 1800mm perimeter fence

NOTE: Refer architect's drawings for all private terrace and communal fence details.

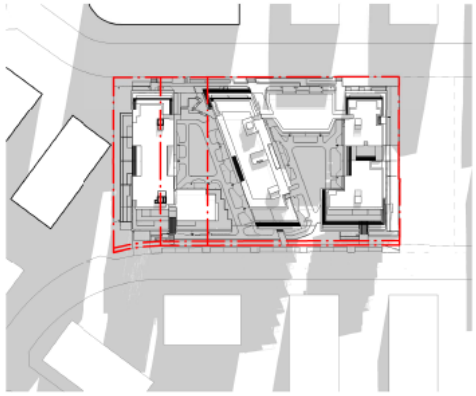


ROOFTOP LANDSCAPE CONCEPT PLAN (L4)

ROOFTOP LANDSCAPE CONCEPT PLAN (L6)

1:400 @ A3

ATTACHMENT 11 – SHADOW DIAGRAMS



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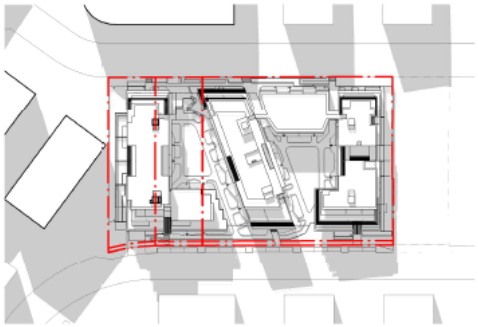

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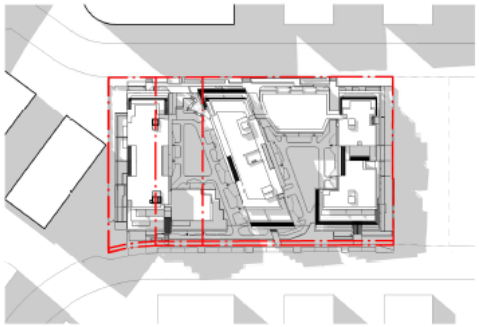

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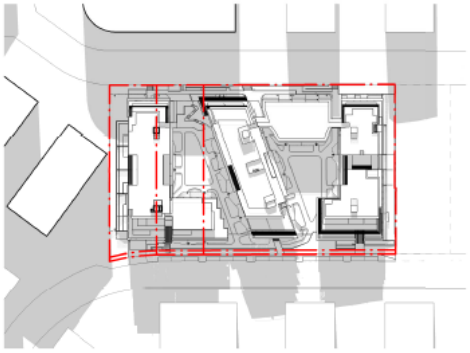

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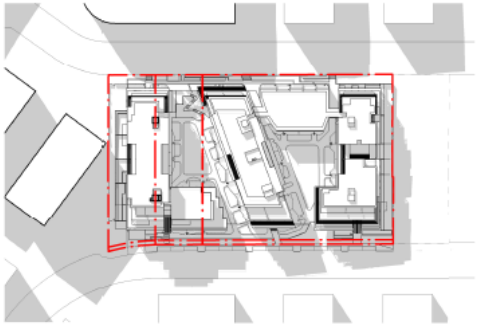

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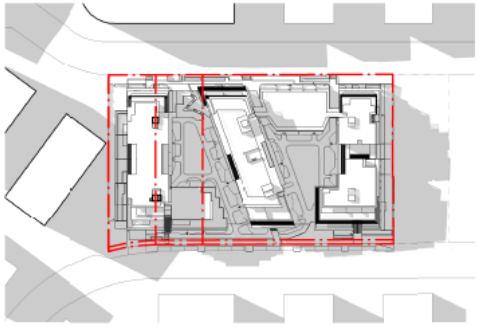

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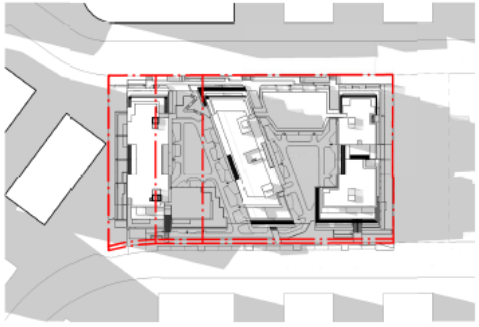

SHADOW_JUN21ST_3pm

Rev	Amendment	Date
A	DA Submission	24-07-18
B	Additional Information Received	19-12-18
C	AMENDED DA	03-05-19

Key Plan

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Project PA015641
Chapman Gardens
16-26 Chapman Ave & 17-27 Dewes Ave, Castle Hill
Status
DEVELOPMENT APPLICATION

Title
TO-COMPLIANCE
SHADOW ANALYSIS

Drawing Number DA-93-0400
Revision C

A1

ATTACHMENT 12 – FINISHES SCHEDULE

GLASS

G1 - Clear Vision Glass
G2 - Frosted Glass similar to Viridian LuminaMist

RENDER AND PAINT FINISHES

R1 - Colour to match **PC1**
R2 - Colour to match **PC4**
R3 - Colour to match **PC3**

COLOUR-BACK GLASS FINISHES

CB1 - Colour to match **PC1**
CB2 - Colour to match **PC4**

FIRE CEMENT CLADDING

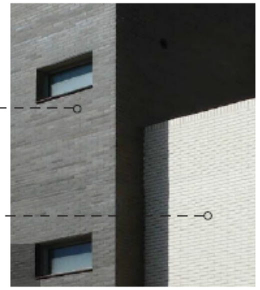
FC1 - Colour to match **PC4**

SOFFIT CLADDING FINISHES

SC1 - INNOWOOD Shiplap Ceiling Cladding WC17533 - Colour American Oak

BRICK FINISHES

BR1 - Face Brick Bowral 300 - Colour Bowral Blue with dark grey mortar
BR2 - Face Brick Bowral 300- Colour White with mid grey mortar



POWDERCOAT FINISHES

PC1 - Powdercoat to match Dulux "Surfmist"
PC2 - Powdercoat to match Dulux "Electro Medium Bronze"
PC3 - Powdercoat to match Dulux "Champagne Kinetic (Matt)"
PC4 - Powdercoat to match Dulux "Black Ace (Satin)"
PC5 - Powdercoat to match Dulux "Fresh Gold (Flat)"

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Project PA015641
Chapman Gardens
16-26 Chapman Ave & 17-27 Dawes Ave, Castle Hill

Status
DEVELOPMENT APPLICATION

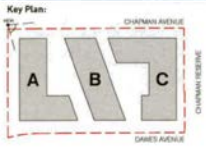
NTS

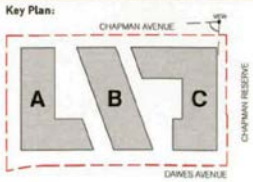
Title
50-EXTERIOR FINISHES
MATERIALS AND FINISHES BOARD

Drawing Number
DA-50-0100

Revision
C

ATTACHMENT 13 – PERSPECTIVES





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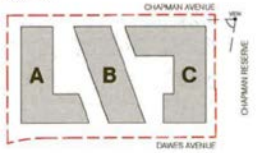
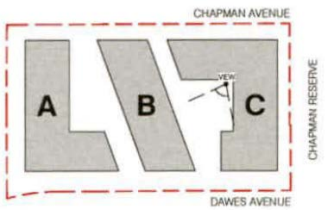

CHAPMAN AVENUE
A
B
C
CHAPMAN RESERVE
DAWES AVENUE


CHAPMAN AVENUE
A
B
VIEW
C
CHAPMAN RESERVE
DAWES AVENUE

ATTACHMENT 14 – CLAUSE 4.6 VARIATION REQUESTS

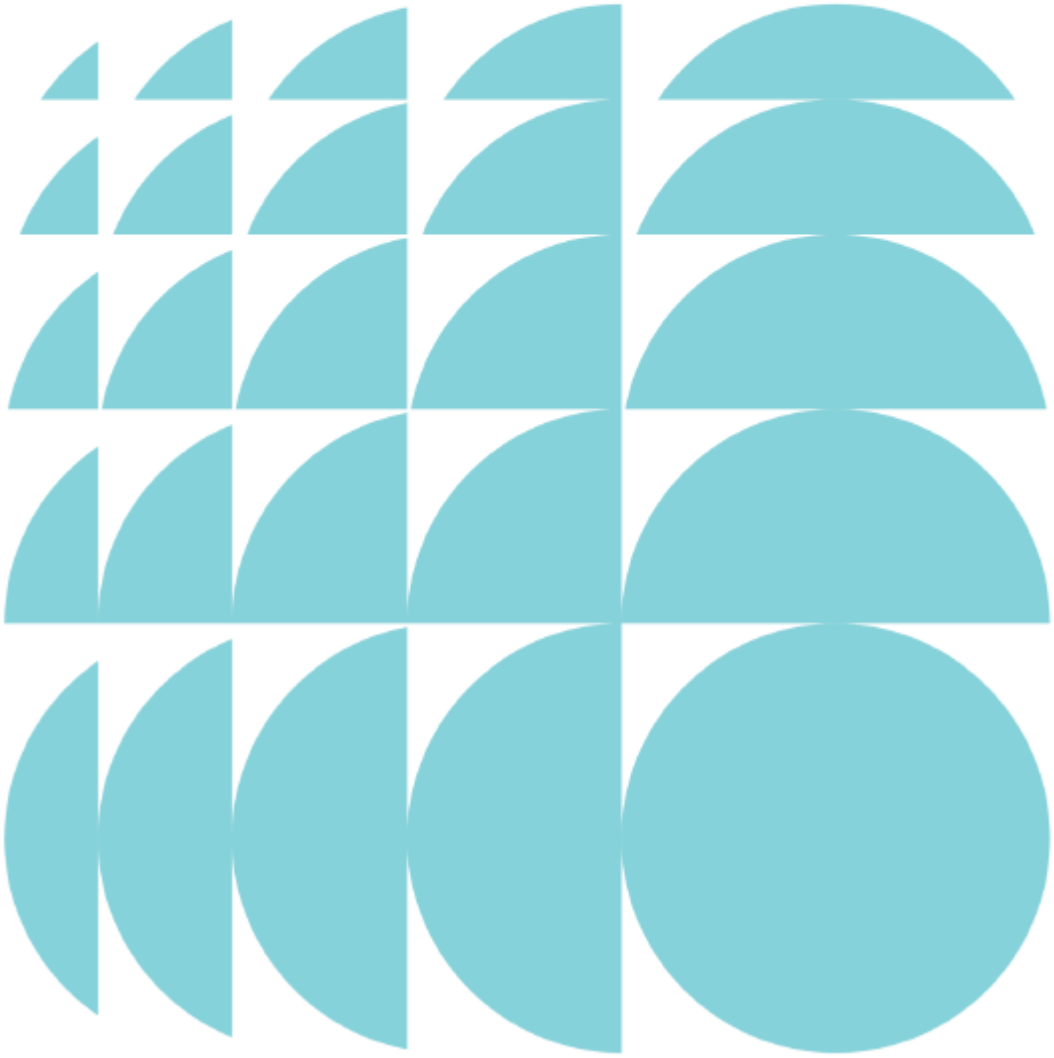
ETHOS URBAN

Amended Clause 4.6 Variation Request
Height of Buildings Development Standard

Residential Flat Building
16-26 Chapman Avenue and 17-27 Dawes Avenue, Castle Hill

Submitted to The Hills Shire Council
On behalf of CG Group Projects Pty Ltd

6 May 2019 | 17023



CONTACT			
Tom Goode	Director	tgoode@ethosurban.com	0406428465

This document has been prepared by:		This document has been reviewed by:	
Belinda Thomas	6 May 2019	Tom Goode	6 May 2019

VERSION NO.	DATE OF ISSUE	REVISION BY	APPROVED BY
1	26 JULY 2018	ETHOS URBAN	JMC
2	31 JULY 2018	ETHOS URBAN	TG
3	14 JANUARY 2019	ETHOS URBAN	TG
4	6 MAY 2019	ETHOS URBAN	TG

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ABN 13 615 087 931.
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173 Sussex Street, Sydney
NSW 2000 t 61 2 9956 6952

TABLE OF CONTENTS

Figures

Tables

1.0 Introduction

This addendum Clause 4.6 Exception to Development Standards request has been prepared by Ethos Urban on behalf of CG Group Projects Pty Ltd. It is submitted to The Hills Shire Council (Council) in support of a Development Application (DA) for a proposed residential flat building development comprising 258 units at 16-26 Chapman Avenue and 17-27 Dawes Avenue, Castle Hill.

This Clause 4.6 request has been amended to reflect a number of design changes at the request of the Hills Shire Council Design Review Panel during the DA assessment, including the reduction of the building bulk and scale of Building C. This has resulted in changes to the overall building height at some locations.

The Site comprises of 12 lots ranging in size from 934 m^2 to 965 m^2, resulting in site area of 11,322.7m^2. Importantly, the site's elevation ranges between approximately RL 112m in the east to RL 104 m in the west. This change in topography presents a steep sloping site with a fall of approximately 8 m. Further, the site has a split 'Height of Building' control in the LEP2012, with the control being 27m for the two lots adjacent to the western boundary and 21m for the remainder of the site. Parts of the building that exceed the height limit are due primarily to the shift in planning controls and significant change in topography.

Clause 4.6 of *The Hills Local Environmental Plan 2012* (*The Hills LEP 2012*) enables the Consent Authority to grant development consent for development even though it contravenes a Development Standard. The Clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better environmental outcomes for and from development.

This Clause 4.6 Exception to Development Standards request:

- Relates to the development standard for Height of Buildings under Clause 4.3 of *The Hills LEP 2012*;
- Should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban dated July 2018, the addendum SEE dated 1 May 2019, and with the amended Architectural Plans prepared by PTW Architects dated May 2019; and
- Demonstrates that compliance with the Height of Buildings Development Standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravention of the standard.

This Clause 4.6 Exception to Development Standards request demonstrates that, notwithstanding the non-compliance with the building height development standard, the proposed development:

- Achieves the objectives of Clause 4.3 – Height of Buildings in *The Hills LEP 2012* in that it will not affect the building's compatibility with surrounding development and will not make any material impact in terms of overshadowing, visual impact, and loss of privacy;
- Complies with the floor space ratio as per Clause 4.4 and Clause 9.7 (2) of *The Hills LEP 2012;*
- Provides a mix of large dwellings in close proximity to transport and jobs as per the vision of the Showground Station Precinct;
- Provides, with a level of flexibility to the maximum building height development standard, for a better planning outcome through the provision of a more consistent approach to building heights within the emerging precinct;
- Presents as a more common-sense application of the planning controls as they respond to the lot amalgamation, rather than an arbitrary application of the planning controls that clearly intend to scale down development as it moves away from the station;
- Provides for a medium / high density development foreshadowed for the north-west of Sydney, nearby to future transport corridors, that will contribute to the vitality and strength of the Showground Station Precinct; and
- Is considered to be in the Public Interest.

Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under Clause 4.6 of *The Hills LEP 2012*.

2.0 Development Standard to be Varied

The development standard that is sought to be varied as part of this application is Clause 4.3 of *The HLEP 2012*- Height of Buildings, which establishes the maximum building height permitted for the Site. In accordance with *The Hills LEP 2012*, the site is afforded a maximum building height of 27m for the two western lots and 21m for the remainder of the site as shown in **Figure 1**.

Clearly in the drafting of the new controls to support the Showground Precinct, the planning and design principle of scaling development away from the station has been implemented through the reducing height controls.

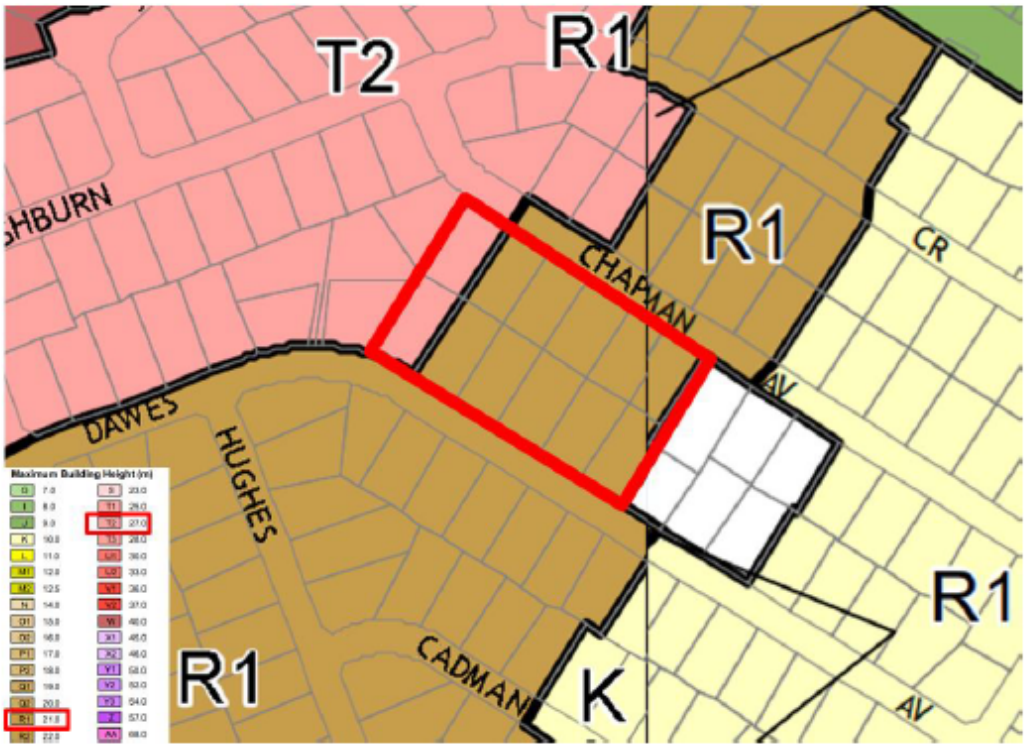


Figure 1 **Height of Buildings Map as applicable to the Site**

Source: *The Hills LEP 2012*

2.1 Is the Planning Control in Question a Development Standard

'Development Standards' are defined under Section 1.4 of the *Environmental Planning & Assessment Act 1979* (*EP&A Act, 1979*) as follows:

> *"development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: …*
>
> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work…"*

The building height control pursuant to Clause 4.3 of *The Hills LEP 2012* is clearly and unambiguously a Development Standard.

2.2 Extent of Variation Sought

The below figures show those parts of the proposed development that exceed the Height of Building control.

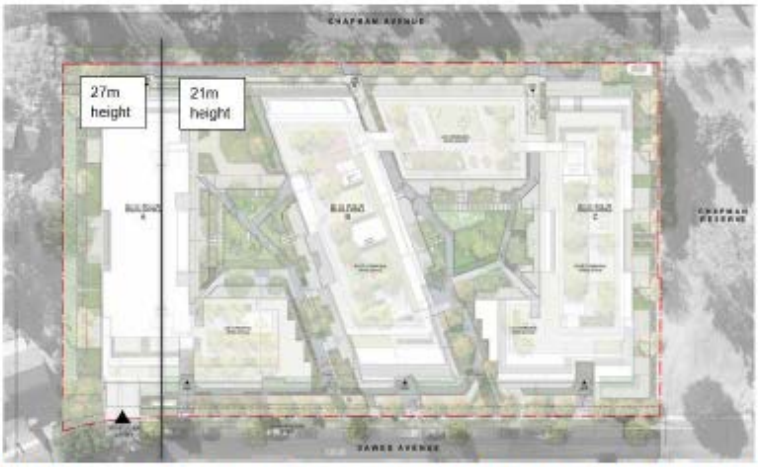


Figure 2 **Site Plan showing location of Building A, B and C and split in height control**
Source: *PTW*

Figure 3 **Original (left) and amended (right) height plane**
Source: *PTW*

The extent of variation and height limit line have also been indicated on each of the four main elevations as shown in the following **Figures 4 – 7**. The massing which does not comply with the building height control is shown in light blue.

Figure 4 **North Elevation - Chapman Avenue demonstrating the height variation**
Source: *PTW*

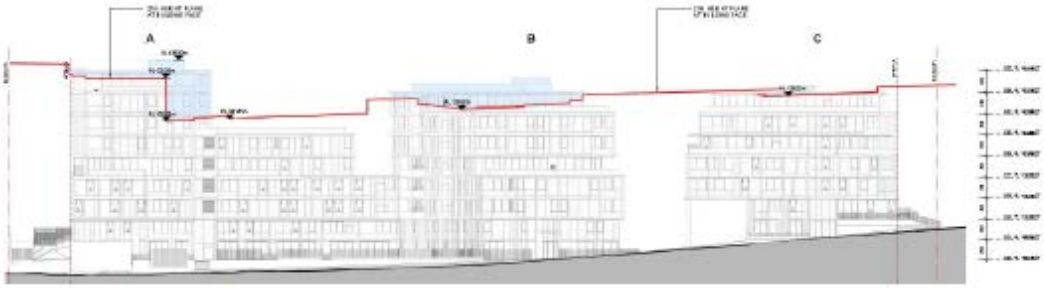


Figure 5 **South Elevation - Dawes Avenue demonstrating the height variation**
Source: *PTW*

Figure 6 **East Elevation - Building C as viewed from Chapman Reserve demonstrating height variation**
Source: *PTW*

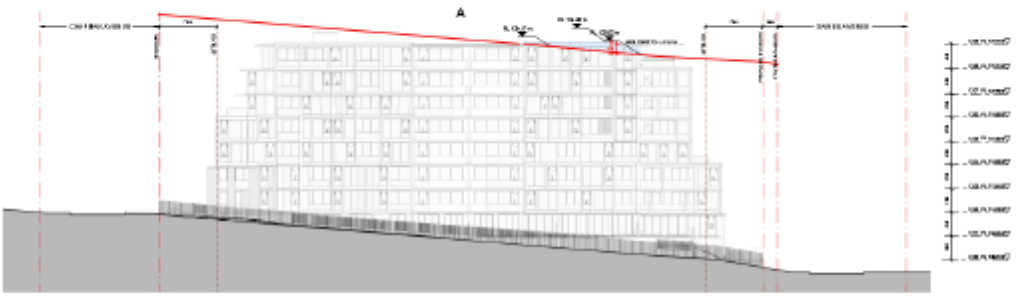


Figure 7 **West Elevation – Building A - demonstrating height variation**
Source: *PTW*

2.2.1 Building A

The proposed development will have a total maximum building height of 29.74m (RL136.00) to the lift overrun of Building A, which is 2.74m (10%) above the maximum 27m building height standard. The non-compliance is at the top storey of the western portion of Building A which is the highest part of the site.

The greatest extent of the variation is where the *Hills LEP 2012* height controls shift between the 27m and 21m (as shown in **Figure 1** and **Figure 2**) combined with the significant change in topography, being an 8m fall from Chapman Avenue to Dawes Avenue and the split LEP height standard.

2.2.2 Building B

Part of the upper setback roof plane for Building B exceeds the 21m building height control, at 23.58m (RL131.1) and the lift overrun at 25.14m (RL135.7).

2.2.3 Building C

The height of Building C has been reduced overall but with a small component of the massing relocated to the southern portion of that building. The relocated massing marginally extends the area of non-compliance for the roof plane and achieves a maximum height of 21.58m, 0.58m above the 21m height limit, (refer to **Figure 4** and **5**.

Table 1 provides the proposed building heights. Table whilst **Figures 2-7** illustrate the site plan, height variations and topography of the site.

Table 1 **Proposed building height**

Building	LEP Height	Location	Highest RL	Proposed Height (m)	Maximum Variation / portion of the building (m / %)
Building A	Part 27 m	Lift Overrun	RL 136.00 m	29.74	2.74 m (10%)
		Main Roof	RL 134.40 m	28.22	1.22 m (4.5%)
	Part 21 m	Main Roof	RL134.40 m	28.5	7.5 m (35.7%)
Building B	21 m	Lift Overrun	RL135.7 m	25.14	4.14 m (19.7%)
		Main Roof	RL131.10 m	23.58	2.58 m (12.2%)
Building C	21 m	Lift Overrun	RL.132.5 m	21.2	0.2 m (1%)
		Main Roof	RL.131.10 m	21.58	0.58 m (2.7%)

2.3 Site Context

Site context is an important consideration when determining the appropriateness and necessity of a development standard. The site is strategically significant and presents a unique opportunity to deliver the first private housing stock within the newly rezoned Showground Station Precinct which is in close proximity to key transport infrastructure and services whilst meeting the objectives of the building height standard.

The new Showground train station (currently under construction) is approximately 330 metres west of the site. The Sydney Metro corridor is a catalyst to connect with key employment centres from Castle Hill to Macquarie Park, Chatswood and the Central Business District. The Showground Station Precinct is intended to deliver 5,000 dwellings, transforming the area into a vibrant centre that makes the most of the available transport infrastructure and the precinct's proximity to jobs, retail and education opportunities within the Sydney Metro corridor.

It is also important to note that Chapman Reserve is immediately east of the site, which provides high amenity to the future residents in terms of outlook and open space. The residents will be able to activate the park.

The maximum building heights for the Showground Station precinct range from 16 to 20 storeys (52-68 m) adjacent to the Station, transitioning to a maximum of 12 storeys (40m) to 3 storeys (10m) in the residential area south of Carrington Road. Clearly the overriding urban design principle that is of importance to this report is the transitional nature of the LEP height control which seeks the reduce heights as development moves away from the Showground Station. The site and surrounding context are shown in **Figure 8** below.

Figure 8 **Site and Surrounding Context**
Source: *Near Maps*

3.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of *The Hills LEP 2012* provides that:

4.6 Exceptions to Development Standards

(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.

Further, Clause 4.6(4)(a) of *The Hills LEP 2012* provides that:

(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.

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

1. Wehbe v Pittwater Council [2007] NSW LEC 827; and
2. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009.

The relevant matters contained in Clause 4.6 of *The Hills LEP 2012*, with respect to the height of buildings development standard, are each addressed below, including with regard to these decisions.

3.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In the decision of *Wehbe v Pittwater Council [2007] NSW LEC 827*, Chief Justice Preston stated that there are five different ways in which a variation to a development standard might be shown as unreasonable or unnecessary in the circumstances of the case.

The five ways outlined in *Wehbe* include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Way**).
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Way**).
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Way**).
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 (**Fourth Way**).
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard

would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Way**).

This Clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because objectives of the standard are achieved notwithstanding the non-compliance (**First Way**) and the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Way**). We note that not all 'ways' need to be met.

3.1.1 First Way: The objectives of the standard are achieved notwithstanding non-compliance with the standard

The objectives as set out by Clause 4.3(1) of *The Hills LEP 2012* are as follows:

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

Objective (a): To ensure the height of buildings is compatible with that of adjoining development and the overall streetscape

The site will form one of the first new developments within the Showground Station Precinct following the rezoning in December 2017. The new development standards for the Precinct aim to significantly increase residential densities and increased heights (refer to **Figure 9**) and FSR throughout the Showground Precinct.

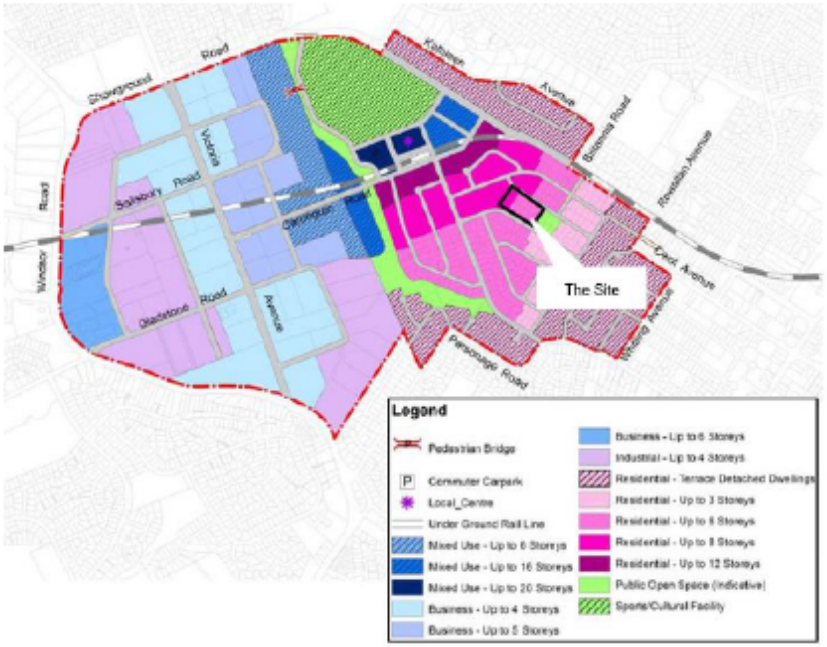


Figure 9 **Structure Plan- Showground Precinct**
Source: *Draft Hills DCP- Showground Precinct*

The subject DA has been designed having greater regard to the key principle behind the height controls within the precinct. In doing this, the proposal will more appropriately respond to, and be compatible with, the future development on adjoining sites.

As can be seen in the **Figure 10** below, the Site is opposite land to the north that has been primarily designated to provide buildings up to 27m (8 storeys). Should the alignment of the T2 Maximum Building Height control (27m) continue in a straight through the Subject Site, it would create a building control that is largely consistent with the built form provide in this proposed development.

As a result, the proposed development presents a far more contiguous built form in its context, than that which would otherwise strictly comply with the control.

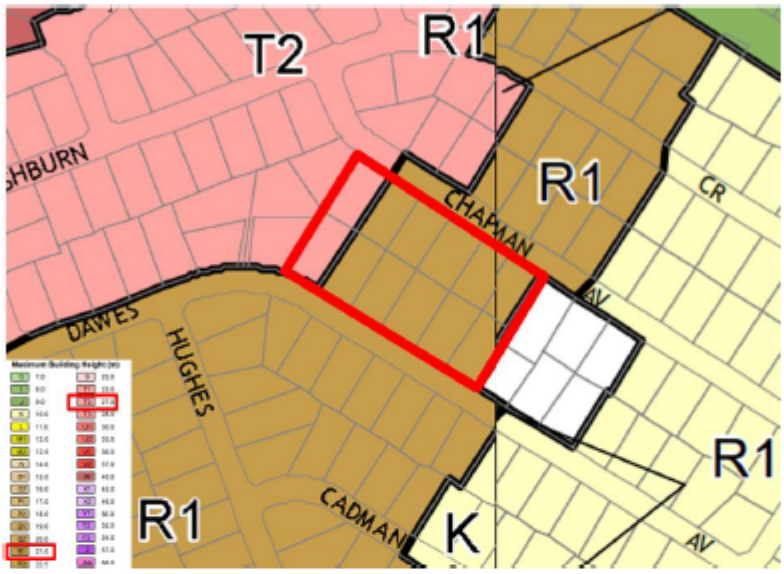


Figure 10 **Height of Buildings Map as applicable to the Site**

Source: *The Hills LEP 2012*

Further, the built form is stepped across the site to transition down away from the station, which is entirely consistent with the overall principle of height gradation which Council is seeking to enforce.

The height of building is entirely compatible with the envisaged future adjoining development in the Showground Station Precinct in that the development appropriately transitions to the surrounding sites and future proposed built form.

The majority of the proposed variations are related to components of the upper roof planes and lift overuns. The non-complying portions of the roof planes have been designed to be setback from the building facades where possible, thus reducing the overall visual impact of the height exceedance and ensuring that these elements are visually recessive from the public domain.

In summary, the proposal provides a contemporary built form which appropriately considers the existing and future built form and streetscape surrounding the site and provides a building which appropriately relates to the Showground Station Precinct in terms of its existing and future desired character.

Objective (b): To minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas

In the preparation of the rezoning for the Showground Station Precinct, the interface with neighbouring properties formed a key consideration in the development of built form controls. Higher scale development is envisaged closer to the train station with height transitioning to where adjoining low density residential development.

The proposed building height is considered appropriate in terms of overshadowing:

- The amended shadow diagrams illustrating the shadows cast from the amended development on 21 June (Winter Solstice) prepared by PTW (**Attachment B**) are shown below at **Figure 11**. The built form massing has been arranged to ensure a high level of solar access is achieved for the proposed dwellings (internally), whilst maintaining solar access to surrounding residential properties in compliance with the Apartment Design Guide.
- Solar access to the communal open space has been greatly improved due to the removal of the northern wing and the two storeys on south-eastern wing of Building A and the removal of the link building from Building C.
- Overshadowing predominantly falls on Dawes Avenue and its verge and the front building setback of properties on the southern side of Dawes Avenue. Although some additional overshadowing falls on the front setback and roof area of the properties to the south between 9am and 11am, the extent is considered acceptable in the site's context as a medium / high density precinct as it will have no amenity impact on the private open spaces anticipated at rear of lots. Notwithstanding the height variation, the neighbouring dwellings will continue to receive unobstructed solar access through the remainder of the day from 11am onwards and as such will meet all SEPP 65 Apartment Design Guideline requirements.
- Chapman Reserve is located to the east of the site and:
  - will maintain full sunlight for between 9am-12pm.
  - will experience some overshadowing between 12-2pm. However the shadow cast is not greater than that of a compliant scheme.

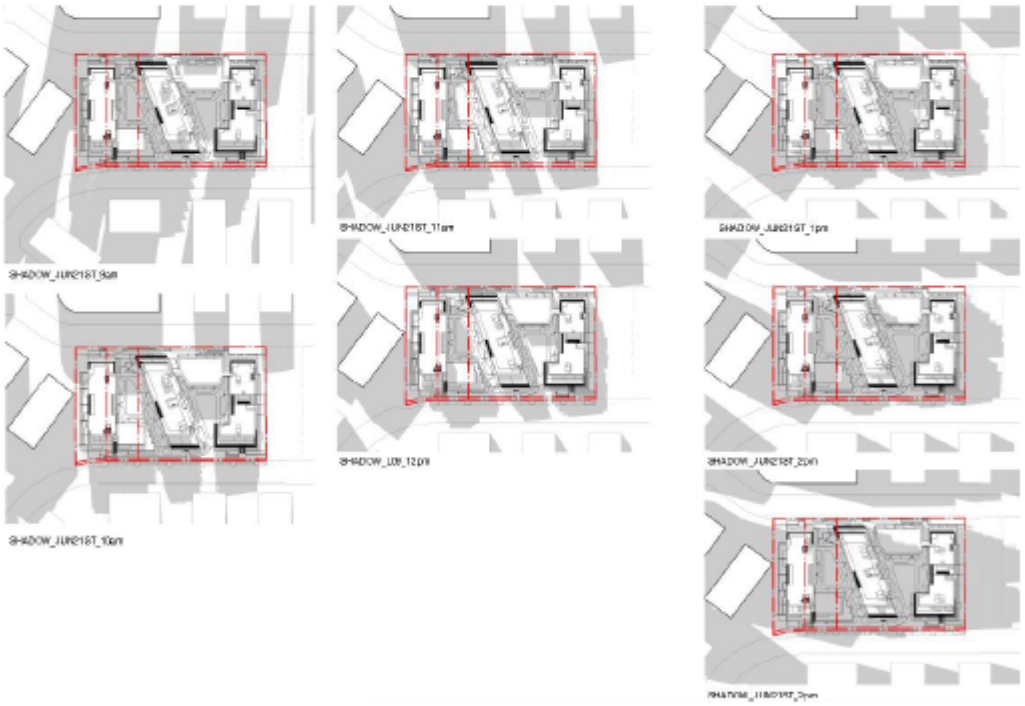


Figure 11 **Amended Shadow Analysis**
Source: *PTW*

In terms of the visual impact and loss of privacy, the proposal is considered as reasonable as:

- the height exceedances will not cause any undue view loss over that of a compliant scheme nor will it interrupt any important views. This is addressed further in Section 3.1.2 below;
- In terms of privacy, the proposed apartment layout and orientation has been carefully arranged within the parameters set by the DCP to ensure appropriate privacy is achieved within the site and between existing surrounding buildings. Privacy between the proposed dwellings within the site is achieved by appropriate building separation, offsetting principal windows of apartments and through landscaping and privacy screening. The height exceedance will not affect the privacy of adjoining residents. Furthermore, taller planting provides screening of the site boundaries and also provides visual separation from adjoining development along the side and rear boundaries.

3.1.2 Third Way: The underlying purpose of objective would be thwarted or defeated

Built Form

The objectives of clause 4.3 are clearly intended to manage the bulk and scale of buildings, in combination with the FSR standard to ensure that future developments are compatible with the existing and envisaged future character for the area and are capable of contributing to the increased density of Showground Precinct without creating additional environmental impacts.

However, the overarching purpose of the control is to transition building heights from the Showground Station. This is clearly being achieved within the proposed development, however the arbitrary LEP Height of Buildings control has been relocated to a more sensible location within the Subject Site that enables a building form that is functional.

If the proposal were to follow *The Hills LEP 2012* height control, the built form would look entirely incongruous and non-sensical but only to follow an arbitrary line on the LEP map. This is shown in **Figure 12** below, which gives an indication of the poor design outcome of an unviable (single-loaded) building envelope should the control be unreasonably enforced.

Full compliance with the control would clearly result in an inferior built form that does not meet the objectives of Height of Building standard and would provide a poor architectural outcome, without an appropriate height transition – which is not desirable in one of the first developments in the Precinct. This is a case where the architectural design is informed by planning controls rather than architectural design and design excellence criteria.

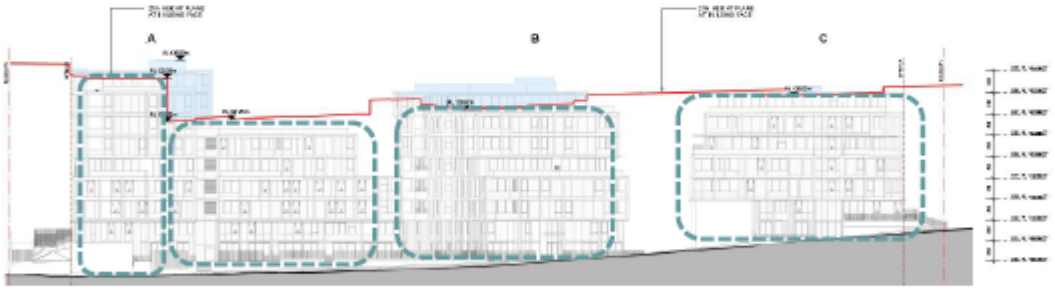


Figure 12 **Compliant LEP Heights**
Source: *PTW Architects*

The portions of the development that sit above the maximum building height controls (see **Figures 2-7** above) do not contribute to bulk or scale, as perceived from the public domain and the majority of other properties in the immediate locality for it will be barely perceived. Buildings A, B and C will be perceived as part 6, part 7 or part 8 storey buildings from Chapman Avenue and Dawes Avenue, see **Figures 13-15**. Congruently, as indicated in **Figure 12** above, should it be enforced, the built form will likely be entirely incongruous and poorly thought through without an appropriate built form for building A nor a stepping down transition between Building A to B.

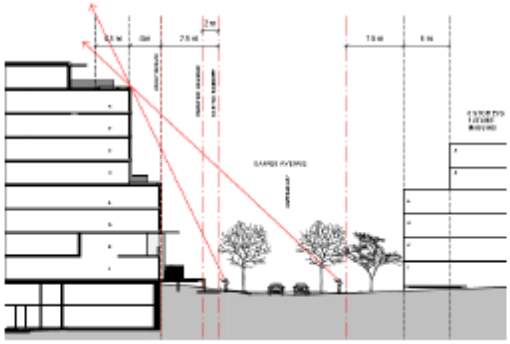


Figure 13 **Building A – 8 Storeys from Dawes Ave**
Source: *PTW*

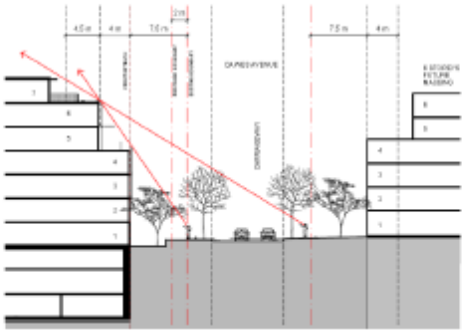


Figure 14 **Building C – 6 Storeys from Dawes Ave**
Source: *PTW*

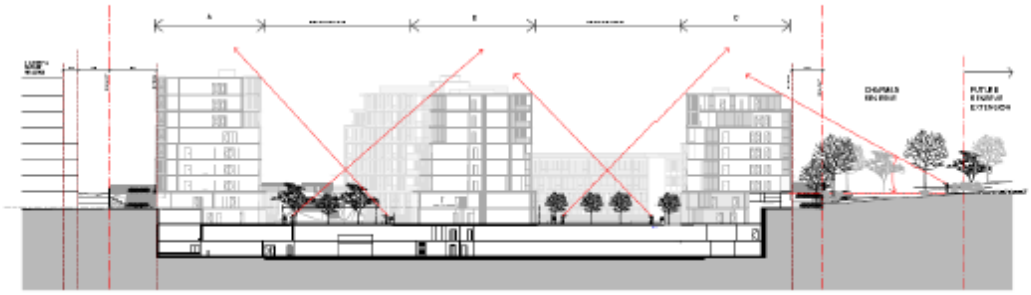


Figure 15 **Storey Height Section – Chapman Reserve**
Source: *PTW*

It is important to note that strict compliance with the height standard may result in a failure to satisfy the objectives of the development standard, and unduly inhibit the ability for the site to be developed consistent with the objectives for the R4 High Density Residential zone.

Incentivised FSR Control
Our interpretation of the newly drafted controls is that the Base FSR is consistent with the Height of Building development standard and DCP storeys control, however the instrument does not consider the incentivised FSR in any revised / incentivised Height of Buildings control and therefore the maximum building height does not correspond with the FSR. Therefore, the building height control does not accurately reflect the permissible incentivised maximum floor space ratio.

As such, the proposed FSR for the site is compliant however, the maximum building height standards do not correspond with applicable incentivised floor space ratios. Therefore, it is considered that compliance with the development standard would thwart the achievement of the objectives for FSR incentives.

Overshadowing
The development will be perceived as 6 storeys from Chapman Reserve and will not create additional overshadowing of Chapman Reserve than a scheme which complied with the height controls between 11am and 2pm. As outlined above additional overshadowing predominantly falls on Dawes Avenue and its verge and also on

the front building setback of properties on the southern side of Dawes Avenue till 11am. Although some additional overshadowing falls on the front setback and roof area of the properties to the south between 9am and 11am, this is considered acceptable in the site's context as a medium / high density precinct as it will have no amenity impact on the private open spaces anticipated at rear of lots.

3.2 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of The Hills LEP 2012 requires the departure from the development standard to be justified by demonstrating:

> *That there are sufficient environmental planning grounds to justify contravening the development standard*

In Four2Five, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site. In this regard, the proposed variation is particular to the circumstances of the proposed development on the site for the following reasons:

- The Site's steep and complex topography is the key feature that affects the building design and its non-compliances with the building height standard. The site's elevation ranges between approximately RL 112m in the east to RL 104 m in the west. This change in topography presents a steep sloping site with a fall of approximately 8 m;
- The Site topography forces a built form response with an inevitable exceedance of the height controls. This is because of the steep drop from Chapman Avenue to Dawes Avenue, coupled with the dips in levels that are through the middle of the site;
- There is a split height control that sits across the site that is arbitrary in nature and impedes the provision of a traditional, viable building envelope on the site.
- The height control is not consistent with the incentivised FSR applicable to the site. The development of this site up to 29.74m will allow for a consistent approach to development across the site and surrounding sites;
- The upper levels on Buildings A, B and C provide a staggered setback which also reduces the bulk and scale of the design;
- The additional height, which is largely attributed to minor components of the roof plane, has minimal adverse impact on the amenity of adjoining sites in terms of overshadowing and visual bulk.

3.3 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

3.3.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the maximum building height development standard, for the reasons discussed in Section 3.1.1 of this report.

3.3.2 Consistency with objectives of the zone

The proposed development is consistent with the objectives of the R4 High-Density Residential zone, as demonstrated below.

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

The proposed development is envisaged within the R4- High Density Residential zone as demonstrated through its permissibility.

The considerations of some of the environmental impacts outlined in Clause 4.3(1) of The Hills LEP 2012 that relate to overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas are all controls that require some level of flexibility in order to deliver housing 'within a high density residential environment'. Whilst these items have been studied closely, the intent for the lands are clearly outlined in the first Objective of the Zone.

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

The proposed development provides a mix of dwellings as required by Council.

Should the control be enforced, the built form would be highly compromised in terms of the buildability of the structure. As the LEP Height of Buildings control is only one lot wide (21m), and accounting for a 9m setback, this would result in only 12m of building within the 27m Height of Building control. This would therefore be a single loaded building which is both inefficient, but also a poor design outcome for the Precinct.

As detailed in Section 3.1.2 above, the ability to provide for the preferred housing mix on the site and achieve the Incentive FSR is incumbered by the ability to deliver the development within the (non-incentivised) Height of Building control. Therefore, development will be unlikely to achieve the maximum incentivised FSR due to the maximum building height control without some level of flexibility.

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

This objective is affected by the variation sought.

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

The proposal will provide high to medium density residential development in proximity to the new rail line (330 m from Showground Station), but importantly adjacent open space (Chapman Avenue Reserve).

A key tenet of this argument is based on the principles for the Height of Building control, which clearly seeks to transition height away from the centre of the Precinct (the Showground Station). This Principle is being adhered to within the proposed development, however it seeks some flexibility to allow for a sensible, developable building envelope that will not be incongruous with its surrounds.

3.4 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Director-General must consider the following matters:

(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.

These matters are addressed below.

3.4.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The Greater Sydney Region Plan sets a 40-year vision (to 2056) and establishes a 20-year plan to manage growth and change for Greater Sydney in the context of social, economic and environmental matters. The plan divides Sydney into districts. The Site falls within the Central City District Plan.

The variation of the maximum building height development standard does not raise any matter of significance for State or regional planning. We do note, however, that the proposal is consistent with the *Greater Sydney Region Plan* and *Central City District Plan* in that it:

- It allows for the transformative growth of the Showground Station Precinct into a transit-oriented centre, increasing access to jobs;
- Increases higher residential densities in the north-west of the city;
- Is located 330 m to the Sydney Metro North-west, which will open early 2019, as well as a number of other key transport routes;
- The proposed development will deliver new and desirable residential apartments in a manner consistent with the LEP; and
- The proposal has been designed with a high level of articulation to ensure no adverse amenity impacts to surrounding neighbours.

3.4.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

As demonstrated above, there is no public benefit maintaining the development standard in terms of State and regional planning objectives.

The public benefit is best served by the proposed development complying with the objectives of the Height Standard, rather than strictly complying with the numeric standard of the control.

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

3.4.3 Clause 4.6(5)(c): Any other matters required to be taken into consideration by the Secretary before granting concurrence.

There are no matters that require consideration by the Secretary.

4.0 Conclusion

The Clause 4.6 Exception to Development Standards has demonstrated that compliance with the maximum building height development standard contained in Clause 4.3 of *The Hills LEP 2012* is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a better outcome in planning and design terms.

This Clause 4.6 Exception to Development Standards demonstrates that, notwithstanding the non-compliance with the maximum building height development standard:

- The proposed development for residential flat buildings is permissible and is consistent with the objectives of the Height of Building control contained in *HLEP 2012;*
- The Proposal complies with the Floor Space Ratio control for the Site. However, the Height of Building standard does not reflect the incentivised maximum Floor Space Ratio control. Therefore, it is considered that compliance with the development standard would hinder the achievement of the objectives for both the R4-High Density Residential Zone and the 4.3 - Height of Building standard;
- The height variation relates to components of the upper roof plane of each Building and the plant rooms, servicing and lift overruns on the roof, these elements are setback and not readily visible from the public domain.
- The topography is a unique constraint which affects the site and results in a design that exceeds the numerical height limit. The steep 8m site slope from Chapman Avenue to Dawes Avenue forces a design that follows the topography of the site. It results in an inevitable exceedance of the building height standard, particularly over the centre part of the site where there is are dips in the ground level;
- Compliance with the building height standard would result in an inferior, arbitrary built form and a poor architectural outcome. Considering the maximum Height of Building controls cover only the western-most lot, following compliance with the setback controls, the actual depth of building that remains is only 12m. This is not a viable building footprint, nor is it architecturally desirable in the new Precinct;
- The Proposal is of a high-architectural quality that will make a great contribution to the development of the Showground Precinct and provide a high level of amenity for its occupants, and will achieve Design Excellence to contribute to the built-form within the Showground Station precinct;
- The Proposal will not result in additional amenity impacts beyond that of a compliant scheme;
- The Proposal provides for a high-density development foreshadowed for the north-west of Sydney, nearby to future transport corridors, that will contribute to the vitality and strength of the Showground Station Precinct; and
- All other requirements relating to height and land use are consistent;

A key tenet of this argument is based on the principles for the Height of Building control, which clearly seeks to transition height away from the centre of the Precinct (the Showground Station). This Principle is being adhered to within the proposed development, however it seeks some flexibility to allow for a sensible, developable building envelope that will not be incongruous with its surrounds.

Strict adherence to the development standard will not result in a better planning outcome for the land as it will prevent the development of a more meritorious, better considered proposal. This Proposal is in the Public Interest for the reasons outlined.

Overall, the proposal results in an opportunity to develop the site in a manner consistent with the Showground Station Precinct which seeks to increase residential densities in a way that will have an acceptable level of impact on adjoining sites and streetscape.

Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under Clause 4.6 of *The Hills LEP 2012*.

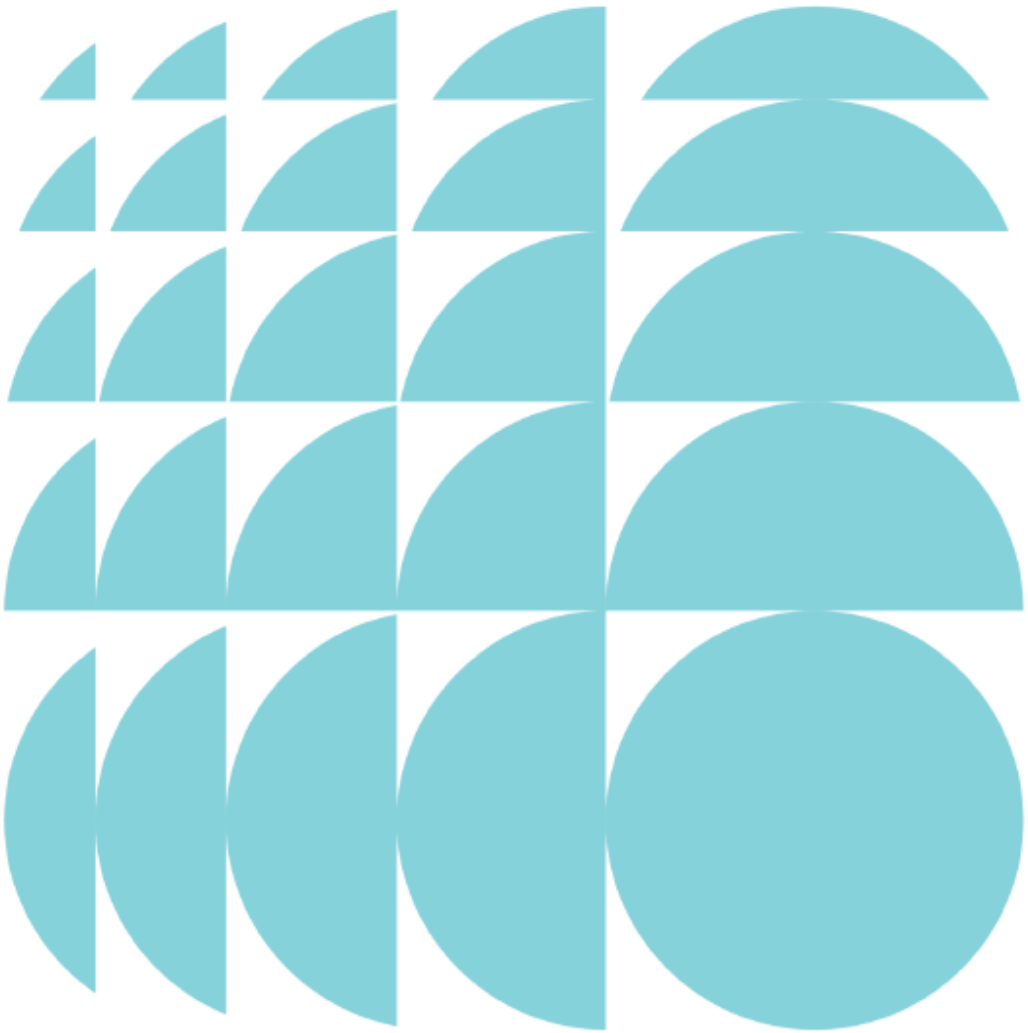
ETHOS URBAN

Clause 4.6 Variation Request
Floor Space Ratio Development Standard

Residential Flat Building
16-26 Chapman Avenue and 17-27 Dawes Avenue, Castle Hill

Submitted to The Hills Shire Council
On behalf of CG Group Projects Pty Ltd

August 2019 | 17023



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Figures

Tables

1.0 Introduction

This variation under clause 4.6 of *The Hills Local Environmental Plan 2012* (*The Hills LEP 2012*) has been prepared by Ethos Urban on behalf of CG Group Projects Pty Ltd.

It is submitted to The Hills Shire Council (Council) in support of a Development Application (DA) for a proposed residential flat building development comprising 258 units at 16-26 Chapman Avenue and 17-27 Dawes Avenue, Castle Hill (the site).

Clause 4.6 of LEP 2012 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

This clause 4.6 variation request is provided for completeness, despite the fact that the proposed development is consistent with the LEP definitions for floor space ratio (FSR) and Site Area:

- The proposed development is on a single consolidated site with 12 contiguous lots and a site area of 11,322.7m^2.
- ***The overall proposed FSR (2.301:1) of the site complies with the allowable FSR on the site (2.37:1).***

The site is split between two FSR development standards and the proposed exceedance of the FSR relates to the western portion of the site only and complies with the overall FSR for the broader site. The proposed departure from the development standard is therefore a technical non-compliance only. The utilisation of the GFA has been transferred across the site and the Design Review Panel considers the proposed development achieves Design Excellence.

This clause 4.6 variation request demonstrates that:

- achieves the objectives of Clause 4.4 of the LEP;
- provides a diverse mix of apartment sizes in close proximity to public transport and employment;
- achieves Council's strategic objective of providing larger unit sizes and a higher composition of 3-bedroom units to accommodate larger household types such as young couples with children, single parents with children and multiple family households;
- will not result in additional yield that would otherwise have been achieved with a compliant FSR scheme;
- achieves substantive compliance with other DCP (Development Control Plan) and Apartment Design Guide (ADG) built form and amenity controls;
- remains reasonable scaled and it is within the environmental capacity of the site to accommodate the development.
- will not result in any additional adverse environmental impacts as a result of the variation to the maximum FSR; and
- is considered to be in the public interest.

Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under Clause 4.6 of *The Hills LEP 2012*.

2.0 Site Context

Site context is an important consideration when determining the appropriateness and necessity of a development standard. The site is strategically significant and presents a unique opportunity to deliver the first private housing stock within the newly rezoned Showground Station Precinct which is in close proximity to key transport infrastructure and services whilst meeting the objectives of the building height standard.

The new Showground train station is approximately 330 metres west of the site. The Sydney Metro corridor is a catalyst to connect with key employment centres from Castle Hill to Macquarie Park, Chatswood and the Central Business District. The Showground Station Precinct is intended to deliver 5,000 dwellings, transforming the area into a vibrant centre that makes the most of the available transport infrastructure and the precinct's proximity to jobs, retail and education opportunities within the Sydney Metro corridor. To date consent has only been granted for 78 dwellings in the precinct. The proposed scheme is compliant with the incentive FSR and will not result in yield that would exceed the maximum potential for the site and thus will not result in the development obtaining a major component of the 5000-dwelling cap.

The maximum FSR for the Showground Station precinct range from 3.1:1 adjacent to the Station, transitioning to a maximum of 3.0:1 to 2.7:1 to 2.3:1 in the residential area south of Carrington Road. Clearly the overriding urban design principle that is the transitional nature of the LEP FSR control which seeks to reduce density as development moves away from the Showground Station. The site and surrounding context are shown in **Figure 1** below.

Figure 1 **Site and Surrounding Context**
Source: *Near Maps*

3.0 Background to the Incentive Floor Space Ratio

The site is located in the Showground Station Precinct and has a site area greater than 10,000sqm, therefore under clause 9.7 of *The HLEP 2012*, the proposal is eligible for an 'Incentive' FSR. The site is split between two floor space ratio development standards under *The Hills LEP* 2012 as shown in **Figure 2** and **3**. The site is afforded a base and an incentivised maximum floor space ratio ranging from 1.9:1 to 2.7:1 for the two western lots (26 Chapman Avenue and 27 Dawes Avenue) and 1.6:1 to 2.3:1 for the remainder of the site. The utilisation of the GFA has been transferred across the site and the Design Review Panel considers the proposed development achieves Design Excellence

Figure 2 **Site Plan showing location of Building A, B and C and split in FSR control**
Source: *PTW*

To achieve the incentive FSR, the proposal must meet certain requirements in relation to the proposed apartment sizes and mix and number of car parking spaces provided, as per clause 9.7 of the *HLEP 2012*.

> *9.7 Residential development yield on certain land*
>
> *(1) This clause applies to development that involves the erection of one or more buildings that contain dwellings on a lot that is:*
>
> *(a) within the Showground Station Precinct, and*
>
> *(b) has an area of:*
>
> *(i) 10,000 square metres or more, or*
>
> *(ii) less than 10,000 square metres because of the creation of roads and the consent authority is satisfied that the development will promote the orderly development of the precinct.*
>
> *(2) Despite clause 4.4, the consent authority may consent to development to which this clause applies with a floor space ratio that does not exceed the increased floor space ratio identified on the Floor Space Ratio Incentive Map, if the consent authority is satisfied that:*
>
> *(a) no more than 25% of the total number of dwellings (to the nearest whole number of dwellings) contained in the development are to be studio or 1 bedroom dwellings, or both, and*
>
> *(b) at least 20% of the total number of dwellings (to the nearest whole number of dwellings) contained in the development are to be 3 or more bedroom dwellings, and*

(c) at least 40% of all 2 bedroom dwellings contained in the development will have a minimum internal floor area of 110 square metres, and

(d) at least 40% of all 3 bedroom dwellings contained in the development will have a minimum internal floor area of 135 square metres, and

(e) the following minimum number of car parking spaces are to be provided on the site of the proposed development:

(i) for each dwelling—1 car parking space, and

(ii) for every 5 dwellings—1 car parking space, in addition to the car parking space required for the individual dwelling.

The proposal complies with the apartment sizes, apartment mix and car parking spaces as specified in clause 9.7 (2) of *The Hills LEP 2012* and is therefore eligible for the incentive FSR of 2.3:1 and 2.7:1.

A breakdown of the proposal against the key unit size and mix controls and parking spaces is provided below in **Table 1**.

Table 1 Apartment Size and Mix Table

Apartment Sizes/Mix and Parking Spaces	Proposed Dwellings/ Parking Spaces	Compliance with Clause 9.7
No more than 25% of dwellings are to be studio or 1-bedroom dwellings, or both	55 (21%)	✓
20% of dwellings are to be 3 or more-bedroom dwellings	54 (21%)	✓
40% of 2 bedroom will have a minimum internal floor area of 110 square metres	60 (40%)	✓
40% of 3 bedroom will have a minimum internal floor area of 135 square metres	22 (41%)	✓
1 car parking space/dwelling	1 car parking space per dwelling provided	✓
Plus, for every 5 dwellings—1 car parking space,	1 additional car parking space provided for every 5 dwellings	✓

4.0 Development Standard to be Varied

The development standard that is sought to be varied as part of this application is clause 4.4 of *The HLEP 2012*, relating to floor space ratio. The variation is sought for the incentive FSR ranging from 2.7:1 for the two western lots (26 Chapman Avenue and 27 Dawes Avenue) and 2.3:1 for the remainder of the site.

Clause 4.4 of LEP 2012 is reproduced below in its entirety, and an extract of the FSR Map, to which this clause applies, is reproduced in **Figure 3**

> *4.4 Floor space ratio*
>
> *(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.*
>
> *(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

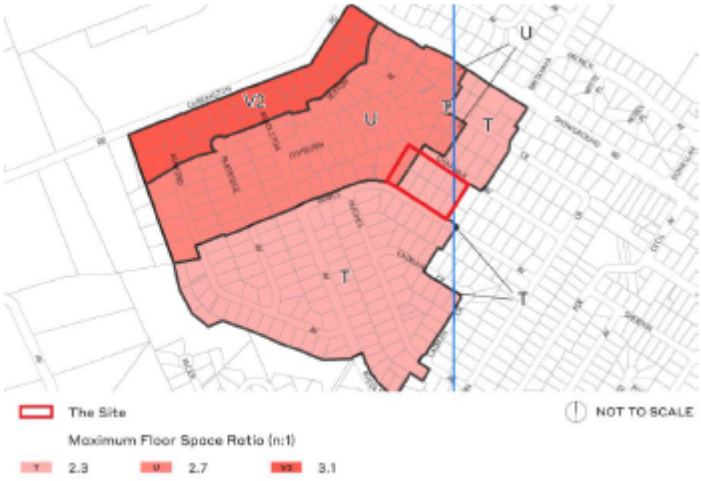

Figure 3 Incentivised FSR Map as applicable to the Site

4.1 Is the Planning Control in Question a Development Standard

'Development Standards' are defined under Section 1.4 of the *Environmental Planning & Assessment Act 1979* (*EP&A Act, 1979*) as follows:

> *"development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: …*
>
> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work…"*

The FSR standard prescribed under clause 4.4 of LEP 2012 is clearly and unambiguously a development standard and has continually been applied in this manner by the consent authority.

4.2 Extent of Variation Sought

Table 2 provides a consolidated summary of the GFA and FSR proposed. The proposed variation seeks to transfer 70m² to the part of the site with an FSR of 2.7:1, resulting in an FSR of 2.74:1 a minor FSR non-compliance of 0.04:1(1.3%) for this part of the site.

Importantly, the overall maximum GFA for the broader site is well under the permissible GFA by 745.73 m² which results in an average FSR of only 2.301:1. ***The overall proposed FSR (2.301:1) of the site complies with the allowable FSR on the site (2.37:1).***

Table 2 GFA and FSR summary

Site Component	Site Area (m²)	FSR	Proposed FSR	Permissible GFA (m²)	Proposed GFA (m²)	Difference (m²)	Variation (%)
'U' Add property details	1,894.3	2.7:1	2.74:1	5,114.61	5184.4	+70	1.36%
'T' Add property details	9,428.4	2.3:1	2.21:1	21,685.32	20,869.8	- 815	-3.76%
Total	**11,322.7**	**2.37:1**	**2.301:1**	**26,799.93**	**26,054.2**	**- 745.73**	**-2.78%**

5.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of *The Hills LEP 2012* provides that:

4.6 Exceptions to Development Standards

(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.

Further, Clause 4.6(4)(a) of *The Hills LEP 2012* provides that:

(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.

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

1. Wehbe v Pittwater Council [2007] NSW LEC 827; and
2. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009.
3. Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118; and
4. Turland v Wingecarribee Shire Council [2018] NSWLEC 1511.

The relevant matters contained in Clause 4.6 of *The Hills LEP 2012*, with respect to the FSR development standard, are each addressed below, including with regard to these decisions.

5.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In the decision of *Wehbe v Pittwater Council [2007] NSW LEC 827*, Chief Justice Preston (and subsequently in *Initial Action*) stated that there are five different ways in which a variation to a development standard might be shown as unreasonable or unnecessary in the circumstances of the case.

The five ways outlined in *Wehbe* include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Way**).
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Way**).
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Way**).

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 (**Fourth Way**).
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Way**).

This Clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because objectives of the standard are achieved notwithstanding the non-compliance (**First Way**) outlined in *Wehbe*.

In the recent judgment in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 the Chief Judge upheld the Commissioner's approval of large variations to height and FSR controls on appeal. He noted that under clause 4.6, the consent authority (in that case, the Court) did not have to be directly satisfied that compliance with the development standard was unreasonable or unnecessary but that the applicant's written request adequately addresses *(our emphasis)* the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.

Section 5.1 of this document addresses the matters in clause 4.6(3)(a), and in particular how the objectives of the development standard are achieved notwithstanding the non-compliance with the numerical control.

5.1.1 First Way: The objectives of the standard are achieved notwithstanding non-compliance with the standard

The objectives of the FSR development standard (under clauses 4.4 of LEP 2012), and an explanation of how these objectives are met notwithstanding the non-compliance with the numerical control is provided in **Table 3**.

Table 3 Consistency with objectives of FSR development standard

Objective	Proposal
Clause 4.4 Floor Space Ratio	
(a) to ensure development is compatible with the bulk, scale and character of existing and future surrounding development,	• The proposed building density across the site is consistent with the scale and massing permitted in the Showground Station Precinct and envisioned by the site's recent rezoning. The total site GFA is compliant with a combined FSR apportioned across the entire site. • The proposed development will not adversely impact on the solar access to surrounding properties as the additional overshadowing predominantly falls on Dawes Avenue, the verge and the front setback of the properties to the south between 9am and 11am. • The proposed exceedance of the GFA relates to the western portion of the site only and complies with the overall FSR for the broader site. The proposed departure from the development standard is therefore a technical non-compliance only. The proposed redistribution of floor space seeks to concentrate density in the western part of the site, away from Chapman Reserve to the east of the site.
(b) to provide for a built form that is compatible with the role of town and major centres.	• The proposed development will provide a built form that is compatible with the role of the new Showground Town Centre as the proposal will deliver 258 new high-quality residential apartments in a highly accessible and sustainable location that will facilitate to capitalise on the $20 billion NSW Government's Sydney Northwest Metro investment; • The built form will provide increased levels of housing supply of various size units in a location with proximity to the Showground Station which will support the new Metro as a catalyst for urban transformation in Sydney's northwest, opening up new economic benefits for The Hills Shire LGA; • As demonstrated throughout this variation, the proposed exceedance of GFA is required to facilitate the development of a new high-density housing development in Castle Hill. This will assist in establishing a well-located, and currently underutilised site within close proximity to new Showground train station and services in the Showground Precinct. As a result, the development (including the density proposed) will be compatible and assist in defining the role of the Showground Station Precinct.

Strict compliance with the FSR development standard would be unreasonable and unnecessary as the bulk and scale of the development responds to, and is consistent with, the broader context of the site and the high density built form that has emerged as the Showground Station Precinct transitions from a low density residential precinct to a high density residential precinct supporting the new Showground Town Centre. The bulk and scale of the proposal is consistent with this transition.

- The exceedance if for one part of the site only and overall, the FSR ***for the site*** complies with FSR controls
- The exceedance is negligible and not perceptible

The minor technical variation to the FSR control does not increase the intensity of the development in a manner that will give rise to adverse environmental impacts such as increased traffic, bulk and scale, overshadowing or loss of views..

The proposed exceedance of the GFA relates to the western portion of the site only and complies with the overall FSR for the broader site. The proposed departure from the development standard is therefore a technical non-compliance only. The proposed redistribution of floor space seeks to concentrate density in the western part of the site, away from Chapman Reserve to the east of the site.

5.2 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify a flexible approach to the application of the FSR development standard as it applies to the site. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action v Woollahra Municipal Council* [24] and *Turland v Wingecarribee Shire Council* [42]).

In Four2Five, the Court found that the environmental planning grounds advanced by the applicant in a clause 4.6 variation request must be particular to the circumstances of the proposed development on that site. With regards to this application, there are particular elements that contribute to the proposed development's variation to the FSR standard and these are detailed below:

- The incentivised FSR is not consistent with the height control applicable to the site. The development of this site will allow for a consistent approach to development across the site and surrounding sites;
- The upper levels on Buildings A, provide a staggered setback which also reduces the bulk and scale of the design;
- The additional FSR (70m^2) on the two western lots is largely attributed to minor components of the upper level and has minimal adverse impact on the amenity of adjoining sites in terms of overshadowing and visual bulk; and
- The marginal exceedance of 70m^2 (1.3%) could be distributed to the other component of the site and the impact and the outcome would be the same. Therefore, strict compliance with the FSR development standard is unreasonable and unnecessary and considering ***the overall proposed FSR of the site complies***.

5.2.1 Conclusion on clause 4.6(3)(b)

In light of the above, it is considered that there are no environmental planning grounds that warrant maintaining and/or enforcing the FSR development standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the FSR control through clause 4.6 of *The Hills LEP 2012*.

5.3 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

5.3.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the maximum FSR development standard, for the reasons discussed in Section 5.1.1 of this report.

5.3.2 Consistency with objectives of the zone

The proposed development is consistent with the objectives of the R4 High-Density Residential zone, as demonstrated below in **Table 4**.

Table 4 Consistency with objectives of the R4 High-Density Residential zone

Objective	Proposal
Objective (a): To provide for the housing needs of the community within a high density residential environment.	• The proposed development is envisaged within the R4- High Density Residential zone as demonstrated through its permissibility. The proposal will deliver 258 new high-quality residential apartments in a highly accessible and sustainable location and will provide for the housing needs of the community.
Objective (b): To provide a variety of housing types within a high density residential environment.	• The proposed residential flat building use is consistent with the zone objectives in that it will provide for a variety of high-density residential housing typologies ranging in size from 1 to 3 bedrooms and approximately 50m²-130m²; in proximity to the new Showground railway station and within the future Showground Town Centre.
Objective (c): To enable other land uses that provide facilities or services to meet the day to day needs of residents.	• This objective is not affected by the variation sought.
Objective (d): To encourage high density residential development in locations that are close to population centres and public transport routes.	• The proposal will provide high density residential development in proximity to the new rail line (330 m from Showground Station), but importantly adjacent open space (Chapman Avenue Reserve). • A key tenet of this argument is based on the principles for the floor space ratio control, which clearly seeks to transition FSR away from the centre of the Precinct (the Showground Station). This Principle is being adhered to within the proposed development, however it seeks some flexibility to allow for a sensible, developable building envelope that will not be incongruous with its surrounds.

Given the circumstances of the case, strict numerical compliance with the FSR control applying to the site would be unreasonable on the basis that the proposed development achieves compliance with the overall FSR for the site and the objectives of the standard, whilst delivering a better planning and urban design outcome through more appropriate distribution of the permitted FSR. Further, the proposed minor technical exceedance of the aggregate GFA / FSR will not impact the proposal's consistency with the objectives of the development standard and would limit the site's ability to provide a viable, high-quality, high density residential development in the Showground Station Precinct.

5.4 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Secretary must consider the following matters:

(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.

These matters are addressed below.

5.4.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The technical exceedance of the maximum FSR development standard on the two western lots does not raise any matter of significance for State or regional planning. Rather the development, including the proposed variation, is consistent with the proposal is consistent with the *Greater Sydney Region Plan* and *Central City District Plan* in that it:

- Allows for the transformative growth of the Showground Station Precinct into a transit-oriented centre, increasing access to jobs;
- Increases higher residential densities in the north-west of the city;
- Is located 330 m to the Sydney Metro North-west, as well as a number of other key transport routes;
- Will deliver new and desirable residential apartments in a manner consistent with the LEP; and
- Has been designed with a high level of articulation to ensure no adverse amenity impacts to surrounding neighbours.

5.4.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

As demonstrated above, there is no public benefit maintaining the development standard in terms of State and regional planning objectives.

The public benefit is best served by the proposed development complying with the objectives of the FSR Standard, rather than strictly complying with the numeric standard of the control.

As noted in the preceding sections, the additional FSR proposed is minor and a technical exceedance only. It would not give rise to any adverse environmental impacts. The proposed technical variation is a result of the desire to create a development with a massing which responds to the surrounding development.

Full compliance in this instance would likely result in the floorspace being transferred to other parts of the site or being lost altogether, which would limit the viability of the proposal by restricting the layout could potentially further impact on solar access to Chapman Reserve.

The proposed variation will also facilitate the development of a viable, high quality development on the site, and to act on the unique opportunity this site presents to support the Showground Station Precinct. through improved urban design outcomes, the provision of additional housing stock with good residential amenity, within 5-minute walking distance to the new Showground Station.

5.4.3 Clause 4.6(5)(c): Any other matters required to be taken into consideration by the Secretary before granting concurrence.

It is noted that the redistribution of GFA and the proposed variation to the maximum permissible GFA will not be detrimental to the amenity of the surrounding locality with respect to traffic, built form, overshadowing or view loss. Rather, the proposed variation is required to support the viability of the proposed Showground Precinct.

6.0 Conclusion

The Clause 4.6 Exception to Development Standards has demonstrated that compliance with the Floor Space Ratio Development Standard contained in Clause 4.4 of *The Hills LEP 2012* is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a better outcome in planning and design terms.

This clause 4.6 variation request is provided for completeness, despite the fact that the proposed development is consistent with the LEP definitions for floor space ratio (FSR) and Site Area. The proposed development is on a single consolidated site with 12 contiguous lots and a site area of 11,322.7m^2. The combined allowable FSR on the site is 2.37:1 and ***the overall proposed FSR (2.301:1) of the site complies***.

This Clause 4.6 Exception to Development Standards demonstrates that, notwithstanding the non-compliance with the FSR development standard:

- the proposed development for residential flat buildings is permissible and is consistent with the objectives of the FSR control contained within the LEP;
- the proposed exceedance of the GFA relates to the western portion of the site only and complies with the overall FSR for the broader site. The proposed departure from the development standard is therefore a technical non-compliance only. The proposed redistribution of floor space seeks to concentrate density in the western part of the site, away from Chapman Reserve to the east of the site. ***The overall FSR of the site complies***;
- The utilisation of the GFA has been transferred across the site and the Design Review Panel considers the proposed development achieves Design Excellence;
- the proposal provides for apartment sizes that are on average larger than ADG apartment sizes in order to enhance residential amenity, attract families and deliver a superior product to the market;
- the proposal provides for a diversity of housing stock and choice that is commensurate with Council's strategic objectives for high density residential living within the Sydney Metro Northwest Urban Renewal Corridor;
- the proposal is of a high-architectural quality that will make a great contribution to the development of the Showground Precinct and provide a high level of amenity for its occupants, and will achieve Design Excellence to contribute to the built-form within the Showground Station precinct;
- the proposal will not result in additional amenity impacts beyond that of a compliant scheme;
- the proposal provides for a high-density development in proximity to transport corridors, that will contribute to the vitality and strength of the Showground Station Precinct; and
- all other requirements relating to FSR and land use are consistent.

Strict adherence to the development standard will not result in a better planning outcome for the land as it will prevent the development of a more meritorious, better considered proposal. This Proposal is in the Public Interest for the reasons outlined above.

Overall, the proposal results in an opportunity to develop the site in a manner consistent with the Showground Station Precinct which seeks to increase residential densities in a way that will have an acceptable level of impact on adjoining sites.

Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under Clause 4.6 of The Hills LEP 2012.

THE HILLS
Sydney's Garden Shire

MEETING REPORT
DESIGN REVIEW PANEL

Date:	27-02-19	**Time:**	2.30pm-3.30pm
Location of Meeting:	Community Rooms 1+2		
Panel Members:	**Chairperson - Tony Caro** **Panel Member - Stephen Pearse** **Panel Member - Adam Hunter**		
Councillors:	**None present**		
Council Staff:	Paul Osborne, Hugh Halliwell, Marika Hahn		
Guests:	Grace Rian – CG Group Kyle Huang – CG Group Siobhan McInerney – Architect (PTW) Simon Parsons – Architect (PTW) Mark Kuhne – Landscape Architect (Urbis) Belinda Thomas – Planner (Ethos Urban) Tom Goode - Planner (Ethos Urban)		

BUSINESS ITEM AND MEETING MINUTES

1. Welcome and Opening

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

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

The Panel provides recommendations on the following:

- Any development which contains a building with a height of 21 metres or more; or 6 storeys (or both) but no higher than 66m or 20 storeys (or both).
- Any strategic planning matters for which design excellence is relevant.

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

2. Declaration of interest
"Nil"

3. Confirmation of previous minutes
Confirmed by email

4 Presentations

Item 4.3	2.20pm – 3.20pm
DA Number	**DA 192/2019/JP**
Property Address	16-26 Chapman Avenue, Castle Hill
Proposal	This meeting is at the request of the applicant regarding proposed changes to the development that was presented to the Panel on 17-01-19.  Residential Flat Development comprising 3 building blocks ranging in height 6-9 storeys resulting in 266 units, basement car parking for 431 car parking spaces.
Applicant representative address to the design review panel	Tom Goode – Ethos Urban Simon Parson – Architect PTW (registration-6098) Mark Kuhne - Landscape Architect - Urbis
Background	The site was inspected by the panel on Wednesday the 27th of February at 9.50 am
Key Issues from previous Panel meeting	• Bulk and scale • Sunken apartments with setback encroachment by courtyards • Loss of established trees in street setback areas • Extensive below grade access corridors • Development relationship and presentation to Chapman Reserve

DOCUMENTATION – provided for the 17-01-19 Panel Meeting

The Design Excellence Panel reviewed the following drawings:

Design Verification Statement, 26/07/18, by PTW signed Simon Parsons

SEPP 65 Design Statement, 26/07/18, by PTW signed Simon Parsons

Architectural Drawings Rev C, 18/12/18, by PTW

Statement of Environmental Effects, 31/07/18, by Ethos Urban

Chapman Gardens Castel Hill Landscape Development Application, 19/10/18, by Urbis

Chapman Gardens Castel Hill Planting Plans, 12/12/18, by Urbis

DOCUMENTATION – provided for the 27-02-19 Panel Meeting

Received:

Letter addressed to Marika Hahn Urban Designer THSC itemising design changes to be discussed at February 27th Meeting 2019, 13/02/17, by Belinda Thomas Principal Planner Ethos Urban

Appendix A – Sketch Plans, 13-02-19, by PTW

Appendix B – Proposed Landscape Updates, 13-02-19, by Urbis

DOCUMENTATION – presentation by applicant at the 27-02-19 Panel Meeting

Design review Panel Proposed amendments, received 06-03-19, Ethos Urban

DEVELOPMENT BACKGROUND SUMMARY

On 17/01/19 **DA 192/2019/JP** was presented the Design Review Panel. Following the meeting the applicant requested a workshop to present proposed changes in accordance with the Panel recommendations before undergoing architectural revisions. In accordance with the Government Architect's requirements the panel composition must vary at every Panel meeting, with at least one member sitting at each Panel meeting. The documentation submitted to the Panel meeting of the 17-01-19 was made available to panel members sitting on the 27/02/19 meeting, in addition to the published DRP meeting report. Prior to the panel meeting the applicant submitted prepared rough sketch drawings as listed. The applicant presented a power-point presentation at the second meeting, which was not provided to Council and Panel until a week following the meeting.

It should be understood that the Design Review Panel an advisory panel, not a consent authority. The DRP meetings are an opportunity for the applicant and the Panel to engage in discussion aimed at improving design quality, and for the Panel to make recommendations to the applicant and Council to assist in achieving this.

Site location

PANEL COMMENT

The Panel acknowledges that many items from the previous DRP report 17-01-19 recommendations have been reviewed by the applicant. For clarity, the Panels previous comments (*repeated below in grey italics*) have been used to structure the Panels comments below. These new comments do not necessarily supersede previous advice and as such should be read in conjunction with the previous DRP report.

• The Panel is concerned that the density sought compromises the overall amenity of the development.

COMMENT: The Panel re-iterates previous advice that in achieving maximum allowable FSR applicants must demonstrate compliance with the intent and objectives of the key controls. In this case the additional height sought for Building B is not supported. The meeting discussed other

strategies for allocating floor-space that could comply more closely with the controls, and it was understood by the Panel that the applicant intended to further investigate these options.

• Seeking the maximum allowable FSR has resulted in a compromised design outcome and the lower level subterranean apartments achieved by substantially reducing the ground level has not resulted in an acceptable amenity outcome. Twenty apartments have compromised amenity.

COMMENT: Removal of 4 units to open up the common courtyards to the Chapman and Dawes street frontages (proposed amendments A and C on supplied documents) has partially addressed this issue, as would the proposed deletion of 3 and re-allocation of 4 of the 7 lower level units from the Chapman Reserve park frontage (proposed amendments D and E on supplied documents). A number of units appear to remain affected by their subterranean location at ground floor level facing into the Building B+C courtyard, complicated by 2 level units on the supplied sketches without internal plans indicated. The Panel recommends that the applicant supply a series of building sections to clearly illustrate the relationships between the units, the courtyard and the park.

• The Panel recommends a significantly higher level of landscape presence across the entire development and its surrounding public domain.

COMMENT: Whilst the proposed amendments are positive and supported by the Panel (in particular retention of large trees on Chapman Avenue), the revised proposal does not go far enough in addressing the key controls and the Panels recommendation that this and all sites in the precinct should deliver a substantially greener, verdant landscape environment.

The small planter in the east courtyard is tokenistic and is not genuine deep soil as defined in various documents. The Panel has a view that central courtyard landscape is crucial to the sustainability of this new precinct, and that a strong presence of large mature trees is essential in achieving a range of long-term environmental benefits. In this context the meeting discussed an alternative of a one metre deep structural set-down over a substantial portion (at least 50%) of both courtyards to allow for up to 1.5m of mounded soil depth capable of effectively supporting large trees. It was understood by the Panel that the applicant intended to investigate this alternative strategy.

The number of medium to large sized trees proposed should be reviewed against the ADG guidelines for deep soil on structure areas, and must also be cross referenced/checked against elevations and CGI images.

The landscape strategy must be fully proofed to Councils landscape architects satisfaction, to ensure that proposed tree planting has the required clear soil volumes unencumbered by garden walls or other factors for deep soil and on structure zones for small medium and large trees as per ADG.

The Panel sought clarification of the location and size of the OSD tank and whether it was intended to recycle rain and storm water on site.

• Building services such as fire hydrant and fire sprinkler booster valves are to be integrated as part of the landscaping strategy or incorporated into the entryways to avoid any diminution of streetscape visual quality.

COMMENT: Not demonstrated in submission other than “screen planting” noted. Panel notes and supports applicants stated intention to relocate footpath substation to new screened location clear of existing vegetation.

At the meeting the applicant advised when queried that HVAC condenser units are to be located on private balconies. . These items are noisy, take up space, and require internal bulkheads: an alternative rooftop solution would therefore be preferable. Along with BBQs, bicycles and washing lines, these A/C units have a detrimental visual impact on the public domain unless thoughtfully screened and integrated into the overall façade design.

• Revise courtyard encroachments from all setbacks and provide substantial landscaping.
COMMENT: Substantially addressed. Ensure courtyard compliance of minimum $15m^2$/ unit, with width of at least 2m (ADG).

• Any significant tree removal to be supported by an arborist report.
COMMENT: Not discussed, Council officers to ensure this is provided prior to consent.

• Conflicts with proposed services and existing trees require the re-location of the services provision.
COMMENT: Not discussed, Council officers to ensure this is resolved prior to consent.

• Sign off from both the Council Landscape DA officer and relevant Manager of Vegetation works is required for the removal of any trees over 3meters in height in the street and building setback areas.
COMMENT: Not discussed, Council officers to ensure this is provided prior to consent.

• Superfluous pedestrian circulation is to be replaced with soft landscaping.
COMMENT: Substantially addressed.

• Resolve all ADG non-compliances.
COMMENT: The applicant noted that the DA scheme and the proposed amendments would be further reviewed to comply with SEPP65 and ADG once the proposed amendments are confirmed. Council officers to further review and comment.

• Internal planning of large units to provide greater choice, amenity and useability for occupants.
COMMENT: Not addressed in submission. Note: Compliance or otherwise with LEP2012 incentivised clause 9.7 should be clarified with Council staff.

• Remove subterranean terraces.
COMMENT: Substantially addressed.

•All ground floor apartments addressing a street are to at a minimum of 300mm above existing ground level in compliance with DCP control.
COMMENT: Substantially addressed.

• Revise the development presentation to Chapman Reserve.
COMMENT: The park interface at ground level is much improved in its level relationships and landscape proposal.
The architects propose removal of units within two upper central levels of the built form facing Chapman Reserve. This would have a positive impact on the perception of scale and bulk along this important public interface. The architectural detail of the lower levels in this central section should be designed to enhance a sense of fine grain and architectural diversity. Similarly, the south-eastern corner section of this building facing the Park is visually awkward, and lowering the treatment of the two upper levels by one floor may result in a more balanced and less imposing form.
A visually permeable steel palisade fence is proposed at the boundary of the development to the park, which will soften the visual interface with the park area. The landscape in the setback should be maintained as for other setback areas as part of community title.

• Remove long internalised corridors
COMMENT: Not addressed in submission, noted to be resolved in amended plans.

• Confirm there are no local wind issues emanating from the proposal
COMMENT: Not addressed in submission.

• Consider ways to minimise heat build up within the internal courtyards during summer.
COMMENT: In this part of Sydney opportunities to support landscape and air movement are vital to assisting human comfort. Opening both courtyards to street will assist this. Deletion of lower units in

Building D at Dawes Street could create an opportunity for a lofty covered “rain garden” that supports luxurious vegetation and creates a cool space for relief and interactive water play.

PANEL CONCLUSION

The Panel offers qualified support for the proposal on the basis that all of the comments in this and previous report are addressed to the satisfaction of Council. In particular the Panel’s support relies upon the applicant committing to the provision of infrastructure to support a significant number of large high canopy trees and under-storey in central courtyards and in setback zones. The Panel recommends that the proponents return for a further meeting should Councils staff not be satisfied with the final revised documentation.

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

6. Close

MEETING REPORT
DESIGN REVIEW PANEL

Date:	17-01-19	**Time:**	11am -12.30am
Location of Meeting:	The Hills Shire Council , Community Rooms 1 +2		
Panel Members:	**Chairperson** - Tony Caro **Panel Member** - Audrey Thomas **Panel Member** - Steven Hammond		
Councillors:	Non present		
Council Staff:	Cynthia Dugan, Paul Osborne, Cameron McKenzie, Marika Hahn		
Guests:	Peter Sulyan – CG Group Nicholas Abou-Chedid – CG Group Kyle Huang – CG Group Siobhan McInerney – Architect (PTW) Mark Kuhne – Landscape Architect (Urbis) Belinda Thomas – Planner (Ethos Urban) Kelly van der Zanden Urban Designer (Ethos Urban)		

BUSINESS ITEM AND MEETING MINUTES

1. Welcome and Opening

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

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

The Panel provides recommendations on the following:

- Any development which contains a building with a height of 21 metres or more; or 6 storeys (or both) but no higher than 66m or 20 storeys (or both).
- Any strategic planning matters for which design excellence is relevant.

The role of the Panel is to evaluate and critique design aspects of proposed development and provide recommendations on whether development exhibits "Design Excellence". The Design Review Panel is an independent panel, not a SEPP 65 Panel and the absence of comment with reference to matters pertaining to SEPP 65 does not mean that matters assessed under SEPP 65 have been satisfactorily addressed.

2. Declaration of interest
"Nil"

3. Confirmation of previous minutes
Confirmed

4 Presentations

Item 4.1	11am – 12.30pm
DA Number	**DA 192/2019/JP**
Property Address	16-26 Chapman Avenue, Castle Hill
Proposal	 Residential Flat Development comprising 3 building blocks ranging in height 6-9 storeys resulting in 266 units, basement car parking for 431 car parking spaces.
Applicant representative address to the design review panel	Siobhan McInerney – Presenter Mark Kuhne - Landscape Architect
Background	The site was inspected by the panel on Thursday 17/01/19 at 9:10am
Key Issues	• Bulk and scale • Sunken apartments with setback encroachment by courtyards • Loss of established trees in street setback areas • Extensive below grade access corridors • Development relationship and presentation to Chapman Reserve

INTRODUCTION
The Panel thanks the applicant for the presentation of the development application. The development presented is located in the Showground Planned Station Precinct in Castle Hill, a low-density area about to undergo significant urban transformation to a higher density residential flat built form outcome.

The Panel acknowledges that the Showground Precinct has been subject to a protracted master plan process, which has resulted in the key development controls for height, density and setbacks. The Panel notes, and advised the applicant at the meeting, that it considers the maximum allowable FSR on this or any site in the precinct is only achievable on the proviso that other key controls and the desired future character of the precinct (of generous street and landscaped setbacks, and green spaces) that apply to the development are complied with. In particular the need to retain existing landscape and augment with new plantings to maintain the landscape character of the LGA is of particular concern to the Panel, for reasons including visual amenity, urban heat and mean

temperature rise mitigation, substantial provision of shade within the public domain, carbon sequester and maintenance of fauna habitat.

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

SUBJECT SITE BACKGROUND SUMMARY

The subject site is located in the Showground Planned Precinct adjacent an existing park. The character of the area is that of a low-density garden suburb developed during the 1960's-1980's with a variety of large mature trees of both introduced species and those reflective of the original endemic vegetation. The precinct is located to the south west of Showground Road, a ridgeline arterial road, and the undulating topography falls away from Showground Road towards Cattai Creek. The subject site is located within a 500m walking radius of the New Showground Metro station, and is one of a group of Development Applications which present as the first development sites in the recently gazetted precinct.

Site location


Site layout - PTW

DOCUMENTATION

The Design Excellence Panel reviewed the following drawings:

Design Verification Statement, 26/07/18, by PTW signed Simon Parsons

SEPP 65 Design Statement, 26/07/18, by PTW signed Simon Parsons

Architectural Drawings Rev C, 18/12/18, by PTW

Statement of Environmental Effects, 31/07/18, by Ethos Urban

Chapman Gardens Castel Hill Landscape Development Application, 19/10/18, by Urbis

Chapman Gardens Castel Hill Planting Plans, 12/12/18, by Urbis

PANEL COMMENT

DA 192/2019/JP - 16-26 Chapman Avenue, Castle Hill

The architect provided an overview of the design concept beginning with an appreciation of the site context, environmental considerations and how this has informed the building design, choice of materials, colours, building façade articulation and site arrangement. During the presentation, the Panel asked questions for clarification.

1. Visual impact of the proposed height exceedance. The applicant demonstrated with street sections that the non-compliant elements do not appear to be visible from the public domain, although this should be confirmed by Council staff from all relevant public domain locations.
2. The applicant described the use of a limited materials palette and how variety was brought into the streetscape by the use of different brick colours and heights of the building blocks addressing the street.

3. The Panel made the following comments in relation to the façade addressing Chapmen Reserve:

- The façade is over-scaled in its mass and form to the park and surrounding future context. It is significantly longer than the maximum length allowed in the DCP control and as a result, despite the general quality of the architectural detailing, presents as being relentless and overwhelming in bulk and scale.
- The unrelieved upper parapet line diminishes any mitigation of the proposed mid-length setback in the plan, and does not adequately break up the building length. The design needs to be revised to further mitigate the bulk and scale of this façade.
- The park frontage built form is not in keeping with the intent of the DCP, which has specific controls regarding building length and variety in the façade in order to provide a fine grained, human-scaled edge to the public domain.
- The interface of the below grade private courtyards facing the park does not adequately address visual privacy and safety.

4. Courtyards

The encroachment of the courtyards into the side setback is considered to be the same as a balcony encroachment, which is not permitted. There should be a stronger presence of mature trees and concomitant deep soil provision in this setback zone to ensure that the development is sited within a landscape setting of canopied trees.

5. Open space provision

- The Panel noted that the applicant was relying on the roof tops to provide ADG compliant common open space and solar access.
- The Panel noted that the council disputed the method of landscaped area calculation and that this had to be resolved with staff.
- The two internal courtyards are approximately 20 x 20m square in plan, and there is concern about the amenity and cross privacy between dwellings facing into these spaces.
    - The internal courtyard should include taller / narrow trees to provide some screening and filtering of views between upper level apartments, and to reduce the impact of buildings within the development, as seen from the street. Provide soil depths in the internal courtyard to accommodate this.
    - Note some inconsistency between the rendered Landscape Plan showing tree planting in the courtyards with the Planting Plans (L500) which do not show these.
- The Panel stated that for a proposal of this size, a high quality outcome of common open space was required for the residents and in keeping with the place-making principles of generous and quality places as outlined in the DCP.

6. Landscaping

- The Panel considers that the proposed deep soil provision for a site of this area is inadequate. It is a very large site, and there is little if any existing landscape retained. Refer to ADG guidelines for larger sites. There are some large trees on or close to the building frontages that should be retained, particularly if they are within the road reservation.
- The paved courtyards encroach into the setback area which is intended for deep soil landscaping with planting opportunities, and are required to be minimised. Refer to ADG guidelines.
- The Deep Soil provision is to allow for planting of significant trees. Ensure that retaining walling is not included in the Deep Soil areas which compromise the provision for Deep Soil. Overlay the deep soil line on the Landscape Plan to cross check the designated area.
- Due to the amount of hard reflective surfaces, internal courtyards are likely to heat up during the during the summer months. More landscape area and provision of sufficient soil depth and drainage for medium – large mature evergreen trees is required. Some of the internal courtyard paved areas are large (up to 59m2) and could accommodate further soft landscape area.

- Generally the Panel recommends significantly more soft landscaping within and along the street and park edges, with hard paving and circulation paths minimised, to enable the planting of tall trees.
- The Panel strongly recommends a significantly higher quantum of large, high canopy peripheral trees are provided and provided for around the edges of the site, to fulfil the needs for a higher density residential environment in a strong, verdant landscape setting. Noted that the Planting Plans currently show *Plumeria sp.* (Frangipani) along the side setbacks which are considered too small in proportion to the scale of the built form.
- All services in the public domain are to be suitably screened or integrated into the building fabric. Detailing of services screening to be a DA condition or prior to consent subject to DA officer preference.

7. Density and FSR

- The Panel notes that the proposed development FSR and apartment mix/sizes must be confirmed with council as complying with the requirements of the incentivised density uplift.
- The Panel is generally concerned that the density sought compromises the residential amenity of the development, and in particular the lower level apartments that are situated below the existing natural ground plane.
- The Panel does not support the extensive internalised corridors around the perimeter providing access to the lower units.
- Adequate built form separation to achieve good residential amenity of visual privacy, acoustic amenity and solar access compliance appears to be a problem with a number of lower level apartments.

8. Apartment design

- Whilst the Panel did not discuss apartment planning in detail at the meeting, it advised the applicant to be mindful when designing the larger apartments as required by Council that there is a need to provide more amenity than a simple "scaled-up" minimum SEPP 65 apartment,. It was suggested that the substantial additional area required for these large family-oriented 2 and 3 bedroom units should be planned to provide more flexibility and choice for the inhabitants: a second living area, a dedicated office/media room, an enlarged dedicated laundry area, and expanded storage are some possibilities to consider.

SEPP 65 items to be clarified and or amended to achieve compliance:

- 3E Deep Soil Zones, refer to figure 3E.2 and guidance notes. Minimum deep soil dimension is 6m for sites greater than 1,500m2. Recommended deep soil on sites greater than 1500m^2 is 15%. Resubmit Deep Soil calculations to address the above.
- 4B Natural cross ventilation
- 4A Solar and Daylight Access
- 3D Communal and Public Open Space
- 4F Common circulation and spaces
- 4L Ground Floor Apartments
- 4U Energy Efficiency
- 4V Water management and conservation

SPECIFIC CLAUSE 8.6, 9.5 Part 4 Matters for Consideration

a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

- The proposed built form has been organised to present an acceptable level of modulation and architectural variety to the Dawes and Chapman Avenue frontages.

b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,

- The precinct is in the early stages of transformation from leafy, low-density suburbia to a high density urban residential enclave.
- The proposed built form and detail interface with the public domain is generally acceptable to the street frontages (refer previous comments regarding the park interface to the east). However, steps must be taken to ensure retention of more existing trees and a greater provision of space and deep soil for new tall tree plantings within in all setback zones and along the two street corridors.
- An excessive area of the landscape setback to the street and side boundaries is comprised of paving and the placement of services. The landscape setback is to be modified to be in keeping with the desired future character of the precinct and to ensure that soft landscape area is maximised.

c) whether the development detrimentally impacts on view corridors,

- Acceptable. The development is proposed to be gated. Fencing and gates are to be transparent in design to enable views through the development of both streets.

d) whether the development detrimentally impacts on any land protected by solar access controls established in the development control plan referred to clause 8.5, 9.4,

- The development overshadows the adjacent park to the east between the hours of 12.30am - 2pm. As this is the only public park within the precinct, this overshadowing is considered to be significant and not in compliance with the DCP control 6.7.

e) the requirements of the development control plan referred to in clause 8.5, 9.4,

The development is required to further consider these controls

4.8 Ecologically Sustainable Development, Objective b., Controls 5, 7

4.9 Ecology and Riparian Corridors, Control 1

6.2 Setbacks (Building and Upper Level), Objective e.

The development does not comply with the following controls

6.3 Open Space and Landscaping, Control 1 (central courts are below 1m of natural ground level)

6.4 Built Form Design, Control 10

6.6 Residential uses on Ground and First Floors, Control 3

6.7 Solar Access and Overshadowing, Control 3

6.10 Car Parking Rates and Access

f) How does the development address the following matters:

i. the suitability of the land for development,

- The land is zoned R4 high density residential, the proposed use is appropriate however the density sought, as a result of the uplift, is causing amenity issues.

ii. existing and proposed uses and use mix,

- The proposed use is appropriate and unit mix generally provides a diversity of dwelling types to suit a range of tenures and housing needs in keeping with the prevailing and anticipated future demographic of the area.

iii. heritage issues and streetscape constraints,

- There are no heritage issues.
- The Panel requires that more substantial high canopy tree plantings be provided in the street and boundary setbacks and existing significant and/or well established peripheral trees be retained.
- The quality and character of the public domain around the site is challenged by the narrow width of existing street corridors. The applicant has provided street cross-sections that demonstrate how an appropriately scaled public domain environment may be achieved by complying with DCP setbacks and building articulation, however this will only be possible with a stronger landscape presence as noted elsewhere in this report.

- Courtyard encroachment into the front setback on Dawes Avenue and Chapman Avenue will result in compromised amenity and privacy, and does not comply with the DCP controls.

iv. the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

- The building envelope and side setbacks will not impact on the adjacent neighbours to the north west, provided adequate deep soil and landscape planting is provided.
- The shadow diagrams indicate that potential developments to the south across Dawes Avenue will have solar access to northern facades affected.
- Whilst the development complies with setback dimensions, however the courtyard paving is not supported.

v. bulk, massing and modulation of buildings,

- The built form massing to Chapman and Dawes Avenue is generally in keeping with the proposed future character, subject to recommendations as previously made.
- The bulk, massing and modulation of buildings to Chapman reserve is excessive and further design work is required to present a fine grained, modulated address to the Reserve.

vi. street frontage heights,

- Street frontage heights are generally appropriate and height exceedance has been demonstrated to not be visible from the public domain.

vii. environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

- The Panel raised concerns with compliance with ADG 4B ***natural cross ventilation***. The applicant is required to review these requirements and check apartments to confirm that compliance is achievable.
- The building form causes significant overshadowing of the internal courtyard areas. Selection of species of planting (to include trees) is to ensure the future survival of the proposed landscape treatment.

viii. the achievement of the principles of ecologically sustainable development,

- The proposed development is representative of standardised apartment design and is not proposing sustainable design initiatives beyond what is required for consent.
- The elevations and 3D images of the development indicate a great use of glass, shallow eaves and minimal sun shading to the north, east and western facades. Compliance with the DCP and ADG for use of energy efficient materials and designs, thermal comfort, utilisation of renewable energy and materials, and energy efficient technology is to be addressed and provided.

ix. pedestrian, cycle, vehicular and service access, circulation and requirements,

- Pedestrian access directly from the street frontages provides a good sense of identity and address.
- The ramping at Chapman Avenue has an impact on the streetscape in terms of paving extent. Whilst ramps are triggered by universal access requirements, its contribution to hard paved areas along the street frontage is increased by the addition of private courtyards within the street setback areas. In that respect, the extent of paved surfaces to private courtyards should be reduced.
- All superfluous pedestrian circulation should be replaced with soft landscaping.
- The circulation pathways in front of the street facing courtyards impacts the privacy to the apartments and should be reconsidered as per above note.

x. the impact on, and any proposed improvements to, the public domain,

- As noted, a greater presence of large indigenous tree plantings is considered essential for microclimate control to ensure the success of this new high-density precinct in a rapidly warming western Sydney.

xi. the impact on any special character area,

- Refer to Panels previous comments regarding the Chapman Reserve interface.

xii. achieving appropriate interfaces at ground level between the building and the public domain,

- The sunken apartments at street level and facing Chapman Reserve present privacy and safety concerns for the future residents and remove activation from the street and public domain.

- The sunken courtyard interfaces to Chapman Reserve and interface to Dawes Avenue is required to be revised so that the ground floor apartments are at a minimum of 300mm above existing ground level in compliance with DCP control.
- Ground floor units to have individual entries accessed from the street as per DCP Clause 6.6.

xiii. excellence and integration of landscape design

- Refer to previous comments regarding increase in landscape presence around the site.
- More of the existing inventory of significant and/or well established trees should be retained.
- The Panel commented that the sunken courts along the side setbacks were too extensive and compromised the landscape and garden setting character of the overall precinct. The paved courtyards are considered to encroach into the required setbacks and should not intrude by more than 2.0m to allow the minimum paved (balcony) space as per 4E-1 in the ADG. Paved courtyard areas should not account for more than 40% of the façade length to allow substantial planting between private open spaces.
- Further design work is required to enable the development to fully integrate into its landscape setting and present a contextual response to the garden characteristics of the locality.
- The interface and setbacks along the Dawes Street frontage need to confirmed with Council to ensure the correct dimensions and street profile is applied. It is the understanding of the Panel that no stairs, ramps area to be located in the 2m strip of the future road reserve.

Council officer to place DA conditions on:

- Screening of service provision from any existing and future public domain outlook. All services and service provision visible from the street, public domain and nearby taller buildings are required be carefully and substantially screened in a manner to match the aesthetic of the proposed development.
- The provision of the materials as illustrated and notated in the DA drawings and materials schedule.

SUMMARY OF PANEL RECOMMENDATIONS

- The Panel is concerned that the density sought compromises the overall amenity of the development and to the desired future character of the Showground Precinct.
- Seeking the maximum allowable FSR has resulted in a compromised design outcome and the lower level subterranean apartments achieved by substantially reducing the ground level has not resulted in an acceptable amenity outcome. Twenty apartments have compromised amenity.
- The Panel recommends a significantly higher level of soft landscape presence across the entire development and its surrounding public domain, particularly incorporating tall growing trees.
- Building services such as fire hydrant and fire sprinkler booster valves are to be integrated as part of the landscaping strategy or incorporated into the entryways to avoid any diminution of streetscape visual quality.
- Revise courtyard encroachments from all setbacks and provide substantial soft landscaping.
- Any significant tree removal to be supported by an arborist report.
- Conflicts with proposed services and existing trees require the re-location of the services provision.
- Sign off from both the Council Landscape DA officer and relevant Manager of Vegetation works is required for the removal of any trees over 3meters in height in the street and building setback areas.
- Superfluous pedestrian circulation is to be replaced with soft landscaping.
- Resolve all ADG non-compliances relating to residential amenity of natural ventilation, solar access and building separation particularly at lower level apartments to achieve good residential amenity for occupants.
- Plan larger (Type 3?) apartments to provide greater choice, amenity and useability for occupants.
- Remove subterranean terraces.

- All ground floor apartments addressing a street are to at a minimum of 300mm above existing ground level in compliance with DCP control.
- Revise the development presentation to Chapman Reserve.
- Reduce long internalised corridors
- Confirm there are no local wind issues emanating from the proposal
- Consider ways to minimise heat build-up within the internal courtyards during summer.
- Ensure the siting, design of the development, and selection of materials and finishes achieve optimum thermal comfort to reduce air conditioning and reduce energy costs.

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

PANEL CONCLUSION

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

5. Next Design Review Panel meeting to be held on February 27th, 9am - 5pm

6. Close