

COUNCIL ASSESSMENT REPORT

Panel Reference	2019CCI014 DA
DA Number	DA 1238/2014/JP/C
LGA	The Hills Shire Council
Proposed Development	Section 4.55(2) Modification to an Approved Mixed Use Development to Facilitate Road Widening and Associated Redesign of the Building
Street Address	Lot 7 in a resubdivision of Lot 100 DP 1234606, No. 47 Withers Road, North Kellyville (previously known as No. 15 Withers Road)
Applicant/Owner	DFP Planning / Q A and D S Khan
Consultant/s Town Planner: Architect: Landscape Architect: Engineering: Acoustic: Traffic: Access:	DFP Planning Arcom Holdings Taylor Brammar Robert Moore and Associates EMM Consulting Transport and Traffic Planning Associates Accessible Building Solutions
Date of DA lodgement	13 February 2019
Number of Submissions	One
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Section 4.55(2) to an application previously approved by the panel and subject to a departure from development standards set out in Schedule 1
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Sydney Region Growth Centres) 2006. • State Environmental Planning Policy No 55 — Remediation of Land. • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • Sydney Region Environmental Plan No. 20 (Hawkesbury-Nepean River) No. 2 – 1997. • State Environmental Planning Policy – Building Sustainability Index (BASIX) 2009. • Draft Amendment to SEPP (Sydney Region Growth Centres) 2006 (North West Priority Growth Area Land Use and Infrastructure Implementation Plan). • Central City District Plan. • North Kellyville Development Control Plan • Environmental Planning and Assessment Act Regulation 2000.
List all documents submitted with this report for the Panel's	• Submission

consideration	
Report prepared by	Robert Buckham Principal Coordinator Development Assessment
Report date	Electronic Determination

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

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

Conditions

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

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

1. The key issues that need to be considered by the Panel in respect of the modification application are:
 - Whether the development is substantially the same as originally approved.
 - Proposed variation to Building Height.
 - Matters raised in the submission.
2. Following the approval of the original application, it was identified that the road widening as shown on the originally approved plan for DA1238/2014/JP had not been accurately identified by the applicant (less than the actual extent of SP2 zoned land). Furthermore, Council's Infrastructure team had advised that additional road widening, being additional to that shown as SP2 Local Road Widening on the land zoning map accompanying the Growth Centres SEPP, was required along both the Withers Road and Barry Road frontages of the site to cater for an appropriately designed intersection at Withers and Barry Roads including the town centre bypass road. The additional road widening has been accounted for under a separate subdivision application and is catered for in this application.
3. The subject application was lodged in part to facilitate additional land acquisition fronting the site however also provided for a revised scheme accounting for additional floor space associated with the medical centre and modified and improved mix units from the approved scheme. The modification as originally lodged sought to increase unit numbers and the numbers of storeys to six. Following concerns raised by Council staff the application was reduced in scale including a reduction in residential units from 64 to 53 (59 approved) and to five storeys.
4. The subject site is located on land zoned R2 Low Density Residential, R3 Medium Density Residential and SP2 Infrastructure under the provisions of SEPP Growth Centres Appendix 2 North Kellyville. The site has a height limit of 16 metres on land zoned R3 Medium Density Residential. The proposal exceeds the 16 metre height limit in the R3 zone by a maximum 3.73 metres or 23.1%. The exceedance is primarily associated with the lift and lift over run for the roof-top common open space area.
5. Assessment of the application against the relevant planning framework and consideration by technical staff (waste, engineering, health, land information, developer contributions, landscaping) has not identified any issues of concern that cannot be dealt with by conditions of consent.
6. The application was notified to adjoining and surrounding properties, and a submission from one property was received. The issues raised primarily relate to privacy and boundary fencing.
7. The modification application is therefore satisfactory when evaluated against section 4.15 and section 4.55 of the Environmental Planning and Assessment Act 1979.

The Modification Application requires referral to the Sydney Central City Planning Panel (SCCPP) for determination as the determination of Section 4.55(2) Modification Application includes a variation to a development standard exceeding 10%.

BACKGROUND

On 24 September 2015, Development consent was granted by the then Joint Regional Planning Panel (Sydney West Region) for a mixed use development including demolition of existing dwelling, retention of a child care centre and construction of a medical centre, residential flat building containing 59 apartments, one dual occupancy, four integrated dwellings and construction of internal roads.

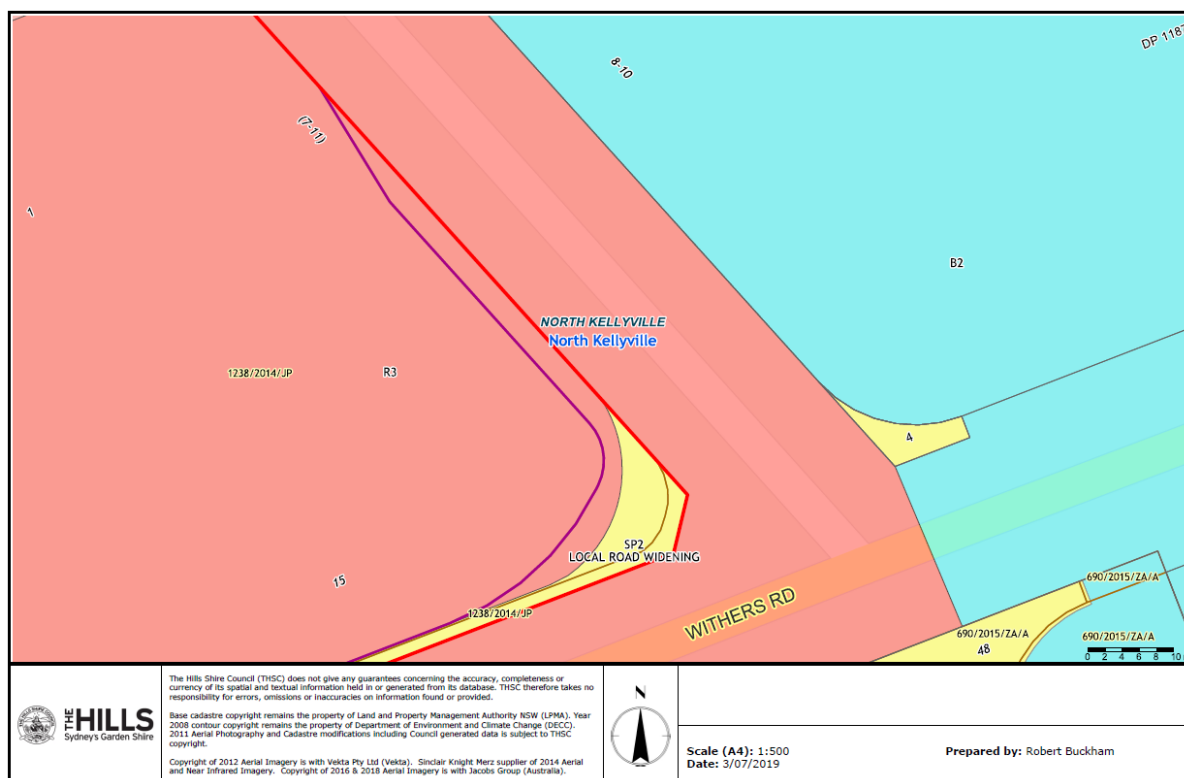
DA1238/2014/JP/A was a modification to the medical centre to amend the car parking layout (and provide additional parking as basement car parking) and provide for plant room on the roof of the centre as well as signage on the Withers Road/Barry Road corner of the building. This application was approved on 1 July 2016.

DA1238/2014/JP/B was a modification to the plan of subdivision for the site to create separate allotments for each of the integrated dwelling lots, the dual occupancy, the medical centre/residential apartment building and the child care centre. The modification was approved by Council staff on 31 August 2018. The medical centre and residential apartment building components of the approved development are located on proposed Lot 7 within the approved subdivision.

Following the approval of these applications, it was determined by Council's Infrastructure team that the road widening as shown on the originally approved plan for DA1238/2014/JP had not been shown correctly by the applicant (less than the actual extent of SP2 zoned land).

Further, Council's traffic engineers had advised that additional road widening, being additional to that shown as SP2 Local Road Widening on the land zoning map accompanying the Growth Centres SEPP was required along both the Withers Road and Barry Road frontages of the site. The additional road widening has been accounted for under a separate subdivision application and is catered for in this application.

An extract of Council's mapping detailing the actual SP2 zone, land nominated as part of the original application as the SP2 zone extent (orange line) and land now required (purple line) is provided below.



In part, to account for the additional land required for the road widening, the subject Section 4.55(2) Modification was lodged on 13 February 2019. The modification as originally lodged sought approval for a six storey scheme and 64 residential units. On 23 May 2019, Council briefed the Sydney Central City Planning Panel on the proposed modification.

A letter was sent to the applicant on 3 July 2019 requesting amendments and additional information regarding building height, floor space, net developable area, secondary setback, road widening diagram plant room and storage in basement, plant notations and anomalies, pylon sign, aesthetics, tree and landscape comments, waste management comments, and engineering comments.

Preliminary additional information in response to the letter of July 2019 was received on 4 October 2019. The amended information included an amended scheme reduced from 6 storeys to 5 storeys and a reduction in units from 64 to 53.

A complete set of additional information was lodged on 27 February 2020.

Correspondence was sent to the applicant on 2 June 2020 requesting additional information regarding waste and landscaping comments.

Correspondence was sent to the applicant on 22 July 2020 requesting additional information regarding engineering comments.

Additional information was received on 21 August 2020 and a further request for an arborist report and landscaping details was requested on 29 September 2020. Additional information was submitted on 30 October 2020.

DETAILS AND SUBMISSIONS

Owner:	Q A and D S Khan
Zoning:	R2 Low Density Residential, R3 Medium

	Density Residential; and SP2 Special Uses (Road Widening)
Area:	9,717m ²
Existing Development:	Dwelling and Child Care Centre
Section 7.11 Contribution	\$1,237,884.20
Exhibition:	Not Required
Notice Adj Owners:	14 days
Number Advised:	14
Submissions Received:	One

PROPOSAL

The subject Section 4.55(2) modification, as amended, seeks approval for the following:

- Repositioning of the building containing the medical centre and residential apartment building on the site to facilitate additional road widening along Withers Road and Barry Road;
- Redesign of building including additional height and floor space with a reduced footprint;
- Reduction in residential units from 59 to 53 with an alternative unit mix; and
- Internal reconfiguration of apartment building, medical centre and basement carpark.

The key development statistics of the approved and modified development are detailed in the table below:

	Approved DA	Modified Proposal
Site Area	4,973m ²	4,707m ²
No. of Storeys	Part 4/5 Storey	5 Storey
Maximum height	16.35m	19.73m
Number of apartments	1 bedroom – 39 2 bedroom – 18 3 bedroom - 2 Total 59	1 bedroom – 13 2 bedroom – 35 3 bedroom – 5 Total 53
Medical Centre GFA	Retail: 115m ² (pharmacy) Medical centre 1,753m ² Total GFA = 1,868m ²	Retail: 71m ² (pharmacy) + 35m ² (café) Medical centre: 3,362m ² Total GFA 3,468m ²
Residential GFA	4,941m ²	6,219m ²
Communal Open space	1,232m ²	1,501m ²
Car Parking Spaces	Pharmacy: 7 Medical centre: 36 Residential: 103 Total: 146	Medical centre/Pharmacy: 70 Residential: 67 Total: 137

Building Location

The building containing the medical centre and residential apartments has been repositioned on the site to accommodate additional road widening along the Barry Road and Withers Road frontages of the site.

The new road widening requirement is wholly contained within proposed Lot 101 in a subdivision of Lot 1 DP23258. The subdivision of Lot 1 DP23258 into Lot 100 (the development lot) and Lot 101 (road widening).

The building has been repositioned on the development site to provide minimum setbacks of 4.5m to the new boundary of proposed Lot 100.

In all other respect the footprint of the building is similar to that previously assessed by Council and approved by the Planning Panel.

Building Configuration

The medical centre component of the building will still comprise a four (4) storey facility with two (2) levels of basement car parking as per DA 1238/2014/JP/A. This modification primarily seeks to provide one additional level to the medical centre and 'fill in' a void within the building.

The ground floor facilities include a pharmacy, café/coffee shop, amenities, reception area and waiting room and specialist medical imaging facilities.

The medical centre is proposed to be leased; therefore, a fit out for the upper levels (other than fixed services such as the amenities, lift, fire stairs and the electrical/communications room) has not been included on the plans. The fit out will be subject to a separate approval. This work may be able to be undertaken as complying development, pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Pedestrian entry to the medical centre has been retained from Barry Road.

The number and configuration of residential apartments has also been amended. The modified development will provide a total of 53 residential apartments in the following configuration:

- 13 x 1 bedroom;
- 35 x 2 bedroom; and
- 5 x 3 bedroom

The ground level pedestrian entries to the building from the internal vehicular accessway have been retained and an additional entry from Withers Road has been provided to activate this frontage.

The modified development has retained the roof top communal open space as well as ground level communal open space areas. A total of 1,501m² of communal open space area is proposed as part of the modified scheme. The roof top area comprises 491m² of communal space.

Vehicular Access

Vehicular access/egress to the building has been rationalised as part of the modified scheme.

Access to both the medical centre and residential basement parking has been combined into one driveway ramp which will enter from the internal vehicular accessway under the medical centre.

Conditions of Consent

As a result of the modifications it is proposed to amendments are proposed to a number of conditions including the following conditions of development consent:

- The Table to **Condition 1** will be required to be amended to refer to the architectural plans and the landscape plans as the approved plans.
- Deletion of the two dot points to **Condition 1** which require amendment to the design for the Construction Certificate plans (as these matters have either been addressed in other applications and/or are no longer relevant).
- The reference to the acoustic report in **Condition 9** is to be updated to refer to the revised EMM acoustic assessment Report No. J180493 RP1 dated 4 December 2018.
- Amendments to **Conditions 24, 27, 48(xiii) and 48(xiv)** as required to reflect the alternative WSUD methodology now proposed for this component of the approved development. Note these are standard conditions and not required to be amended.
- Amendments to **Conditions 15, 16 and 36** as required to reflect the alternative waste management methodology now proposed for this component of the approved development.
- Amendment to **Condition 30** to reflect the changes to car parking provision on the site.
- Deletion of **Conditions 34 and 35** as these conditions are no longer relevant to this application (refer application DA 3072/2001/HA/A for modifications to the child care centre approved by Council on 22 June 2018).
- Updating of **Condition 38** in relation to contributions.
- Amendments to **Condition 48(ii)** as required to reflect the changes to the design for Barry Road to accord with the additional road widening and revised design for this road and the intersection of Barry Road and Withers Road. Note this condition relates to the standard formation of Barry Road reconstruction. The scope of works will be dependent upon the timing of works completed by Council in the Withers Road and Barry Road Intersection.
- Deletion of **Condition 48(vii)** as the site does not have an interface with the eastern side of Barry Road. This condition informs the road formation outlined above.
- Amendment to **Condition 75** as required to refer to the new BASIX certificates for the modified residential apartments.

ISSUES FOR CONSIDERATION

1. Section 4.55 of the Environmental Planning and Assessment Act, 1979

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979, a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The applicant has submitted the following statement in support that the proposed modifications satisfy the provisions of Section 4.55(2) of the EP & A Act 1979. The statements below primarily relate to the medical centre following a request for further information in regard to this component of the modification given the increase in floor space:

“It is our opinion that the modifications do satisfy the provisions of s4.55 of the EP&A Act with respect to being development which is substantially the same as that previously approved.

In forming this opinion, we have had regard to recent case law and in particular D L Newport Pty Ltd v Northern Beaches Council [2017] NSWLEC 1661. In that matter, Commissioner Dixon considered the following legal principles governing the exercise of the power contained in s 96(2)(a) of the EPAA in paragraph 44 of the judgement handed down on 21 November 2017. A comment as to the relevance of these principles to the modification to the medical centre, and/or how the modification to the medical centre is consistent with or addresses the views advocated in these principles, is provided at the conclusion of each principle:

1. *First, the power contained in the provision is to “modify the consent”. Originally the power was restricted to modifying the details of the consent but the power was enlarged in 1985 (North Sydney Council v Michael Standley & Associates Pty Ltd (1998) 43 NSWLR 468 at 475 and Scrap Realty Pty Ltd v Botany Bay City Council [2008] NSWLEC 333; (2008) 166 LGERA 342 at [13]). Parliament has therefore “chosen to facilitate the modification of consents, conscious that such modifications may involve beneficial cost savings and/or improvements to amenity” (Michael Standley at 440);*

Comment:

In this instance, the modification to the medical centre will result in improved amenity as it will:

- Facilitate the provision of additional road widening which has been identified by Council as necessary in order to manage anticipated volumes of traffic that will be generated as a result of development within the North Kellyville precinct.*
- Allow for the development of a medical centre with sufficient floorspace to accommodate the range of services that will need to be provided as part of a contemporary health services facility within an area experiencing significant and rapid population growth.*

- 2. The modification power is beneficial and facultative (Michael Standley at 440);*

Comment:

As noted above, and in the letter at Attachment 2, the increase in GFA in the medical centre is in response to circumstances, being:

- The fact that the approved facility would not have provided a facility capable of meeting market demand;*
- The approved facility would not have been capable of operating in an efficient manner; and*
- The approved facility would not have been suitable for the intended end use.*

- 3. The condition precedent to the exercise of the power to modify consents is directed to "the development", making the comparison between the development as modified and the development as originally consented to (Scrap Reality at [16]);*

Comment:

The modification application relates to a modification to the approved building in which the medical centre and the residential apartment components are located.

We understand that Council is satisfied that the proposed modifications to the residential apartment component of the approved development constitute development which is substantially the same as that originally approved. Discussion in relation to this was included in the Planning Assessment Report submitted with the s4.55 application.

Council has requested additional information in relation to how the proposed changes to the medical centre component of the approved development satisfy the provisions of s4.55 to enable those modifications to be considered under s.455 of the EP&A Act. Specifically, Council has requested additional information as to how the modifications to the medical centre constitute development which is substantially the same as that originally approved.

The explanation as to how the proposed changes to the medical centre component of the development is contained in this letter.

- 4. The applicant for the modification bears the onus of showing that the modified development is substantially the same as the original development (Vacik Pty Ltd v Penrith City Council p1992] NSWLEC 8);*

Comment:

This letter and the information provide as part of the original modification application submission detail why the amended development is substantially the same as the original development.

5. The term “substantially” means “essentially or materially having the same essence” (Vacik endorsed in *Michael Standley at 440 and Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280; (1999) 106 LGERA 298 at p30)]’

Comment:

It is considered that the modifications to the medical centre will result in development which is “essentially or materially having the same essence” as it will still comprise a health services facility including a pharmacy, albeit within a building which incorporates additional GFA.

The additional GFA has been accommodated within an additional storey (resulting in a 4 storey building) and a slightly larger building footprint. Notwithstanding, the resultant built form is compliant with the 16m building height limit that applies to the site and is considered to result in an appropriate urban design outcome having regard to the corner location and proximity of the site to the North Kellyville town centre.

6. The formation of the requisite mental state by the consent authority will involve questions of fact and degree which will reasonably admit of different conclusions (*Scrap Reality* at [19]);

Comment:

It is our opinion that the consent authority (in this instance with Sydney Central City Planning Panel) could reasonably conclude that the modifications to the medical centre represent development which is substantially the same as that originally approved and is consistent with the principles governing the exercise of the power contained in s4.55 of the EP&A Act.

7. The term “modify” means “to alter without radical transformation” (*Sydney City Council v Ilenace Pty Ltd* [1984] 3 NSWLR 414 at 42, *Michael Standley at 474*, *Scrap Reality* at [13] and *Moto Projects* at [27]);

Comment:

As discussed above, the modifications to the medical centre do not constitute a radical transformation to the approved facility.

8. In approaching the comparison exercise “one should not fall into the trap” of stating that because the development was for a certain use and that as amended it will be for precisely the same use, it is substantially the same development. But the use of land will be relevant to the assessment made under s 96 (2)(a) (*Vacik*);

Comment:

The modified development will still comprise a medical centre and residential apartment building, however, the rationale as to why the development is substantially the same as that approved does not solely rely on the fact that the uses of the building will remain unchanged.

As discussed elsewhere in this letter, the requirement to modify the development stemmed principally from the need to relocate the building to allow for increased road

widening. This afforded the applicant the opportunity to reconsider how the development was responding to community and market needs.

The modifications to the medical centre component will provide for a facility which will be capable of meeting market demands and reflect the operational efficiencies required for a contemporary medical services facility.

In order to accommodate the equipment and practitioners, as well as providing a diverse range of services, the medical centre has increased in size from that previously approved.

9. The comparative task involves more than a comparison of the physical features or components of the development as currently approved and modified. The comparison should involve a qualitative and quantitative appreciation of the developments in their "proper contexts (including the circumstances in which the development consent was granted)" (Moto Projects at [56])' and

Comment:

The proposed modifications to the medical centre component of the approved development are contextually appropriate as:

- The changes will facilitate the provision of road widening which has been identified by Council as necessary to undertake road widening and intersections works to manage unforeseen traffic volumes in the North Kellyville precinct.
- The built form outcome is an appropriate urban design response having regard to the corner location and proximity of the site to the North Kellyville town centre and other approved development in the vicinity of the site.
- The site has the environmental capacity to accommodate additional building density.
- The modifications to the medical centre will result in development with sufficient floorspace to accommodate the range of services that will need to be provided as part of a contemporary health services facility within an area experiencing significant and rapid population growth.

It is acknowledged that the proposed modifications to the medical centre represents an increase in GFA, having regard to the operational functionality of the facility and having the benefit of input from a specialist consultant, the increase is justifiable and will not change the nature or character of the development. It has been demonstrated that the approved facility would not be capable of providing the level of services or operational efficiencies required of a contemporary medical centre and therefore it was required to be modified."

As demonstrated elsewhere in this letter and in the Planning Assessment Report submitted with the s4.55, the proposed modifications to the medical centre and the residential apartment building are capable of being assessed under s4.55 as the modified development is substantially the same as that approved.

10. A numeric or quantitative evaluation of the modification when compared to the original consent absent any qualitative assessment will be "legally flawed" (Moto Projects at [52]).

Comment:

The above discussion has demonstrated consistency with the above principles relating to applications for modifications and whether the modified development constitutes development which is substantially the same as that previously approved.

Having regard to both qualitative and quantitative considerations relating to the modified development, the proposed modifications are able to be assessed as a modification under s.455 of the EP&A Act."

The development to be modified remains a mixed-use commercial and residential development comprising medical centre and residential dwellings with associated basement. The child care centre, dual occupancy, small lot housing and internal road construction remain as approved.

The height, bulk and scale of the development remains consistent with that approved development and results in better planning outcomes on the site in terms of residential unit mix.

The additional floor space associated with the medical centre and residential flat building components of the development are in part as a result of a redesign brought about by additional land required to facilitate the design and construction of the Withers and Barry Road intersection and the need to relocate the building on the site. Although in isolation they could be considered significant increases, in the context of the development approved and proposed on the site the additional floor space is considered reasonable and results in development outcomes that are substantially the same to the approved development.

The nature of the approved development remains unchanged. Accordingly, no objection is raised to the proposal under the provisions of Section 4.55(2) of the EP&A Act, 1979.

2. State Environmental Planning Policy (State and Regional Development) 2011

Part 4 and Schedule 7 of SEPP (State and Regional Development) 2011 provides the following referral requirements to the SCCPP:-

- General development that has a capital investment value of more than \$30 million.

The Modification Application has a Capital Investment Value of \$35,593,908.

Clause 123BA(2) of the Environmental Planning and Assessment Regulation 2000 states that "A council is not to determine, on behalf of a regional panel, an application to modify a development consent under section 4.55(2) of the Act if the application is of a kind specified in the *Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents* published on the NSW planning portal on 30 June 2020."

The instruction states:

"A council is **not** to determine an application under section 4.55(2) of the Act to modify a development consent granted by a regional panel if the application:

- proposes amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or
- proposes amendments to a condition of development consent that was not included in the council assessment report but which was added by the panel, or

- meets the criteria relating to conflict of interest, contentious development or departure from development standards set out in Schedule 1 to this instruction.

Note: Clause 123BA of the Regulation requires councils to determine all other applications for the modification of development consents under section 4.55(2) of the Act, as well as applications for the modification of development consents under section 4.55(1) and section 4.55(1A) of the Act.

This instruction takes effect on 1 August 2020 and applies to applications to modify development consents made but not determined before 1 August 2020.”

The subject 4.55(2) modification includes a variation to the Building Height standard over 10% being 23.1% and is therefore required to be referred back to the panel for determination.

3. 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.

Comment:

The original Development Application was accompanied by a Preliminary Site Investigation prepared by Coffey Environments Australia Pty Ltd and dated 16 August 2013. The report recommends that further testing and remediation be undertaken concurrently in the demolition/excavation phase.

Council's Environmental Health Officer has reviewed the proposal and concurs with the findings and recommendations of the Preliminary Site Investigation submitted with the original Development Application. Accordingly, appropriate conditions of consent were imposed on the original Development Consent to ensure that the recommendations of the report are implemented during the course of construction.

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

4. Compliance with SEPP (Sydney Region Growth Centres) 2006

(i) Permissibility

The development site is zoned R2 Low Density, R3 Medium Density and SP2 Infrastructure zone – local road widening. The components of the original proposal remain under this modification. The only components modified by this modification are the residential flat building and the medical centres which are located on land zoned R3 Medium Density Zone.

“residential flat building” means a building containing 3 or more dwellings, but does not include an attached dwelling, a manor home or multi dwelling housing.

A residential flat building remains permissible in the R3 zone under the provisions of SEPP (Sydney Region Growth Centres) 2006.

“medical centre” means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

Pursuant to SEPP Infrastructure 2007, medical centres are a form of health services facility permissible with consent in the R3 Medium Density Zone. The ancillary pharmacy was addressed in the original application. This application introduces a small café area which is also considered ancillary to the medical centre.

(ii) Development Standards

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

4.1AB Minimum lot sizes	Single dwelling – 360m ² Dual Occupancy – 600m ² Residential flat building – 2,000m ²	360.4m ² 600.2m ² 4707m ²	Yes
4.1B Residential density	R2 – Minimum 10 dwellings R3 - Minimum 20 dwellings per hectare.	23.7 dwellings per hectare 63.4 dwellings per hectare	No change proposed
4.3 Height of buildings	R2 – 9 metres R3 - 16 metres	7.4 metres 16.350m (approved and justified under Clause 4.6 in original application) Proposed modification: 19.73m	Yes – no change No – see comments below.

a. Variation to Height

SEPP Sydney Region Growth Centres 2006 limits the height of the development to 16 metres. The Development Application was approved with a maximum height of 16.350m

resulting in a variation of 350mm. The proposed modifications seek approval for a maximum height of 19.73 metres to top of lift overrun of the roof-top common open space area, resulting in a variation of 3.73 metres.

Development Standard	Approved Development	Proposed Modification
16 metres	16.350 metres (RL 90.37)	19.73 metres (RL 93.75)

The LEP 2012 limits building height on the subject site to a maximum 16 metres. The building height was approved at 16.350 metres equating to a 2.1% variation to the SEPP standard. The proposed modification seeks to increase the overall building height by 3.38 metres, from 16.350 metres to 19.73 metres equating to a 23.1% variation to the SEPP standard.

It is noted that caselaw demonstrates that for a Section 4.55 application, a Clause 4.6 Exceptions to Development Standards is not required.

The relevant judgments originating with *North Sydney Council v Michael Standley and Associates Pty Ltd 1998* indicates that Section 4.55 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". A Section 4.55 modification authorises the development to be approved notwithstanding any breach of development standards. Section 4.55 is a broad power to approve, subject to its own stand-alone tests (such as the "substantially the same" test, and a requirement to consider all relevant Section 4.15 matters). Section 4.55 does not rely upon having any SEPP 1 objection or Clause 4.6 variation in order to enliven that power to approve.

The Courts have stated that SEPP 1 cannot be used at Section 4.55 stage, as SEPP 1 expressly only applies 'where a development application is made', not when a modification application is made. The same would apply to Clause 4.6 variations, which expressly only regulates whether 'development consent' may be granted, not whether an existing consent may be modified. As such, a Clause 4.6 variation is not applicable to Section 4.55 modification applications.

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

"The revised scheme (in relation to the residential apartment building component of the development) comprises a five (5) storey building with roof top communal open space on the Withers Road wing of the building...the revised scheme provides for a reduction in building height compared to the February 2019 modification scheme. It should also be noted that the maximum height breach is now limited to the lift over run and stair access to the roof top communal open space area which is proposed to be located on the Withers Road 'wing' of the building...the extent of the building components which extend above the 16m height limit is restricted to the lift over run and building parapets. There is no gross floor area above the 16m height limit... The revised scheme will result in a building which is lower in height than the February 2019 scheme.

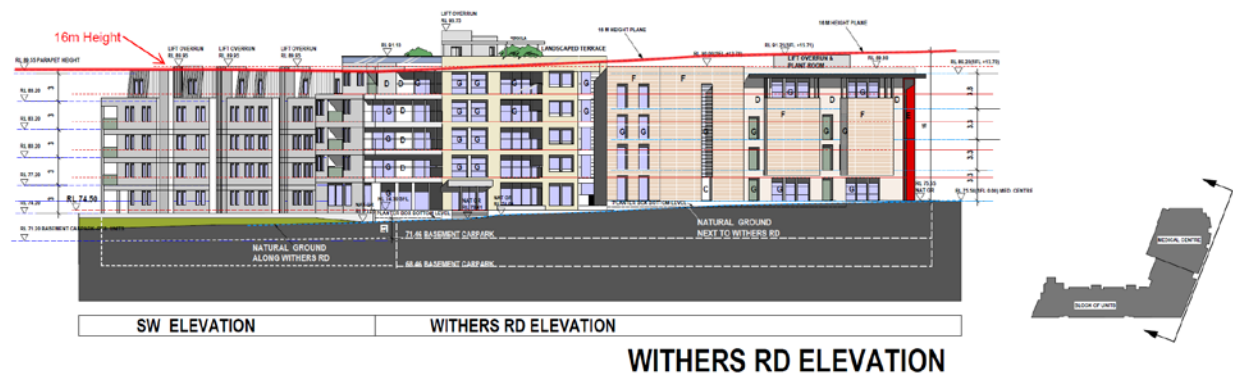
The lifts along the south western elevation have been retained in the same location the revised scheme as previously proposed (and approved)...the built form outcome of the revised scheme is not dissimilar to the approved development and could even be considered to provide a superior outcome in terms of building articulation and modulation."

Comment:

The objectives of Clause 4.3 of the SEPP are:

- (a) *to preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale,*
- (b) *to provide for a range of residential building heights in appropriate locations that provide a high quality urban form,*
- (c) *to facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas,*
- (d) *to provide appropriate height controls for commercial development,*
- (e) *to restrict the height of buildings within the curtilage of heritage items.*

The non-compliance in height, as detailed in the images below, primarily relates to the roof top common open space area including the lift and stair access, pergola and balustrades. The proposal also includes a variation to the lift overruns and parapets on the facade of the residential flat building component of the development.





The non-compliance does not result in any adverse amenity impacts and does not result in a detrimental impact on the streetscape. The proposed height of the buildings is considered satisfactory given that the site's corner location. The shadow impact from the development is considered reasonable, with the majority of the shadowing falling to Withers Road. The separation to adjoining future development which is of a similar scale will reduce the potential for overlooking and privacy impacts.

The urban form is consistent with other adjoining developments and is considered to be appropriate for the area as it does not adversely impact the environmental amenity of the locality and surrounding area. The proposal incorporates a variety of finishes and colours and will result in an appropriate urban outcome.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

5. Draft Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

In May 2017, the Department of Planning released the draft North West Land Use and Infrastructure Implementation Plan. In addition to a new growth centres structure plan and infrastructure schedule the package proposes a draft amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and associated draft changes to the DCP. The proposed changes include the introduction of density bands (rather than only minimum density) and reinstatement of minimum lot sizes for all residential areas (that were removed as part of the 2014 Housing Diversity changes).

The Explanation of Intended Effect states that *"a consent authority is not required to apply the provisions of the Explanation of Intended Effects to a DA lodged before May 22 2017"*. The original Development Application was approved on 24 September 2015. The proposed amendments are required to be taken into consideration pursuant to Section 4.15 of the EP&A Act, being a *"proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority ..."*

The Growth Centres SEPP currently specifies a minimum density provision of 20 dwellings per hectare. The draft amendment to impose a maximum density range of between 20 and 100 dwellings per hectare which equates to a maximum of 35.64 dwellings being permitted on the site (based on a net developable area of 0.356 hectares). The modified proposal is for 53 units, a reduction from the 59 units approved under the original consent.

Given that the amendments have not proceeded and that this modification seeks to reduce dwelling numbers, the proposal is considered satisfactory in this regard.

6. Compliance with North Kellyville DCP

The proposed modification has been assessed against the provisions of The North Kellyville Development Control Plan. The approved development achieved full compliance with the relevant requirements of the North Kellyville Development Control Plan except for Section 4.3.4 – Table 19 Front Setbacks Minimum. The proposed modification does not seek to alter the front setbacks including the 4.5 metre front setback to Withers Road and the non-compliance was supported in the original application.

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

The proposal has been reviewed under the provisions of SEPP 65 and the Apartment Design Guideline. The amendments are minor and the proposal remains consistent with the provisions of the SEPP and Apartment Design Guide.

The Design Verification Statement from the modification was prepared by Nilesh Munot registration number 7917.

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

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Yes, 31.8% of the development site area (1,501m ²). The communal open space area will receive at least 83% direct sunlight for 2 hours at during midwinter.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes, 10.97% of the development site area is true deep soil zones as defined within the ADG.
Separation	For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys.	Yes, The development on the adjoining property (at 17 Withers Road) has been approved as a 5 storey development with a 6m setback to the common boundary with 15 Withers Road. The modified development provides

		for a minimum 6m setback to the south-western boundary for the first 4 storeys. The fifth level then steps back to 9m to habitable rooms and windows and balconies. The 6m setback to non-habitable rooms and windows is retained. These setbacks are consistent with the building separation provisions of the ADG.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Yes Greater than 12 metres provided between buildings on adjoining allotments. The visual privacy of the development has been duly considered with the placement of windows and balconies. Separation distances between habitable / non habitable spaces are considered to be adequate. Screening devices set at oblique angles have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties.
Carparking	Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:	NA the site complies with the rates within the North Kellyville DCP.

	Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).	
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. 2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	Yes. The proposed development will achieve two hours solar access for 85% of apartments between 9am and 3.00pm.
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. 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes. A total of 85% of units will meet the cross ventilation requirements or can be naturally ventilated. Yes The maximum overall depth is 18 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° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.	Yes Floor to ceiling height approx. 2.7 metres for all apartments. NA
Apartment size	1. Apartments are required to have the following internal size: Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m² The minimum internal areas include only one	Yes 1 bedroom – 68m² 2 bedroom – 95m² 3 bedroom – 115m² Where additional bathrooms are proposed, an

	bathroom. Additional bathrooms increase the minimum internal areas by 5m² 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.	additional 5m² has been provided. 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 All rooms comply.
Balcony area	The primary balcony is to be: Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.	Yes (for area) No (for dimension for 3 bedroom apartments) Non-compliance is in the order of 30mm which is considered insignificant, particularly given that the internal areas of all apartments exceeds the minimum
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Yes NA
Storage	Storage is to be provided as follows: Studio – 4m³ 1 bedroom – 6m³ 2 bedroom – 8m³ 3+ bedrooms – 10m³ 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 has been improved and is satisfactory.

8. Issues Raised in Submissions

The proposal was notified to adjoining and surrounding properties, and a submission from one property was received. The issues raised in the submission are summarised below.

ISSUE/OBJECTION	COMMENT
Concern that the amended building design and road widening will impact the privacy at No. 3 Kinglake Street, North Kellyville (which adjoins the subject site to the north). Concern that there will be an increase of built up area along the northern boundary.	The development is framed by dwellings at its northern end within the land zoned R2 Low Density Residential on the site. No changes are proposed to this part of the development. The proposed modifications are to the development located on the southern end of the site along the Barry Road and Withers Road intersection.
The current fence along the northern boundary is less than 1.8 metres which impacts privacy and security. Request is made that a 1.8 metre high fence be provided at the northern boundary adjoining No. 3 Kinglake Street.	Dividing fences are a civil matter under the Dividing Fences Act.

9. Internal Referrals

The application was referred to following sections of Council:

- Tree Management
- Subdivision Engineering
- Environmental Health
- Resource Recovery
- Traffic
- Contributions
- Land Information Systems

No objection was raised to the proposal (as amended) subject to conditions. Relevant comments have also provided below in the recommendation.

CONCLUSION

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 and 4.55(2) of the Environmental Planning and Assessment Act, 1979, SEPP Sydney Region Growth Centres 2006 and North Kellyville Development Control Plan and is considered satisfactory.

The issues raised in the submission have been addressed in the report and do not warrant refusal of the application.

Approval is recommended subject to conditions.

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

1. Modification Application No. 1238/2014/JP/C be approved for the reasons listed below and subject to the following new and amended conditions:
 - The site is considered suitable for the development (as proposed to be modified).
 - The proposed modifications result in an outcome that is substantially the same development as originally approved.
 - The proposed modifications adequately satisfy the relevant state and local planning provisions.
 - The proposed modifications will have no unacceptable impacts on the built or natural environments.

- The variation to height results in a development that is consistent with the relevant objectives, and compliance with the standard are unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report.
- The proposal is in the public interest.

GENERAL MATTERS

Condition No. 1 be deleted and replaced with the following:

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

The development being carried out in accordance with the approved plans and details associated with development application 1238/2014/JP, modification applications 1238/2014/JP/A and 1238/2014/JP/B, and as further modified by the following plans stamped and returned with this consent 1238/2014/JP/C. 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

REFERENCED PLANS

DRAWING NO	DESCRIPTION	ISSUE	DATE
1	Site Plan	4	4/12/2019
1A	Site Plan with Survey	4	4/12/2019
2	Second Basement Carpark	4	11/11/2019
3	First Basement Carpark	4	11/11/2019
4	Ground Level Plan	4	4/12/2019
5	First Level Plan	4	11/11/2019
6	Second Level Plans	4	11/11/2019
7	Third Level Plans	4	11/11/2019
8	Fourth Level Plans	4	11/11/2019
9	Top Level Plan – Communal Open Space	4	11/11/2019
10	Elevations	4	11/11/2019
10A	Elevations	4	11/11/2019
11	Elevations and Sections	4	11/11/2019
11A	Elevations and Sections	4	11/11/2019
12	Elevations and Sections	4	11/11/2019
12A	Elevations and Sections	4	11/11/2019
LA01	Tree Retention and Approval Plan	E	29/11/2019
LA02	Ground Floor Landscape Plan	I	18/08/2020
LA03	Block A-D Roof Terrace & Sections	E	04/02/2020
LA04	Landscape Details	D	04/02/2020
LA05	Ground Floor Hardworks and Finishes	F	18/08/2020

LA06	Landscape Sections and Elevations	C	13/02/2020
LA07	Deep Soil Plan	C	18/08/2020
170027 P1	Subdivision Plan	I	April 2018

Condition No. 7 be deleted and replaced with the following:

7. Tree Removal

Approval is granted for the removal of fifteen (15) trees numbered 1-15 inclusive as numbered on overall tree location plan prepared by Arboreport dated 29/10/20.

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.

Condition No.8 be deleted and replaced with the following:

8. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with remedial work to be carried out in accordance with the Arborist report by Arboreport dated 29/10/20. Trees 9 and 10 are to be transplanted elsewhere on site. Specifically trees 22, 23 and 27 are to be retained in accordance with Arborist Recommendations including the following requirements:

- Stormwater piping connected to the OSD is to be underbored at a depth of 1m below existing levels to retain and protect neighbouring trees 22, 23, and 27. Sending and receiving pits, and the location of boring is to be as indicated on Tree Location Plan in Arborist report by Arboreport dated 29/10/20. Boring is to be undertaken under supervision of the project arborist.
- Excavation for the pedestrian path within the Structural Root Zone of tree 22 is limited to maximum of 100mm, and is to be minimised further where possible. These works shall be supervised by the project arborist.
- Hand excavation is required for all works located within the TPZ of all retained trees. These works shall be supervised by the project arborist.

Condition No. 9 be deleted and replaced with the following:

9. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by EMM acoustic assessment Report No. J180493 RP1 dated 4 December 2018 and submitted as part of the Development Application are to be implemented as part of this approval. In particular: 6.3 Construction Noise Management.

Condition No. 16 be deleted and replaced with the following:

16. Construction of Waste Storage Areas

Construction of Waste Storage Area (RFB)

The waste storage area must be designed and constructed in accordance with the following requirements. The area must provide minimum storage facility for 12 x 1100 litre mobile garbage bins.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins as specified above.

- The layout of the waste storage area must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage area must be constructed of brickwork.
- The floor of the waste storage area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage area must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred). The waste servicing door must be supplied with a lock through Council's Waste Management Master Key System 'P3520'. See condition titled 'Installation of Master Key System to Waste Collection Room' for further details.
- The waste storage area must have a resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door must be separate to the waste servicing door. If a loading dock is proposed in the development the resident access door must be located to ensure that residents do not have access to the loading dock to gain access to the waste storage area.
- All doors of the waste storage area, when fully opened, must be flush with the outside wall(s) and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The waste storage area must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- The waste storage area must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area, it is not to conflict with the space designated for the placement of bins.
- The waste storage area must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage area must have appropriate signage (Council approved designs), mounted in a visible location on internal walls and are to be permanently maintained by the Owners Corporation.
- Finishes and colours of the waste storage area are to complement the design of the development.

Example Bin Measurements (mm)

1100L: 1245 (d) 1370 (w) 1470 (h)

Waste Storage Area (Medical Centre)

The waste storage area must be designed and constructed in accordance with the following requirements. The area must provide minimum storage facility for 7 x 240 litre mobile garbage bins.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins as specified above.

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

Example Bin Measurements (mm)

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

Condition Nos. 34 and 35 be deleted.

The addition of the following condition:

37A. Provision of Kitchen Waste Storage Cupboard

Waste storage facility must be provided in each unit/dwelling to enable source separation of recyclable material from residual garbage. Each unit/dwelling must have a waste storage cupboard provided in the kitchen with at least 2 removable indoor bins with a minimum capacity of 15 litres each. The bins provided should allow convenient transportation of waste from the kitchen to the main household bins or waste disposal point. The Principal Certifying

Authority must visually confirm in person, or receive photographic evidence validating this requirement, prior to the issue of any Occupation Certificate.

The addition of the following condition:

37B. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2:2018 for the standard 12.5m long Heavy Rigid Vehicle (minimum 4.5m clear vertical clearance). The following requirements must also be satisfied.

- All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 4.5m. Any nearby areas where the clear headroom is less than 4.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.
- All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
- Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
- The 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”.

The addition of the following condition:

37C. Provision of Bulky Goods Storage Area

A separate room or caged area for unwanted bulky goods must be provided. The area must be designed and constructed in accordance with the following requirements.

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

The addition of the following condition:

37D. Planting Requirements

All trees planted as part of the approved Landscape Plan prepared by Taylor Brammer are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

Additional small shade tolerant trees are to be provided at maximum 4m spacing to the 800mm deep planter boxes adjacent Barry Road, Withers Road, and the south-western boundary.

Suitable climbing plant species are to be provided to the roof terrace to provide shade to pergolas as indicated on the approved Landscape Plan drawing LA03.

A 2m wide planting strip is to be provided to the north-eastern side of the western driveway for dense landscaping.

All planting on slab and planter boxes are to achieve the minimum soil depths:

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

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

The extent of hard surface throughout the development is to be strictly in accordance with the approved landscape plan.

The addition of the following condition:

37E. Amended Stormwater Plan

An amended stormwater plan must be prepared to detail the section of underboring for stormwater services to the north west of the site in accordance with the Arborist Report prepared by Arboreport dated 29/10/20 to retain and protect tree 22, 23, and 27. The plan must be submitted to Council's Manager - Environment and Health for approval.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition No. 38 be deleted and replaced with the following:

38. Section 7.11 Contribution – North Kellyville

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

Payments comprise of the following:-

	Purpose: Dual Occupancy	Purpose: Integrated Housing	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of Dual Occ Units: 2	No. of Integrated Housing: 4	No. of 1 Bedroom Units: 13	No. of 2 Bedroom Units: 35	No. of 3 Bedroom Units: 5	Sum of Units	No. of Credits: 1	Total \$7.11
Open Space - Land	\$ 13,908.38	\$ 13,908.38	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 27,816.76	\$ 55,633.52	\$ 76,114.48	\$ 358,700.65	\$ 69,541.90	\$ 587,807.31	\$ 13,908.38	\$ 573,898.93
Open Space - Capital	\$ 2,172.81	\$ 2,172.81	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 4,345.62	\$ 8,691.24	\$ 11,090.84	\$ 56,037.45	\$ 10,864.05	\$ 91,829.20	\$ 2,172.81	\$ 89,656.39
Transport Facilities - Land	\$ 1,099.30	\$ 1,099.30	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 2,198.60	\$ 4,397.20	\$ 6,016.01	\$ 28,351.05	\$ 5,496.50	\$ 46,459.36	\$ 1,099.30	\$ 45,360.06
Transport Facilities - Capital	\$ 8,183.67	\$ 8,183.67	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 16,367.34	\$ 32,734.68	\$ 44,785.65	\$ 211,058.75	\$ 40,918.35	\$ 345,864.77	\$ 8,183.67	\$ 337,681.10
Water Management - Land	\$ 2,035.76	\$ 2,035.76	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 4,071.52	\$ 8,143.04	\$ 11,140.87	\$ 52,502.80	\$ 10,178.80	\$ 86,037.03	\$ 2,035.76	\$ 84,001.27
Water Management - Capital	\$ 894.75	\$ 894.75	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 1,789.50	\$ 3,579.00	\$ 4,896.58	\$ 23,075.85	\$ 4,473.75	\$ 37,814.68	\$ 894.75	\$ 36,919.93
Community Facilities - Land	\$ 464.38	\$ 464.38	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 928.76	\$ 1,857.52	\$ 2,541.37	\$ 11,976.30	\$ 2,321.90	\$ 19,625.85	\$ 464.38	\$ 19,161.47
Community Facilities - Capital	\$ 1,131.33	\$ 1,131.33	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 2,262.66	\$ 4,525.32	\$ 6,191.25	\$ 29,177.05	\$ 5,656.65	\$ 47,812.93	\$ 1,131.33	\$ 46,681.60
Administration	\$ 109.62	\$ 109.62	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 219.24	\$ 438.48	\$ 599.95	\$ 2,827.30	\$ 548.10	\$ 4,633.07	\$ 109.62	\$ 4,523.45
Total	\$ 30,000.00	\$ 30,000.00	\$ 12,629.00	\$ 22,105.92	\$ 30,000.00	\$ 30,000.00	\$ 60,000.00	\$ 120,000.00	\$ 164,177.00	\$ 773,707.20	\$ 150,000.00	\$ 1,267,884.20	\$ 30,000.00	\$ 1,237,884.20

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. 13.

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

The addition of the following condition:

49A. Basement Car Park Turning Bay

The basement carpark must provide a turning bay prior to the boom gate to facilitate vehicles turning around and exiting if all spaces are occupied. Details are to be provided on plans prior to issue of the relevant Construction Certificate.

PRIOR TO WORK COMMENCING ON THE SITE

Condition No. 58 be deleted and replaced with the following:

58. Trenching within Tree Protection Zone

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

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

Underboring must be undertaken for the section of stormwater piping to the south-west of the site in accordance with the Arborist Report prepared by Arboreport dated 29/10/20 to retain and protect tree 22, 23, and 27. All other trenching or excavation within the TPZ of trees to be retained and protected must be hand dug in accordance with Arborist recommendations. All excavation including for trenching and underboring is to be conducted strictly under the supervision of the Project Arborist.

Condition No. 59 be deleted and replaced with the following:

59. Supervision of works by 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.

The hold points and subsequent inspections required shall be carried out as per recommendations of arborist report by Arboreport dated 29/10/20.

The addition of the following condition:

72A. 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.

DURING CONSTRUCTION

Condition No. 75 be deleted and replaced with the following:

75. 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. 474073M and 474073M_04 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.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

The addition of the following condition:

114A. Landscaping Prior to Issue of the relevant Occupation Certificate

Landscaping of the site shall be carried out prior to issue of the relevant Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plan by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

THE USE OF THE SITE

Condition No. 117 be deleted and replaced with the following:

117. Waste and Recycling Collection (Medical Centre)

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

Condition No. 119 be deleted and replaced with the following:

119. Use of Pharmacy and Cafe

The use of the pharmacy and cafe is to be ancillary to the operation of the medical centre.

Condition No. 120 be deleted and replaced with the following:

120. Waste and Recycling Caretaker (RFB)

A caretaker must be appointed to manage waste operations on site including undertaking all instructions issued by Council to enable waste collection. Waste storage area(s) must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Approved Plans
5. Proposed Plans
6. Modified Consent 1238/2014/JP/B
7. Approved Subdivision Plan

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

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ATTACHMENT 2 – AERIAL MAP



SUBJECT SITE

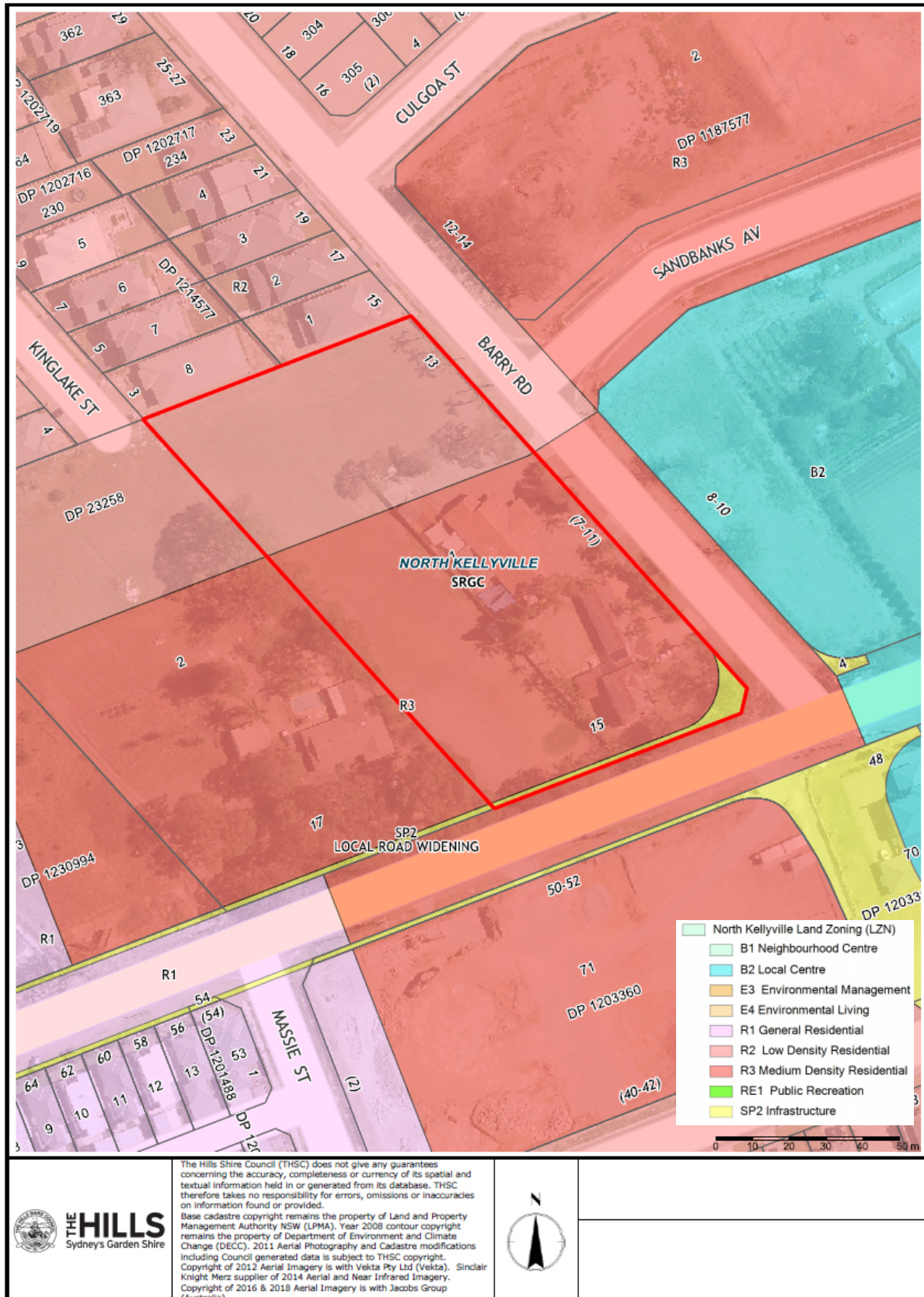
THE HILLS
Sydney's Garden Shire

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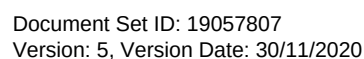
ATTACHMENT 3 – ZONING MAP

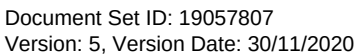


ATTACHMENT 4 – APPROVED PLANS



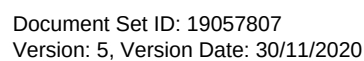




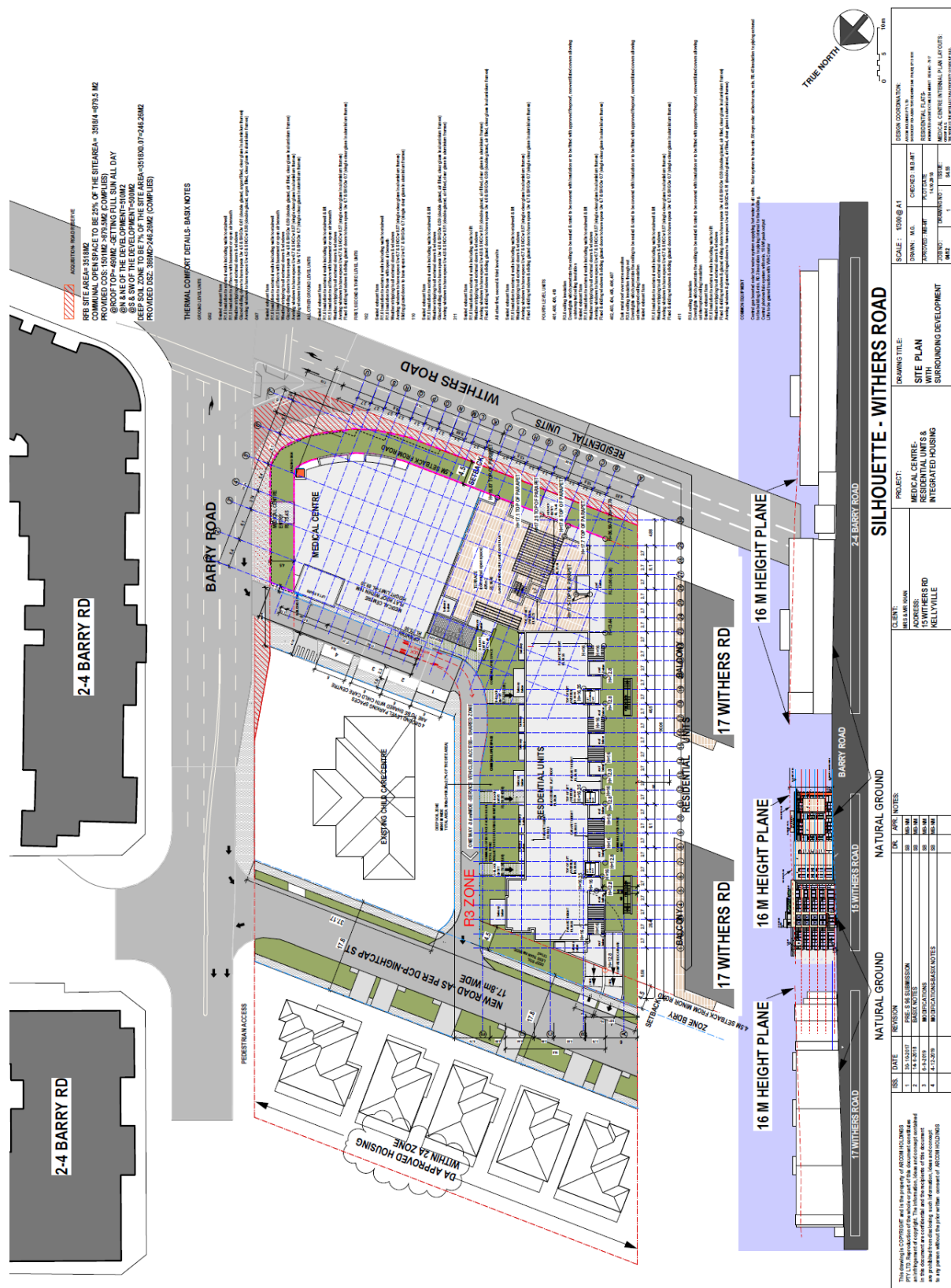




2
DP23258



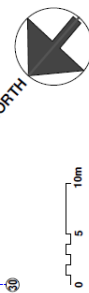
ATTACHMENT 5 – PROPOSED PLANS



TOTAL AREA= APPROX. 3350< (5000M2 FIRE COMPARTMENTATION)

NUMBER OF CARS FOR THIS LEVEL=
RESIDENTIAL PART: 41 CARS, INCL. FOUR DIS SPACES
MEDICAL CENTRE PART:35 CARS INCL. TWO DIS SPACES

TOTAL NUMBER OF RESIDENTIAL STORAGE AREA FOR THIS LEVEL= 28 (MIN 8M3)



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	1	15/04/2019	15/04/2019	15/04/2019	15/04/2019	15/04/2019	
	2	15/04/2019	15/04/2019	15/04/2019	15/04/2019	15/04/2019	
	3	15/04/2019	15/04/2019	15/04/2019	15/04/2019	15/04/2019	
	4	15/04/2019	15/04/2019	15/04/2019	15/04/2019	15/04/2019	

TOTAL AREA= APPROX. 3350< (5000M2 FIRE COMPARTMENTATION)

NUMBER OF CARS=

NO OF UNITS:

	1BR	2 BR	3 BR
<u>GROUND</u>	4	2	1
<u>FIRST</u>	5	8	-
<u>SECOND</u>	1	8	2
<u>THIRD</u>	1	8	2
<u>FOURTH</u>	2	9	-
	13	35	5

TOTAL: 53 UNITS

1 BR UNITS: 13x1= 13 CAR SPACES

2 BR UNITS: 35x1= 35 CAR SPACES

3 BR UNITS: $5 \times 1.5 = 8$ CAR SPACES

VISITOR: 53/5= 11 CAR SPACES

MOTORCYCLE: 1 SPACE PER 50 CARSPACE=2 MOTORCYCLE

BICYCLE: 1 SPACE PER 3 UNITS= 53/3=18 BICYCLE

FOR RES. UNITS= 67 CARS

67 CAR SPACE PROVIDED

TOTAL GROSS AREA FOR MEDICAL CENTRE

$$760 + 873 + 873 + 856 = 3362 \text{ m}^2$$

NO OF CARS REQUIRED:

PHARMACY 71m²/ 18.5 car per sqm=4 cars

$$3362 - 71 = 3291 / 50 = 66 \text{ cars}$$

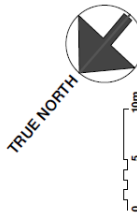
TOTAL CARS REQUIRED

FOR MEDICAL CENTRE=

36+4= 70 CARS < 71 PROVIDED

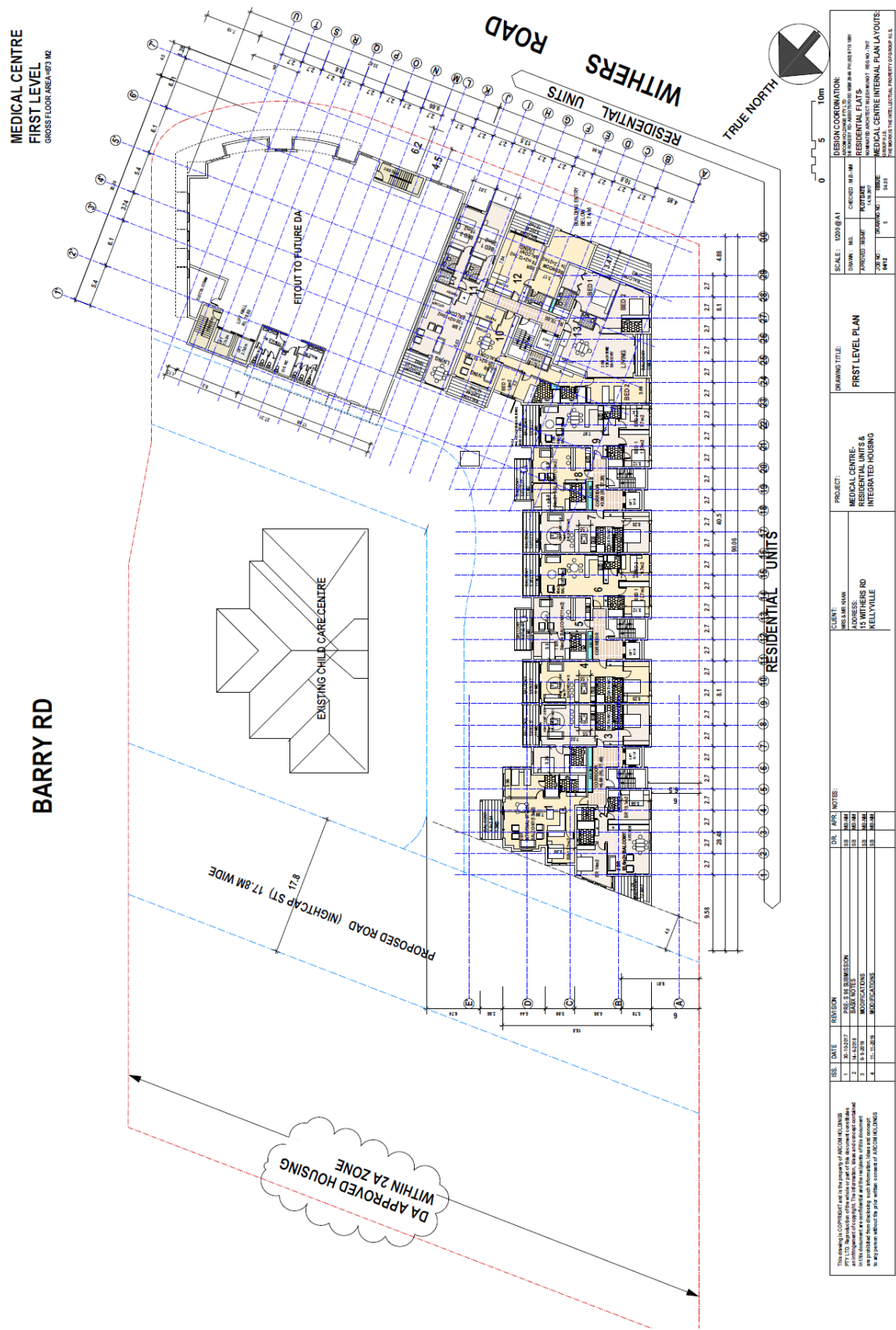
NOTE: 4 GR LEVEL CARSPACES TO BE SHARED WITH

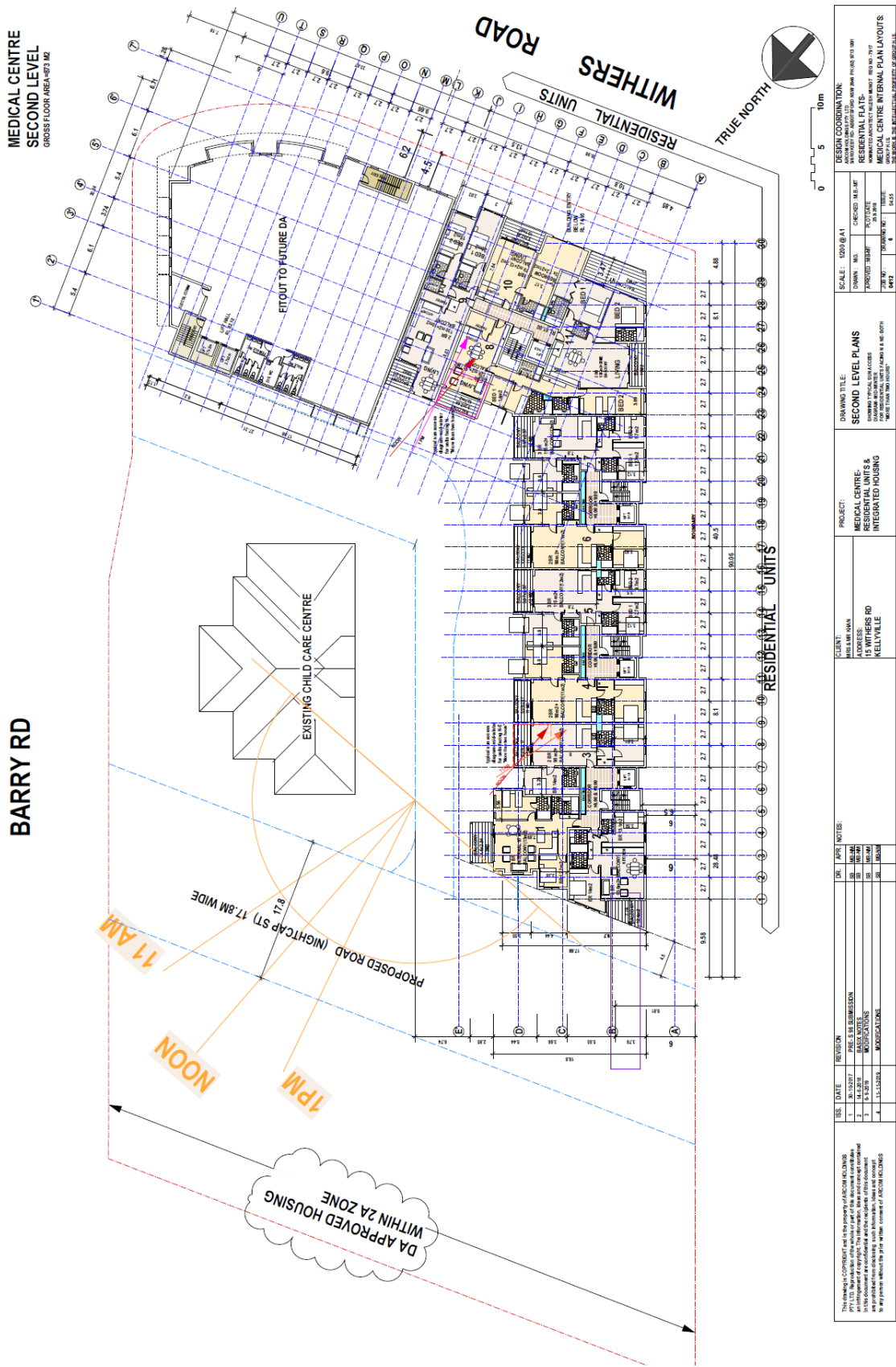
CHILD CARE CENTRE

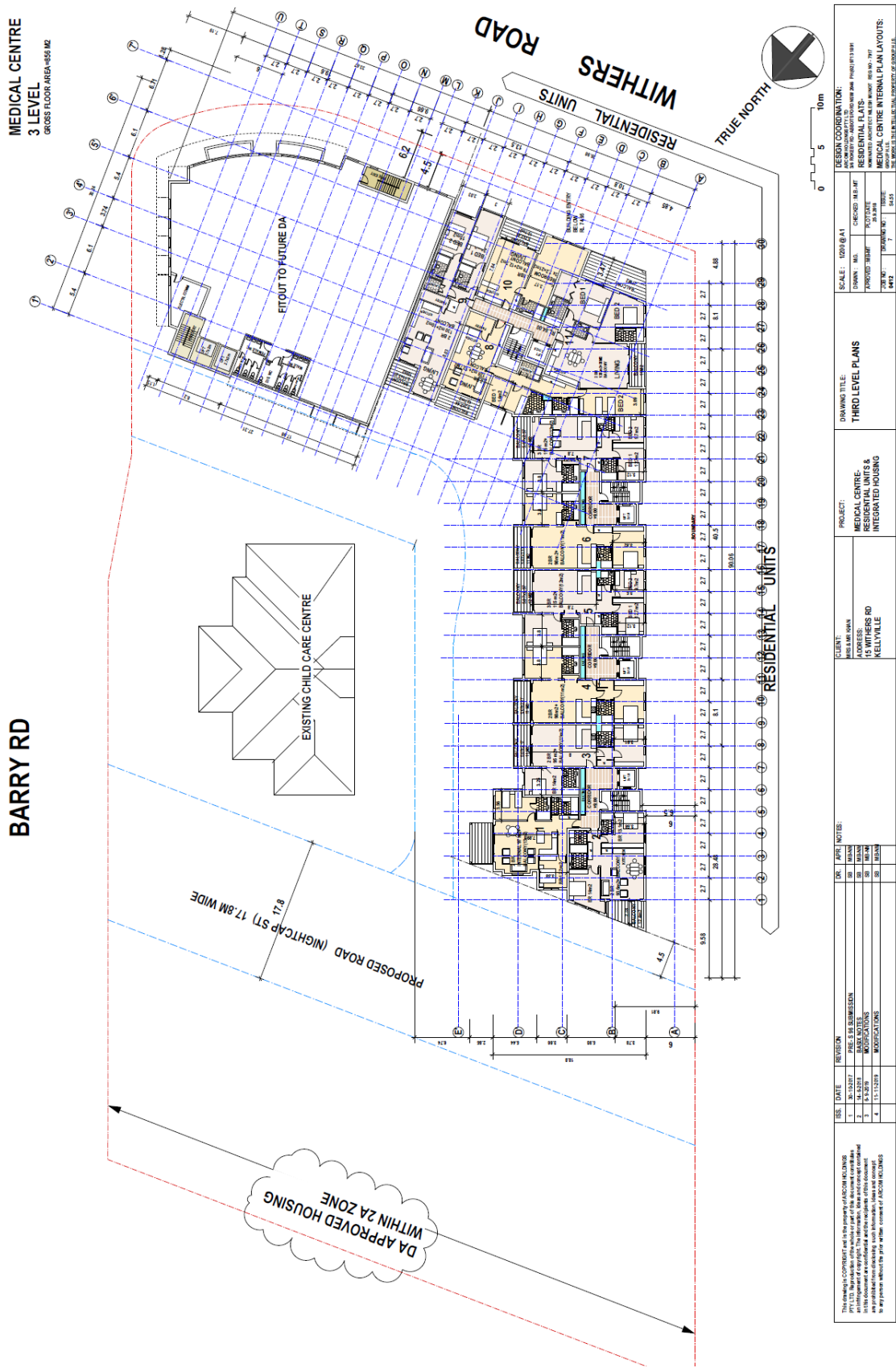


USE	DATE	REVISION	DATE	APPROVAL	NOTE
1	3-15-2017	DESIGN SECTION			
2	3-15-2017	MODIFICATIONS			
3	3-15-2017	MODIFICATIONS			
4	11-12-2019	MODIFICATIONS			

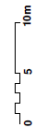
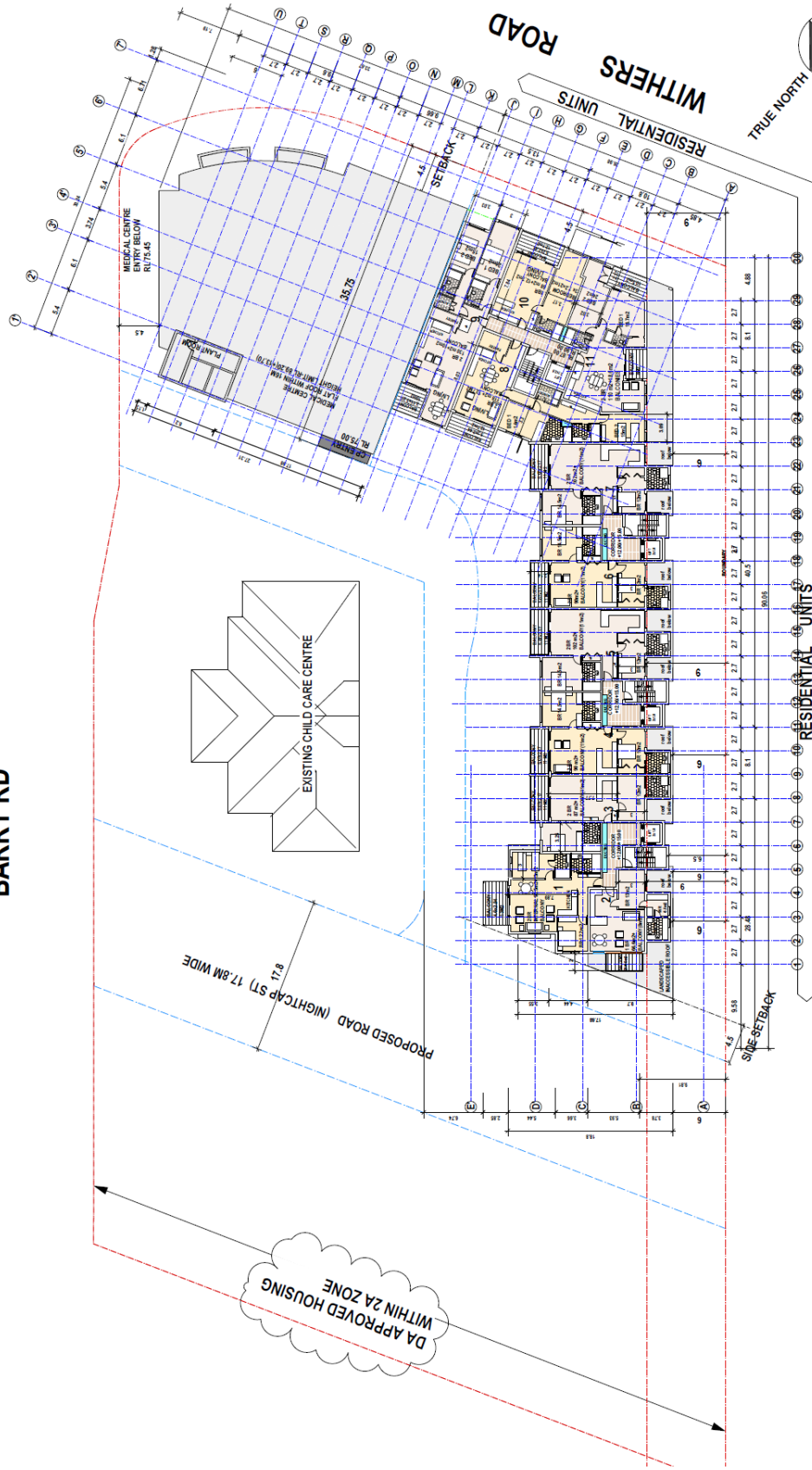
CLIENT MILAN	PROJECT MEDICAL CENTRE, RESIDENTIAL UNITS & INTEGRATED HOUSING	DRAWING TITLE FIRST BASEMENT CARPARK	SCALE: 1:200 @ A1	DESIGN COORDINATION: 130 NUMBER 10 AVONDALE DRIVE MELB 3042 RESIDENTIAL FLATS MEDICAL CENTRE INTERNAL PLAN LAYOUTS: DRAWN BY CHECKED BY DATE
DATE 10/08/2017	DATE 10/08/2017	DATE 10/08/2017	DATE 10/08/2017	DATE 10/08/2017





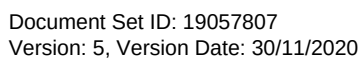


BARRY RD



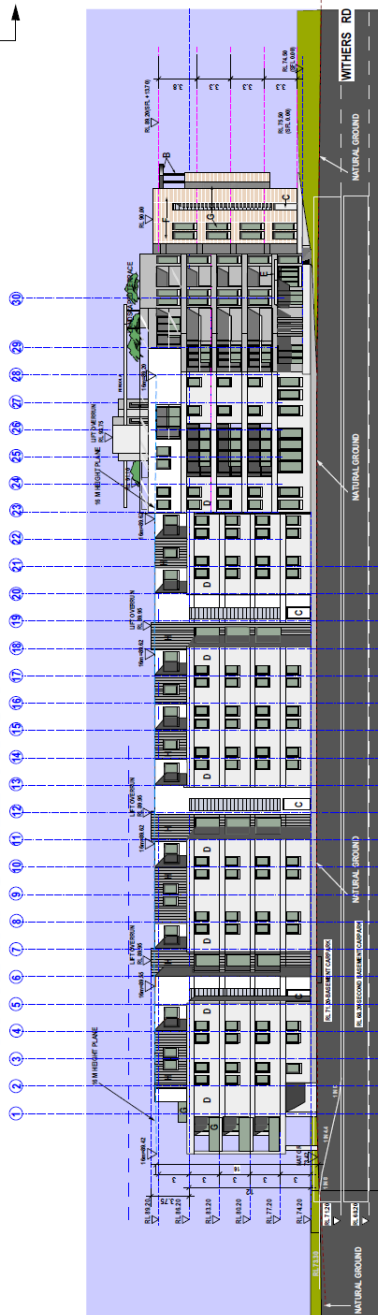
ISS	DATE	REVISION	OR	APR	NOTES	CLIENT	PROJECT	DRAWING TITLE	SCALE	DESIGN COORDINATION
1	10-12-2017	PRIE 3/18 SUBMISSION	10	10	10	MRS S. B. K. K.	MEDICAL CENTRE, RESIDENTIAL UNITS & INTEGRATED HOUSING	REF: 4th LEVEL PLANS	1:500 (A4)	DESIGNED: M. K. K.
2	14-12-2017	REVISIONS	10	10	10	ADDRESS: 100 WITHERS RD, KELLYVILLE				PROJECT: M. K. K.
3	14-12-2017	REVISIONS	10	10	10					DESIGNED: M. K. K.
4	11-11-2018	REVISIONS	10	10	10					PROJECT: M. K. K.

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NIGHTCAP ST ELEVATION

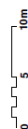
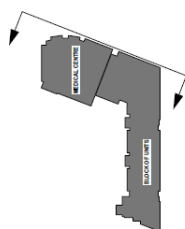
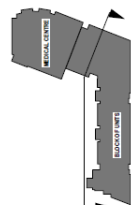
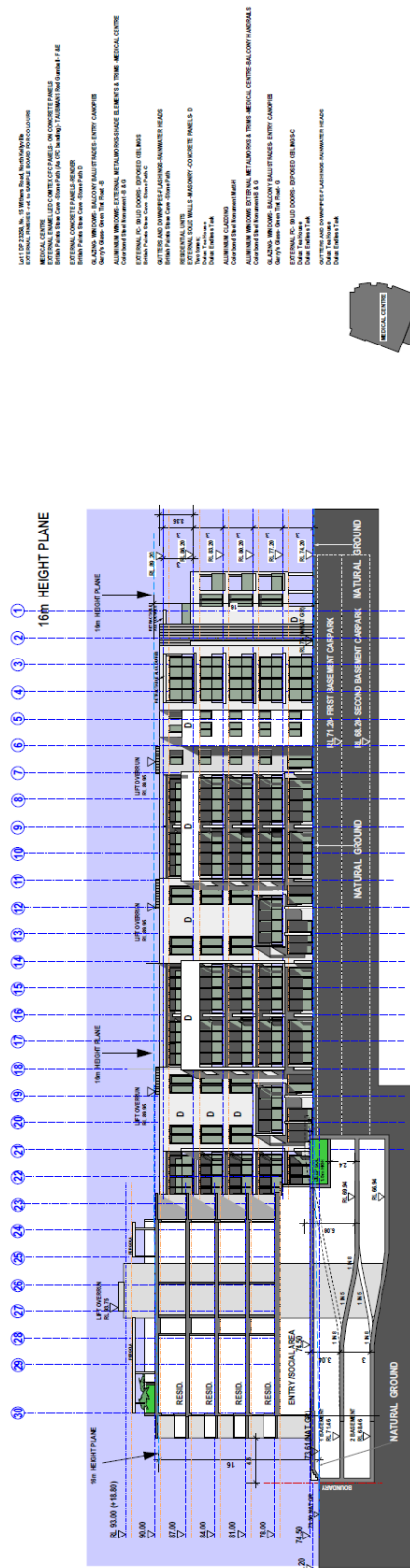


WITHERS RDELEVATION

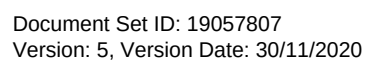
SW ELEVATION

SW (REAR) ELEVATION

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	1. INITIAL DESIGN	15.12.2017	DR	MECHANICAL	15.12.2017	MECHANICAL	MECHANICAL	1:100	MECHANICAL
	2. REVISIONS	15.12.2017	DR	MECHANICAL	15.12.2017	MECHANICAL	MECHANICAL	1:100	MECHANICAL
	3. REVISIONS	15.12.2017	DR	MECHANICAL	15.12.2017	MECHANICAL	MECHANICAL	1:100	MECHANICAL







ATTACHMENT 6 – MODIFIED CONSENT 1238/2014/JP/B



31 August, 2018

Q Khan
C/- DFP Planning Pty Ltd
PO Box 230
PENNANT HILLS NSW 1715

Ref No.1238/2014/JP/B
Delegated Authority

Dear Sir/Madam

SECTION 4.55 MODIFICATION OF DEVELOPMENT CONSENT

CONSENT NUMBER: 1238/2014/JP/B

Pursuant to the provisions of Section 122(1) of the Environmental Planning and Assessment Regulation 2000, notice is hereby given of the determination by The Hills Shire Council of the Development Application described below:

APPLICANT:	Q Khan
OWNER:	Mrs D S Khan and Mr Q A Khan
PROPERTY:	Lot 1 DP 23258 15 Withers Road, NORTH KELLYVILLE
DEVELOPMENT:	Section 96 (1A) Modification to an Approved Mixed Use Development to Amend the Subdivision Layout and Staging
DATE OF APPROVAL:	31 August 2018
ENDORSED DATE OF ORIGINAL CONSENT:	24 September 2015

The Section 4.55 application for modification of Development Consent Number 1238/2014/JP be approved as follows:

CONDITIONS OF CONSENT

1. All conditions be deleted and replaced as follows:

GENERAL MATTERS

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

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

The amendments in red include:

- Landscaping is required between the child care centre parking area and Barry Road.
- The hardstand is to be reduced to include a turning bay only (minimum 2.6m wide) for the at grade medical centre parking area. A minimum 2 metres of landscaping is required along the Withers Road frontage adjacent to the parking area.

REFERENCED PLANS

DRAWING NO	DESCRIPTION	ISSUE	DATE
1	Site Plan s96	2	01/04/2016
3	Stage 1 – Ground Level Plan & Access Arrangements S96	3	09/02/2016
4	Ground Level Plan Final Stage	2	06/02/2015
5	First Level Plan	1	06/02/2015
6	Medical Centre – Second Level Plan RFB – Second and Third Level Plans	1	06/02/2015
7	RFB – Fourth Level Plan – Communal Open Space	1	06/02/2015
8	Elevations – Sections R2 Zone	1	02/04/2013
9	Elevations – Section R3 Zone Stage 1 Medical Centre S96	2	09/02/2016
10	Basement Carpark Plans	-	30/10/2013
10A	Medical Centre First Basement Car Park Plan S96	2	02/04/2016
10B	Medical Centre Second Basement Car Park Plan S96	2	02/04/2016
LA02	Ground Floor Landscape Plan	A	16/12/2013
LA03	Block A-D Roof Terrace & Sections	A	16/12/2013
LA04	Landscape Details	A	16/12/2013
-	Existing and Proposed Parking Arrangement for existing Child Care Centre	-	-
5A	Stage 1 Medical Centre First Level Floor Plan S96	1	09/02/2016
6A	Stage 1 Medical Centre Second Level Floor Plan S96	1	09/02/2016
170027 P1	Subdivision Plan	I	April 2018

2. Compliance with NSW Rural Fire Service

Compliance with the requirements of the NSW Rural Fire Service throughout all stages of the subdivision/development as outlined in their letter dated 26 May 2014 attached to this consent as Appendix 1.

3. Construction Certificate

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

4. 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.

5. Separate application for signs

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

6. Demolition Notification

Both Council and any adjoining properties must be notified in writing five days before demolition works commence.

7. Tree Removal

Approval is granted for the removal of trees 1-8, and 11-19 inclusive as shown on overall tree location plan prepared by ecodesign dated 4/4/14.

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.

8. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with remedial work to be carried out in accordance with the Arborist report by ecodesign dated 4.04.14. Specifically trees 20-23 and 25-27 inclusive are to be retained. Trees 9 and 10 are to be transplanted elsewhere on site.

9. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by EMGA Mitchell McLennan Pty Ltd, referenced as J13065RP1, dated 19 August 2013 and submitted as part of the Development Application are to be implemented as part of this approval. In particular: 6.3 Construction Noise Management.

10. Compliance with NSW Police Force Requirements

The proposed development is to be undertaken in accordance with the requirements of the NSW Police – Local Area Command dated 27 May 2014 comprising the following:-

- CCTV coverage is to be used to monitor all common areas, entry/exits points, letter boxes, cars, motor cycles and lifts etc.
- Use of height indicator stickers on entrance/exit doors are to be used
- High quality letter boxes that meets AS ISO9001:2008 and only to be accessed via within the unit complex by residents.
- Lift from car park into the residential part of the building to be secure/entry control system.
- Entry into the residential car park is to be secure.
- Ensure improved strength to security roller shutters/garage doors.
- Caged storage units are to be built up to the ceiling with a door with better quality locking mechanism to be used.
- Fire doors are to be alarmed and a magnetic strip is required so that the door will shut closed.
- The underground car parking areas to be painted white to assist in reflecting light.
- Lighting is to meet minimum Australian Standards. Special attention is to be made to lighting entry/exit points from the building, car park and access/exit driveways etc.

- Use of anti-graffiti building materials.
- Vegetation to be maintained at all times.
- Warning signs to be installed to warn intruders of what security treatments have been implemented.
- High fencing during construction is to be used.
- Use of security sensor lights and a security company to monitor the site while construction is in progress.

11. Adherence to Waste Management Plan (WMP)

All commitments of the WMP submitted to and approved by Council must be implemented during the construction and demolition stages of the development. The information submitted can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. Receipts of all waste/ recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

12. Management of Construction and Demolition Waste

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

13. Surplus Excavated Material

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

14. Commencement of Domestic Waste Service (Residential Components)

The property owner, building manager or agent acting for the owners must ensure to arrange the commencement of a domestic waste service with Council. The service is to be arranged no earlier than two days prior to occupancy and no later than two days after occupancy of the development. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

15. Provision of Domestic Waste Storage Areas (Residential Dwellings)

Sufficient space must be allocated within the lot boundary of each dwelling to store a minimum of three 240 litre mobile bins (for waste streams as determined by Council). The location is required to ensure that the bins are not visible from any adjoining property or public place and allow the bins to be wheeled to the street over flat or ramped surfaces and not over steps, kerbs, landscape edging or through a habitable area of the dwelling.

16. Construction of Separate Waste Storage Rooms (RFB and Medical Centre)

The buildings must incorporate separate waste storage rooms constructed in accordance with Council's 'Bin Storage Facility Design Specifications', to facilitate the separation of commercial waste and recycling from residential waste and recycling. In addition to these requirements, the rooms must also be adequately ventilated (mechanically) and contain an internal light source (artificial light). Storage facility for the residential component of the development must be provided for a minimum number of 2 x 1100L bulk garbage bins, 1 x 660L bulk garbage bin, 23 x 240L mobile recycling bins and a caged area with a minimum floor area of 8m² for bulky goods storage. The measurements of the above bins are as follows:

240L: 735mm (d) 580mm (w) 1080mm (h)

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

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

17. Waste Loading Bay Signage (RFB and Medical Centre)

Appropriate signage must be mounted in a visible location and is to be maintained by the Body Corporate/ Building Management, indicating that the waste loading bays are to be available and unimpeded at all times. This must also be referenced within the strata management statement/ tenant agreement.

18. Subdivision Certificate Pre-Lodgement Meeting/ Check

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

Street addresses for the lots within this subdivision will be allocated as part of this preliminary check process, for inclusion on the administration sheet.

19. Australia Post Mailbox Requirements

Australia Post has specific requirements for mail deliveries on private roads. Separate approval from Australia Post is required before installing individual mailboxes for this development.

20. Proposed Street Naming

A written application for street naming must be submitted to Council for approval, along with the applicable fee as per Council's Schedule of Fees and Charges. The street names proposed must comply with requirements of the NSW Geographical Names Board and Council.

The application must nominate three suggested names per street, in order of preference, and the source of the names proposed.

This condition specifically relates to the private road(s).

21. Approved Street Naming

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

22. Street Trees

Street trees must be provided for the section of all public roads within or fronting the development site spaced between 7m and 10m apart and with a minimum of one tree per lot frontage. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. 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. Alternatively, street trees can be planted by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

23. Recycled Water

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

24. 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:

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

All constructed WSUD elements within public areas, being roads or drainage reserves, are to be transferred to Council at the end of the project. The following is required in order to facilitate this handover process:

- n) The developer will be responsible for the maintenance of the item for a defined maintenance period agreed to by Council. For example, the consultation draft document entitled Managing Urban Stormwater: Urban Design prepared by the SMCMA and the then NSW DECCW suggests that the developer maintain WSUD elements within a subdivision until a given proportion of the dwellings on the lots created, say 80%, are erected and occupied.
- o) The operations and maintenance plan for this element (above) is submitted to Council for review/ revision and subsequent approval.
- p) Council staff inspects the WSUD measure to confirm that it is being maintained in accordance with the approved maintenance plan.
- q) A whole of life assessment is provided for the WSUD measure which is based upon the expenses incurred during the maintenance period, and documentation is provided to confirm these expenses.
- r) WAE drawings and any required engineering certifications are provided to Council.
- s) Where water quality monitoring has been determined by Council as being required, monitoring results must be submitted to Council for review.
- t) Details of all incidents including OHS incidents, public safety, WSUD performance and complaints received should be provided.

If Council determines that the WSUD measure is not complying with the conditions of this approval or monitoring identifies that it is not performing as anticipated, Council may request that alterations be made to the WSUD element prior to transfer.

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

25. Protection of Public Infrastructure

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

26. 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:

- a) AS/ NZS 2890.1
- b) AS/ NZS 2890.6
- c) AS 2890.2
- d) Council's DCP Part C Section 1 – Parking
- e) Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- i. 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.
- ii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- iii. All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- iv. All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.
- v. Column locations are to provide clear access to spaces and must be located in accordance with AS/ NZS 2890.1. Columns are not to be located at the edge of parking aisles.
- vi. A turning bay must be provided at the end of the second level of the medical centre basement car park.

27. Rain Garden and Rainwater Reuse Tank (North Kellyville)

A rain garden and rainwater reuse tank is required to be constructed in accordance with the following documents and requirements:

- a) Council's Typical Rain Garden Plan and Details (Standard Drawing 44)
- b) Council's Rain Garden Installation Guide and Specifications

The area/ volume of the rain garden must comply with the restriction that appears on the title of the subject site.

The rainwater reuse tank must be plumbed specifically for washing machine use. External use is also permitted however the recycled water system supplied by Sydney

Water must be connected to all toilets for flushing purposes, and at least one external tap.

28. Waste and Recycling Collection Contract (Medical Centre)

The building owner must ensure that there is a contract with a licenced contractor for the removal of all waste generated on site. Written evidence of a valid and current collection contract must be held onsite at all times and produced in a legible form to any authorized officer of the Council who asks to see it.

29. Clinical Waste (Medical Centre)

Adequate yellow sharps containers that comply with AS 4031-1992 must be provided at the premises for the storage and disposal of clinical and sharps waste. Clinical and sharps waste must be collected and disposed of by an authorised waste contractor in accordance with the Protection of the Environment Operations (Waste) Regulation 2005.

30. Provision of Parking Spaces

The development is required to be provided with 137 off street car parking spaces including 4 disable car parking spaces. These car parking spaces must be available for off street parking at all times.

31. Existing Child Care Centre – Connection to Sewer

The onsite wastewater system servicing the existing child care centre must be removed and the building connected to Sydney Water's sewer network.

32. Demolition Notification

Both Council and any adjoining properties must be notified in writing five days before demolition works commence.

33. Demolition Inspections

Before demolition works commence, a pre-demolition inspection must be arranged with Council's Development Certification team. All conditions required to be addressed before works commence must be satisfied. Once demolition works are complete, a post demolition inspection must be arranged with Council's Development Certification team.

34. Works to Child Care Centre

Proposed works to the existing child care centre (including parking and access arrangements, changes to outdoor area, etc) must not occur when the centre is operating. The centre can only start operating once the modifications are complete.

35. Clause 94 considerations (Child Care Centre)

Under clause 94 of the Environmental Planning & Assessment Regulation, the following fire safety/Building Code of Australia (BCA) works are to be undertaken with the construction certificate works and are to be completed prior to the issue of the occupation certificate:

- i. Portable fire extinguishers are to be upgraded & provided throughout the existing child care centre in accordance with AS 2444 - 2001 and E1.6 of the Building Code of Australia.

36. Provision of Waste Servicing Path (RFB)

Provide a waste servicing path from the residential flat building waste storage room leading to the one way service road, including kerb crossing. This path must allow the most direct access to the bins for servicing by collection contractors. The path must be a minimum width of 1.5m, not exceed a grade of 1:20 (5%) and is required to be constructed of concrete with a smooth non-slip finish.

37. Separate Application for Signs

A separate Development Application is required to be submitted and approved by Council prior to the erection of any advertisements or advertising structures within the approved signage zones on the Withers Road/Barry Road corner of the modified medical centre building.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

38. Section 7.11 Contribution – North Kellyville

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

Payments comprise of the following:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Integrated Housing	Purpose: Subdivision (Post Jul 2018)	Purpose: Credit
Open Space - Land	\$ 5,854.96	\$ 10,248.59	\$ 13,908.38	\$ 13,908.38	\$ 18,544.50	\$ 13,908.38
Open Space - Capital	\$ 914.68	\$ 1,601.07	\$ 2,172.81	\$ 2,172.81	\$ 2,897.09	\$ 2,172.81
Transport Facilities - Land	\$ 462.77	\$ 810.03	\$ 1,099.30	\$ 1,099.30	\$ 1,465.73	\$ 1,099.30
Transport Facilities - Capital	\$ 3,445.05	\$ 6,030.25	\$ 8,183.67	\$ 8,183.67	\$ 10,911.56	\$ 8,183.67
Water Management - Land	\$ 856.99	\$ 1,500.08	\$ 2,035.76	\$ 2,035.76	\$ 2,714.35	\$ 2,035.76
Water Management - Capital	\$ 376.66	\$ 659.31	\$ 894.75	\$ 894.75	\$ 1,193.00	\$ 894.75
Community Facilities - Land	\$ 195.49	\$ 342.18	\$ 464.38	\$ 464.38	\$ 619.17	\$ 464.38
Community Facilities - Capital	\$ 476.25	\$ 833.63	\$ 1,131.33	\$ 1,131.33	\$ 1,508.44	\$ 1,131.33
Administration	\$ 46.15	\$ 80.78	\$ 109.62	\$ 109.62	\$ 146.16	\$ 109.62
Total	\$ 12,629.00	\$ 22,105.92	\$ 30,000.00	\$ 30,000.00	\$ 40,000.00	\$ 30,000.00

No. of 1 Bedroom Units: 39	No. of 2 Bedroom Units: 18	No. of 3 Bedroom Units: 2	No. of Integrated Housing: 4	No. of Lots :1 (Post Jul 2018)	Sum of Units	No. of Credits: 1	Total \$7.11
\$ 228,343.44	\$ 184,474.62	\$ 27,816.76	\$ 55,633.52	\$ 18,544.50	\$ 440,634.82	\$ 13,908.38	\$ 426,726.44
\$ 35,672.52	\$ 28,819.26	\$ 4,345.62	\$ 8,691.24	\$ 2,897.09	\$ 68,837.40	\$ 2,172.81	\$ 66,664.59
\$ 18,048.03	\$ 14,580.54	\$ 2,198.60	\$ 4,397.20	\$ 1,465.73	\$ 34,827.17	\$ 1,099.30	\$ 33,727.87
\$ 134,356.95	\$ 108,544.50	\$ 16,367.34	\$ 32,734.68	\$ 10,911.56	\$ 259,266.79	\$ 8,183.67	\$ 251,083.12
\$ 33,422.61	\$ 27,001.44	\$ 4,071.52	\$ 8,143.04	\$ 2,714.35	\$ 64,495.57	\$ 2,035.76	\$ 62,459.81
\$ 14,689.74	\$ 11,867.58	\$ 1,789.50	\$ 3,579.00	\$ 1,193.00	\$ 28,346.82	\$ 894.75	\$ 27,452.07
\$ 7,624.11	\$ 6,159.24	\$ 928.76	\$ 1,857.52	\$ 619.17	\$ 14,712.11	\$ 464.38	\$ 14,247.73
\$ 18,573.75	\$ 15,005.34	\$ 2,262.66	\$ 4,525.32	\$ 1,508.44	\$ 35,841.75	\$ 1,131.33	\$ 34,710.42
\$ 1,799.85	\$ 1,454.04	\$ 219.24	\$ 438.48	\$ 146.16	\$ 3,473.13	\$ 109.62	\$ 3,363.51
\$ 492,531.00	\$ 397,906.56	\$ 60,000.00	\$ 120,000.00	\$ 40,000.00	\$ 950,437.56	\$ 30,000.00	\$ 920,437.56

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. 13.

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.

39. Special Infrastructure Contribution – Growth Centres

The applicant is to make special infrastructure contribution in accordance with any determination by the Minister administering the Environmental planning and Assessment Act 1979 under Section 94EE of the Act that is in force on the date of this consent, and must obtain a certificate to that effect from the Growth Centres Commission before a Construction certificate or subdivision certificate is issued in relation to any part of the development to which this consent relates.

More information on the Special Infrastructure Contribution can be found at the Growth Centres Commission's website at www.gcc.nsw.gov

To obtain an estimate of the Special Infrastructure Contribution that may be payable for the application please email infrastructurecontribution@gcc.nsw.gov.au

40. Mail Box Locations and street number allocation

The submission of the following information to the satisfaction of Council's Manager, Forward Planning, prior to issue of the Construction Certificate.

- Detailed information of approved location of mailboxes from Australia Post for all occupants/tenants within the complex

Please note the following guidelines in relation to numbering:

- The location of the mailbox will be the primary address for the properties regardless of the location of access to the property;

Please note that no existing street numbers can be applied to this development and should be removed from any plans. The existing Child Care Centre will be renumbered due to the area being redeveloped.

Land Information Section is to be contacted prior to occupation of the development to determine street numbering.

Unit numbering signage is required on stairway access doors and lobby entry doors. It is essential that all numbering signage throughout the development is clear to assist emergency service providers locate a destination with ease and speed.

Please note that the assessment of numbering allocations in no way constitutes an approval for the above application.

Should you require further information regarding this matter, please contact Council's Land Information Section on 9843-0397 during office hours.

41. Landscape Plan Bond

Lodgement of a landscape bond in the amount of \$20,000 shall be lodged with Council to ensure satisfactory completion of the landscaping works.

The landscape bond shall be released:

- a) six months from the issue of the Final Occupation/Subdivision Certificate; and
- b) after submission of certification from a qualified landscape architect; or
- c) to the satisfaction of the Manager – Health & Environment,
- d) that the landscaping has been completed in accordance with the approved landscaping plan.

42. Internal Pavement Structural Design Certification

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

43. Security Bond Requirements

A security bond may be submitted in lieu of a cash bond. The security bond must:

- a) Be in favour of The Hills Shire Council;
- b) 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);
- c) Have no expiry date;
- d) Reference the development application, condition and matter to which it relates;
- e) Be equal to the amount required to be paid in accordance with the relevant condition;
- f) Be itemised, if a single security bond is used for multiple items.

Should Council need to uplift the security bond, notice in writing will be forwarded to the applicant 14 days prior.

44. Sediment and Erosion Control Plan

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

- a) Allotment boundaries;
- b) 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; and
- j) A maintenance program for the erosion and sediment controls.

45. Works on Adjoining Land

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

46. Stormwater Discharge Acceptance

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

47. Security Bond – External Works

In accordance with Section 80A(6)(b) 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, and is relevant only if external works are required (potentially as part of the stormwater discharge in Stage 2).

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

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

48. Engineering Works and Design

The design and construction of the engineering works listed below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Variation from these documents can only be approved by Council's Manager – Subdivision and Development Certification.

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

1. Works within an existing or proposed public road, or works within an existing or proposed public reserve. These works can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively. For Council to issue this approval the following must be provided:
 - a) A completed application form.
 - b) An electronic copy of the design plans and accompanying documentation.
 - c) Payment of the applicable application and inspection fees.
 - d) Payment of any required security bonds.
2. Works within the development site, or an adjoining private property, that relates to existing or proposed Council infrastructure assets, such as the laying of a stormwater pipeline or the formation of an overland flow path within a public

drainage easement. These works can only be approved, inspected and certified by Council because Council will have an ongoing risk exposure and management/ maintenance liability with respect to these assets once completed.

A "compliance certificate" as per Section 109(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the detailed design for these works complies with the requirements listed and the above documents. This "compliance certificate" can be issued by Council's Manager – Subdivision and Development Certification and not a private certifier, as discussed. Once approved, the works must be carried out under the supervision of Council's Construction Engineer in accordance with the terms attached to the issued "compliance certificate". Post construction, a further "compliance certificate" as per Section 109(1)(a)(i) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the as-built infrastructure and associated works have been carried out to the satisfaction of Council's Construction Engineer. Alternatively, these works can be incorporated into any construction approval granted under category (1) above.

3. Works within the development site, or adjoining private properties, that do not relate to existing or proposed Council infrastructure assets, such as water sensitive urban design elements or inter-allotment drainage pipelines. Such works can be approved, inspected and certified by either Council or a private certifier, so long as the private certifier is accredited to do so.

This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

The following engineering works are required:

i. Full Width Road Construction

The full width construction of the roads listed below is required, including footpath paving and other ancillary work to make this construction effective:

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Nightcap Street	Road Type: DCP Minor Street 3.5m/ 8.3m/ 4m/ 2m (17.8m Total) Pavement Design: Access/ Local (Design Guidelines Section 3.12)
Private Road (Road 2)	Road Type: Private Various width not less than 3.6m for one-way provision Pavement Design: Access/ Local (Design Guidelines Section 3.12)

The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council.

With respect to "minor street" and "street along riparian corridor/ park" roads:

- The roadside swale needs to be provided on the low side of these roads, as they have a one way cross fall, to limit the earthworks associated with their construction.
- A concrete pad 1.7m wide and 0.8m deep must be provided behind the kerb and adjacent to the driveways that cross the swale to access the lots on the low side of these roads.

- Driveways that cross the swale to access the lots on the low side of these roads must be constructed with the subdivision works, along with all ancillary drainage work necessary to make the construction effective. Adjacent lots should have their driveways grouped together to limit the number of "breaks" in the swale. These driveways should be 4m wide with a 1m wide grassed verge separating them, located 500mm on either side of the property boundary, making the total "gap" in the swale 9m wide.

ii. Partial Width Road Reconstruction

The partial width reconstruction of the existing roads listed below is required, including any necessary service adjustments and ancillary work required to make the construction effective:

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Barry Road	Road Type: DCP Collector Street 3.5m/ 12m/ 4.5m (20m Total) Pavement Design: Collector Road (Design Guidelines Section 3.12)

The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council.

Where partial width reconstruction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width reconstruction does not exist opposite, you will be responsible for the formation of the footpath verge, kerb and gutter and the reconstruction of 6m of road pavement. This new road pavement must transition into the existing road pavement opposite to provide for a total minimum carriageway width of 10m, which may require additional pavement reconstruction. The Construction Certificate drawings for the partial width reconstruction of Barry Road are to match the most recent updated drawings for the adjacent development which builds the other portion of Barry Road.

Any requirements relating to partial width road reconstruction from the relevant section of Council's DCP must also be complied with. All works must be carried out in accordance with the submitted traffic safety statement.

Where the existing road reserve width exceeds that required to be provided, the additional width is to be evenly distributed on either side of the road carriageway to provide for a wider footpath verge.

The wider 4.5m verge must be located on the Eastern side of Barry Road correlating with the cycleway required at this location.

iii. Temporary Turning Heads

A temporary cul-de-sac turning head must be provided at the end of all roads that will be extended into adjoining properties if/ when they are developed. The cul-de-sac must have a diameter of 19m measured from the edge pavement.

A temporary turning head is required at the end of Nightcap Street extending into proposed lots 4, 5 and 7 adjacent.

iv. Street Names Signs

Street name signs and posts are required in accordance with the above documents and Council's Standard Drawing 37. Details for all signage and line-marking must be submitted to Council for checking prior to works commencing.

v. Footpath Verge Formation

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

vi. Concrete Footpath

A 1.2m wide concrete footpath, including access ramps at all intersections, must be provided on one side of Barry Road in accordance with the DCP and the above documents.

A 1.2m wide concrete footpath, including access ramps at all intersections, must be provided on both sides of Nightcap Street in accordance with the DCP and the above documents.

vii. Concrete Cycleway

A 2.5m wide concrete cycleway, including access ramps at all intersections, must be provided on the Eastern side of Barry Road (adjacent development) in accordance with the DCP and the above documents.

viii. Gutter Crossings

Gutter crossings to each of the proposed new lots are required.

With respect to "minor street" and "street along riparian corridor/ park" roads:

- A concrete pad 1.7m wide and 0.8m deep must be provided behind the kerb and adjacent to the driveways that cross the swale to access the lots on the low side of these roads.
- Driveways that cross the swale to access the lots on the low side of these roads must be constructed with the subdivision works, along with all ancillary drainage work necessary to make the construction effective. Adjacent lots should have their driveways grouped together to limit the number of "breaks" in the swale. These driveways should be 4m wide with a 1m wide grassed verge separating them, located 500mm on either side of the property boundary, making the total "gap" in the swale 9m wide.

Gutter crossings are also required at the transition from public to private road.

ix. Disused Layback/ Driveway Removal

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

x. Service Conduits

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

xi. Earthworks/ Site Regrading

Earthworks are limited to that shown on the approved plans. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed.

xii. Stormwater Drainage – Final Solution

Stormwater from Nightcap Street is to either connect into (future) existing dedicated stormwater infrastructure constructed as part of development of 17 Withers Road, or be directed to Withers Road with appropriate easements.

xiii. Inter-allotment Stormwater Drainage (North Kellyville)

Rain gardens and rainwater reuse tanks are required for each lot as per this consent. To allow for these rain gardens, the following requirements apply:

1. For those lots that fall away from the street, piped inter-allotment stormwater drainage catering for the entire area of each lot must be provided. Each lot must be uniformly graded to its lowest point where a grated surface inlet pit must be provided. All collected stormwater is to be piped to an approved constructed public drainage system.
2. For those lots that fall towards the street, direct connections to the kerb are not permitted. Each lot must be uniformly graded to its lowest point where a grated surface inlet pit must be provided. This pit must be connected to the street drainage under the kerb fronting the lot, not the kerb opposite. For roads with a one-way cross fall, this will require road drainage and kerb inlet pits on both sides of the road. Direct individual connections or a combined inter-allotment drainage connection are permissible.

A minimum level difference of 800mm measured between the surface level and the invert of the outlet pipe must be provided in the stormwater pit on each lot to allow for the required rain garden.

xiv. Water Sensitive Urban Design Elements (North Kellyville)

Water sensitive urban design elements, consisting of bio-retention swales in roads and rain gardens and rainwater reuse tanks within lots, are required generally in accordance with the plans and information submitted with the application. The bio-retention swales in roads are to be provided as part of the subdivision works and the rain gardens and rainwater reuse tanks when the lots are developed. For integrated housing developments both are required.

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 following requirements apply:

Lot 1:

1. Lot 1 must provide a rain garden with a storage volume of 2.019m³ and a surface area of 13.730m² based on a residential net developable area of 0.1056ha and the requirements applying to the Smalls Creek catchment area from Section 6.1 of the North Kellyville DCP.
2. Lot 1 must provide for a 3,000L (minimum) rainwater reuse tank that must be plumbed specifically for washing machine use. External use is also permitted however the recycled water system supplied by Sydney Water must be connected to all toilets for flushing purposes, and at least one external tap as per Section 6.1 of the North Kellyville DCP.

Lots 2 - 5:

3. Each of the lots must provide a rain garden with a storage volume of 0.974m³ and a surface area of 6.620m² based on a residential net developable area of 0.2037ha and the requirements applying to the Smalls Creek catchment area from Section 6.1 of the North Kellyville DCP.
4. Each of the lots must provide for 3,000L (minimum) rainwater reuse tank that must be plumbed specifically for washing machine use. External use is also permitted however the recycled water system supplied by Sydney Water must be connected to all toilets for flushing purposes, and at least one external tap as per Section 6.1 of the North Kellyville DCP.
5. The bio-retention swales in roads must be 4m wide and yield a detention volume of 0.75m³ per linear metre.

Lot 6:

6. Lot 6 must provide a rain garden with a storage volume of 3.90m³ and a surface area of 26m² based on a pro rata (24%) of the residential net developable area of 0.839ha and the requirements applying to the Smalls Creek catchment area from Section 6.1 of the North Kellyville DCP. This amount is to be pro rata per lot.
7. Lot 6 must provide for a total of 5kL (minimum) rainwater reuse tank that must be plumbed specifically for washing machine use. External use is also permitted however the recycled water system supplied by Sydney Water must be connected to all toilets for flushing purposes, and at least one external tap as per Section 6.1 of the North Kellyville DCP.

Lot 7:

8. Lots 7 must provide a rain garden with a storage volume of 12.19m³ and a surface area of 82.84m² based on a pro rata (76%) of the residential net developable area of 0.839ha and the requirements applying to the Smalls Creek catchment area from Section 6.1 of the North Kellyville DCP. This amount is to be pro rata per lot.
9. Lot 7 must provide for a total of 15kL (minimum) rainwater reuse tank that must be plumbed specifically for washing machine use. External use is also permitted however the recycled water system supplied by Sydney Water must be connected to all toilets for flushing purposes, and at least one external tap as per Section 6.1 of the North Kellyville DCP.

All calculations are to be provided.

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

- Water Sensitive Urban Design – Technical Guidelines for Western Sydney, 2004, <http://www.wsud.org/tools-resources/index.html>
- Australian Runoff Quality – A Guide to Water Sensitive Urban Design, 2005, <http://www.ncwe.org.au/arq/>

The rain gardens and rainwater reuse tanks are required to be constructed in accordance with the following documents and requirements:

- Council's Typical Rain Garden Plan and Details (Standard Drawing 44)
- Council's Rain Garden Installation Guide and Specifications

49. Building Extent on Construction Certificate Plans

The Construction Certificate plans must detail that the building and basement extent is clear of the road widening lot as per the attached stamped approved plan and that any shoring associated with the same is temporary only."

PRIOR TO WORK COMMENCING ON THE SITE

50. Principal Certifying Authority

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

51. Builder and PCA Details Required

Notification in writing of the builder's name, address, telephone and fax numbers to be submitted to the Principal Certifying Authority prior to work commencing.

Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with the Regulations.

52. Management of Building Sites – Builder's Details

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

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number. In the case of a privately certified development, the name and contact number of the Principal Certifying Authority.

53. Consultation with Service Authorities

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

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

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

54. 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.

55. 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.

56. 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.

57. 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.

58. Trenching within Tree Protection Zone

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

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

59. Supervision of works by Project Arborist

Prior to issue of construction certificate Council shall be notified of engagement of AQF Level 5 project arborist. The arborist must be on site to supervise any works in vicinity of or within TPZ of any trees approved for retention on site or any adjacent sites that share

TPZs for trees to be retained. Supervision of works shall be certified by project arborist and copy of such certification submitted to PCA within 14 days of completion of works. The hold points and subsequent inspections required shall be carried out as per recommendations of arborist report by ecodesign dated 4.04.14.

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. 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 (of an area more than 10 square metres) must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the WorkCover, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

62. Discontinuation of Domestic Waste Service

Prior to the commencement of any demolition works, and where the site ceases to be occupied during works, the property owner or site manager must notify Council to discontinue the domestic waste service and to collect any garbage and recycling bins from any dwelling/ building that is to be demolished. Construction and/ or demolition workers are not permitted to use Council's domestic waste service for the disposal of any waste. Please telephone Council on (02) 9843 0310 for the discontinuation of waste services.

63. Traffic Control Plan

A Traffic Control Plan is required to be prepared and submitted to Council for approval. The person preparing the plan must have the relevant accreditation to do so. Where amendments to the plan are required post approval, they must be submitted to Council for further approval prior to 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.

64. 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:

- a) The name, address and telephone number of the Principal Certifying Authority;
- b) The name and telephone number (including after hours) of the person responsible for carrying out the works;
- c) 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.

65. Contractors Details

In accordance with Section 109E(3) of the Environmental Planning and Assessment Act 1979, 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.

66. Sediment and Erosion Control

The approved sediment and erosion control measures, including a stabilised all weather access point, 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.

67. Service Authority Consultation – Subdivision Works

Before subdivision works commence:

- a) Documentary evidence must be submitted confirming that satisfactory arrangements have been made for the relocation, undergrounding and/ or provision of electrical services for the non-residue lots created by the subdivision.
- b) Documentary evidence, including a notice of requirements from Sydney Water, must be submitted confirming that satisfactory arrangements have been made for the provision of water and sewerage facilities.
- c) Consultation with the relevant telecommunications provider authorised under the Telecommunications Act regarding the installation of telephone conduits is required. The design and construction of these works must comply with current NBN standards, where applicable.

68. Public Infrastructure Inventory Report

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

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

69. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$170,000 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the rate of \$85.00 per square metre based on the road frontage of the subject site (200m) multiplied by the width of the road (10m).

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

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

70. 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.

71. Stormwater Pump/ Basement Car Park Requirements

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

72. Registration of Drainage Easement

A 5m wide drainage easement must be created over the downstream property, 17 Withers Road Kellyville, in accordance with the letter of authority from the downstream property owner. The width of the drainage easement must comply with Council's Design Guidelines Subdivisions/ Developments and the terms must nominate each lot burdened and benefited. A copy of the registered easement plan and associated documents must be submitted to Council.

This easement is only required if the stormwater cannot be discharged to an existing dedicated public road within 17 Withers Road or in the Withers Road verge.

DURING CONSTRUCTION

73. 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. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

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

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

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

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

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

75. 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. 474073M be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

76. Tree Removal & Fauna Protection

During any tree removal a Project Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.

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

An experienced wildlife handler/ecologist shall be in attendance during the felling of trees on this site in order to rescue any injured wildlife. Potential hollows in lowered trees or sections of trees shall be searched by an experienced ecologist and any fauna shall be

removed and, if uninjured, either released into roost boxes on the site or fed, warmed and released in the evening, or, if injured, transferred to the care of a wildlife carer and released on the site when re-habilitated. (Please note that microchiropteran bats should only be handled by appropriately vaccinated persons).

77. 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.

78. 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.

79. Dust Control

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

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

80. Removal of Septic Tank and Effluent Disposal Area

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

Any septic tank collection well or aerated waste water treatment system is to be removed or reused in accordance with *NSW Advisory Note 3 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems (AWTS)* available from the NSW Health website (www.health.nsw.gov.au).

Note: Methods 1 & 5 (Demolition) are not permitted.

81. Standard of Works

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

82. Critical Stage Inspections – Subdivision Works

The subdivision works must be inspected by Council in accordance with the schedule included in Council's Works Specification Subdivisions/ Developments. A minimum of 24 hour's notice is required for inspections. No works are to commence until the first inspection has been carried out.

83. Subdivision Earthworks – Lot Topsoil

Where earthworks are not shown on the engineering drawings, the topsoil within lots must not be disturbed. Where earthworks are shown, a 150mm deep layer of topsoil must be provided, suitably compacted and stabilised in accordance with Council's Works Specification Subdivisions/ Developments.

84. Aboriginal Archaeological Sites or Relics

If, during activities involving earthworks and soil disturbance, any evidence of an Aboriginal archaeological site or relic is found, all works on the site are to cease and the NSW Office of Environment and Heritage must be notified immediately.

85. National Parks and Wildlife Act 1974

Should any artefacts be uncovered in the course of any works, all works should cease and comply with Part 6 of the National Parks and Wildlife Act 1974, in particular Section 90 regarding permits to destroy.

86. European Sites or Relics

If, during the earthworks, any evidence of a European archaeological site or relic is found, all works on the site are to cease and the NSW Office of Environment and Heritage must be contacted immediately. All relics are to be retained in situ unless otherwise directed by the NSW Office of Environment and Heritage.

87. Construction and Fit-out of Food Premises

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of *Australian Standard AS 4674-2004 – Design, construction and fit-out of food premises* and the provisions of the Food Standards Code (Australia). This includes, but is not limited to:

- The intersection of floors with walls and exposed plinths in food preparation, storage and servery areas are to be coved.
- All walls are to be solid construction. Solid construction is defined as brick, concrete blocks, structural fibrous cement or preformed panels that are filled with suitable material.
- Pipes and conduits adjacent to walls are to be set a minimum of 25mm off wall face with brackets. Pipes and conduits entering floors, walls or ceilings are to be fitted with a flange and all gaps fully sealed.
- Hand wash basins:
 - Must be provided, not obstructed and accessible at bench height and no further than 5 metres from any place where open food is handled or prepared; and
 - Must be fitted with a tap that operates hands free with a permanent supply of warm running potable water delivered through a single outlet.

Note: Copies of *AS 4674-2004* may be obtained from www.saiglobal.com by visiting the website: www.saiglobal.com and copies of the Food Safety Standards Code (Australia) may be obtained from Food Standards Australia New Zealand by visiting the following website www.foodstandards.gov.au.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE –

88. Internal Pavement Construction

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

89. Completion of Subdivision Works

A Subdivision Certificate cannot be issued prior to the completion of all subdivision works covered by this consent.

90. Compliance with NSW Rural Fire Service Requirements

A report/ letter from a qualified bushfire consultant must be submitted confirming that the requirements of the NSW Rural Fire Service have been complied with.

91. Works as Executed Plans

Works as executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the subdivision works are completed. The WAE plans must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments.

The plans must be accompanied by pavement density results, pavement certification, concrete core test results, site fill results, structural certification, CCTV recording, signage details and a public asset creation summary, where relevant.

92. 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.

93. Confirmation of Pipe Locations

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

94. Section 73 Compliance Certificate

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

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

95. Provision of Electrical Services

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

96. Provision of Telecommunication Services

Submission of a telecommunications infrastructure provisioning confirmation certificate issued by the relevant telecommunications provider authorised under the Telecommunications Act, or a design compliance certificate and an as-built compliance certificate from the company engaged to design and construct the pit and pipe infrastructure, confirming satisfactory arrangements have been made for the provision, or relocation, of telecommunication services including telecommunications cables and associated infrastructure. This must include the under-grounding of the existing telecommunication services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.

97. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

- a) Three copies of the final plan.
- b) The original administration sheet and Section 88B instrument, along with one copy of each.
- c) All certificates and supplementary information required by this consent.
- d) An AutoCAD copy of final plan (GDA 1994 MGA94 Zone56).

98. Site/Lot Classification Report

A site/lot classification report prepared by a suitably qualified geotechnical engineer must be prepared and submitted following the completion of all subdivision works confirming that all residential lots are compliant with AS 2870 and are suitable for

development. The report must be accompanied by a table which summarises the classification of all lots created as part of the subdivision.

99. Stormwater CCTV Recording

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

100. Public Asset Creation Summary

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

101. Building Adjacent to Proposed Boundary

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

102. Building Services

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

103. Final Plan and 88B Instrument

The final plan and Section 88B Instrument must provide for the following. Council's standard recitals must be used.

i. Dedication – New Road

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

ii. Easement – Temporary Public Access

A temporary public access easement must be created within proposed lots affected by the temporary cul-de-sac turning head using the "temporary public access easement" terms included in the standard recitals.

iii. Easement – Private Stormwater Drainage

Inter-allotment drainage easements must be created to ensure each and every lot is provided with a legal point of discharge. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

iv. Easement – Temporary Public Stormwater Drainage/ Outlet

Temporary drainage easements, minimum 5m wide and 30m long, must be created over all temporary outlets within the property or on adjoining land using the "temporary public stormwater outlet" terms included in the standard recitals.

v. Easement – Right of Access/ Easement for Services

A right of access/ easement for services must be created over proposed lot 7 benefitting and providing access to proposed lot 6.

vi. Positive Covenant – Maintenance/ Repair of Shared Driveway

A positive covenant must be placed on the title of proposed lot 6 and 7 to ensure the maintenance/ repair of the access driveway using the "maintenance/ repair of shared access" terms included in the standard recitals.

vii. Restriction – Restricted Access

Lot 7 must be burdened with a restriction precluding access to Withers Road using the "restricted access" terms included in the standard recitals.

viii. Restriction – Rainwater Tanks

All residential lots must be burdened with a restriction using the "rainwater tanks" terms included in the standard recitals.

ix. Restriction/ Positive Covenant – Rain Gardens (North Kellyville)

All residential lots must be burdened with a restriction and a positive covenant that refers to the volume/ area referred to earlier in this consent using the “rain gardens” terms included in the standard recitals.

x. Restriction/ Positive Covenant – Asset Protection Zone

All Lots must be burdened with a restriction and a positive covenant using the “bushfire requirements/ asset protection zone” terms included in the standard recitals:

- Lots required to be managed as an asset protection zone require a positive covenant.

xi. Restriction – Bedroom Numbers

A restriction must be created on the title of each dwelling limiting the number of bedrooms to that shown on the plans and details approved with this consent. The restriction must also state that no internal alterations are permitted that result in the creation of additional bedrooms.

104. Maintenance of BASIX Commitments

All BASIX requirements must be implemented before an Occupation Certificate is issued and maintained throughout the life of the proposed development in accordance with the approved BASIX Certificates.

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. Public Infrastructure Inventory Report – Post Construction

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

107. Pump System Certification

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

108. Security Bond – Temporary Turning Head

A \$20,000.00 security bond must be provided in order to guarantee the maintenance and subsequent removal of the temporary cul-de-sac turning head. The bond is refundable upon written application to Council and is subject to a final inspection. If Council is required to maintain or remove the temporary cul-de-sac turning head these costs will be deducted from the security bond. If these costs exceed the value of the bond Council will issue an invoice for the recovery of the outstanding amount.

This bond is not required if the temporary cul-de-sac turning head is not required to be constructed.

109. Food Shop Registration requirements

Occupation of the premises shall not occur until:

- a) The food business is registered with Council by completing and submitting the Registration of Food Business form available from Council’s website; and
- b) Notification to the NSW Food Authority under Food Safety Standard 3.2.2 Division 2 Section 4 Notification is completed. This requirement is to be met by notifying via website www.foodnotify.nsw.gov.au.

110. Food Premises Final Inspection

Prior to the issuing of an Occupation Certificate, the food premises shall be inspected by an Authorised Officer of The Hills Shire Council under the Food Act 2003, to determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design Construction and Fit-out of Food Premises.

111. Exposure to a fire source feature

With the subdivision of land to create a separate parcel of land for the existing child care centre, where existing external walls are within 3m to a fire source feature, such as a side or rear boundary, they are to be protected in accordance with CP2 of the Building Code of Australia.

112. 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.

113. Final Inspection of Waste Storage Area (RFB)

Prior to an interim (stage 2) or final Occupation Certificate being issued, a final inspection of the waste storage area and management facilities must be arranged by the Principal Certifying Authority and must be undertaken by Council. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for waste collection by Council. The time for the inspection must be arranged with Council at least 48 hours prior to the Principal Certifying Authority's suggested appointment time.

114. Agreement for Onsite Waste Collection

Prior to an interim (stage 2) or final Occupation Certificate being issued, an Indemnity Agreement is to be obtained from Council, completed, signed and two original copies sent to Council for approval. This is to enable Council and its contractor to enter onto private property with its collection vehicles to enable it to collect waste and recyclables.

THE USE OF THE SITE

115. Offensive Noise - Acoustic Report

The proposed 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 or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage room, which includes provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. All waste storage areas must be screened from view from any adjoining residential property or public place.

117. Waste and Recycling Collection

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

118. Hours of Operation - Medical Centre

The hours of operation for the medical centre shall be restricted for a minimum period of 12 months following the issue of any Occupation Certificate, to the following: -

Monday to Sunday: 8:00am to 6:00pm

A Section 96 Modification application shall be lodged to modify this consent in the event that a change in the hours of operation are sought beyond the expiration of the 12 month trial period. The restricted hours of operation shall remain in place unless otherwise modified by Council.

119. Use of Pharmacy

The use of the pharmacy is to be ancillary to the operation of the medical centre.

120. Waste and Recycling Caretaker (RFB)

A caretaker must be engaged to move all bins to and from the waste storage room and collection points on the allocated days of collection as determined by Council. Bins must be returned to their storage point onsite as soon as possible the same day as collection.

Pursuant to Clause 122 of the Environmental Planning and Assessment Act Regulations 2000, the reasons for the conditions imposed on this application are as follows:-

1. To facilitate the orderly implementation of the objects of the Environmental Planning and Assessment Act, 1979 and the aims and objectives of Council's Planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected, and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant heads of consideration under Section 4.15 of the Act 1979 are maintained.

Right of Review

Section 8.2 of the Environmental Planning and Assessment Act 1979 confers on the applicant the right of review of determination, subject to such request being made within six (6) months of the determination date and accompanied by a fee as prescribed in clause 257 of the Environmental Planning and Assessment Regulation 2000.

Section 8.2(2) of the Environmental Planning and Assessment Act 1979 does not permit a review of determination in respect of:

- a) A Complying Development Certificate,
- b) Designated Development,
- c) Development referred to in Division 4.6

Right of Appeal

Section 8.9 and 8.10 of the Environmental Planning and Assessment Act 1979 confers on the applicant who is dissatisfied with the determination of a consent authority, a right of appeal to the NSW Land and Environment Court exercisable within six (6) months of the endorsed date of determination..

Should you require any further information please contact Robert Buckham on 9843 0352.

Yours faithfully



Paul Osborne

MANAGER-DEVELOPMENT ASSESSMENT

ATTACHMENT 1: STATEMENT OF REASONS FOR THE DECISION

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PUBLIC NOTIFICATION OF THE DETERMINATION PURSUANT TO ITEM 20(2) (c) AND (d) OF SCHEDULE 1 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

DECISION:

APPROVED

DATE OF THE DECISION:

31 August 2018

REASONS FOR THE DECISION:

The Development Application has been assessed against the relevant heads of consideration under the following statutory requirements:

- Section 4.15 of the Environmental Planning and Assessment Act, 1979
- Section 4.55(1) / 4.55(1A) / 4.55(2) / 4.56 / Division 8.2 of the Environmental Planning and Assessment Act, 1979
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

and is considered satisfactory subject to conditions as outlined in the Notice of Determination.

HOW COMMUNITY VIEWS WERE TAKEN INTO ACCOUNT IN MAKING THE DECISION:

1. The Development Application was notified in accordance with 3.2 of The Hills Shire Development Control Plan 2012 Part A Introduction which outlines the advertising and notification procedure pathways for various forms of development. 1 Submission was received during the notification period.
2. The submission received during the notification period has been considered in the assessment of the Development Application pursuant to Section 4.15(d) of the Act and issues raised does not warrant refusal of the application.
3. The Development Application has been assessed having regard to Section 4.15(e) of the Act taking into consideration the public interest.

[illegible]