

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-122
DA Number	DA 1262/2019/JP/A
LGA	The Hills Shire Council
Proposed Development	Section 4.55 (2) Modification to an Approved Concept Development Application for Five Residential Buildings Comprising 228 Apartments, Two Levels of Basement Parking and Landscaping
Street Address	7-23 Cadman Cres and 18-24 Hughes Ave Castle Hill
Applicant	Castle Hill Panorama
Consultant/s	Mecone (Planner) InRoads: Group (Traffic Report) MHN Design Union (Architects) GMU (Urban Design Peer Review) RICQS (Quantity Surveyors) SurvPlan (Building Survey) TurfDesign Studio (Landscape Architects)
Date of DA lodgement	23 July 2020
Number of Submissions	One
Recommendation	Refusal
Regional Development Criteria (Clause 123BA Instruction on Functions exercisable by council on behalf of regional panel under The EP&A Regulation 2000)	Section 4.55(2) to a Regional Development Application previously approved by the regional panel and subject to proposed amendments to a condition of development consent (condition 3) recommended in the council assessment report but which was amended by the panel.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development 2011) • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • The Hills Local Environmental Plan 2019 • Apartment Design Guide • DCP 2012 Part C Section 1 – Parking • DCP 2012 Part C Section 3 – Landscaping • DCP 2012 Part D Section 19 – Showground Precinct
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Plans • Urban Design Peer Review • Design Review Panel Meeting Reports
Summary of key submissions	<ul style="list-style-type: none"> • Density concerns • Height concerns
Report prepared by	Cynthia Dugan - Principal Coordinator Development Assessment

Report date	October 2021 (Electronic Determination)
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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

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Applicable

Conditions

Have draft conditions been provided to the applicant for comment?

No

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

EXECUTIVE SUMMARY

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

- The proposed modified Concept Development Application differs, both quantitatively and qualitatively, from the original approved development. The proposed modification seeks to amend essential components to the approved Concept Development Application including an increase to the approved dwelling yield from 228 units to 264 units. The proposed development is not considered to be substantially the same development as originally approved and is not supported pursuant to Section 4.55 of the Environmental Planning and Assessment Act, 1979.
- The proposal does not satisfy Clause 9.5 of The Hills LEP 2019 with regard to Design Excellence. The application was reviewed by Council's Design Review Panel (DRP) on two occasions. The DRP has concluded that the proposal does not exhibit design excellence. In particular, concerns are raised regarding design quality, building lengths, setbacks, height proposed for Building C and visual connectivity to central communal open space area. It is considered that the framework under the modified Concept Development Application would not provide built form outcomes that could achieve design excellence.
- The proposal has been assessed against the requirements of SEPP 65 Design Quality of Residential Apartments. The proposal does not satisfy the design quality principles with regard to context and neighbourhood, built form and scale and level of amenity. It is considered that as the proposal does not satisfy the provisions of design excellence under Clause 9.5 of the LEP, the amended proposal will not provide for built forms that would be appropriate in bulk and scale or provide for a consistent streetscape presentation within the Showground precinct. In particular, a sensitive transition between the high density and medium density zones has not been demonstrated.
- The proposal has been assessed against the design criteria of the Apartment Design Guide (ADG). Further variations to the original approved development have been identified with respect to solar access to the usable principal communal open space area. The proposal results in additional "apartment connectors" and a minimum building separation of 7.6m for northern Buildings A and B compared to 10m as originally approved. This results in a previously compliant ground floor principal communal open space not being able to achieve the ADG design criteria of a minimum 2 hour solar access between 9am – 3pm during midwinter.
- The proposal has been assessed against the requirements of The Hills DCP 2012 and variations have been identified with respect to building length and front setbacks. The variations result in an increase in bulk and scale and the potential for a built form outcome that would be inconsistent with the streetscape and architectural outcome envisaged within the Showground Precinct.
- The application is not considered to be in the public interest as the proposal has not demonstrated a satisfactory design and planning outcome is suitable for the site.
- The application was notified for 14 days and one submission was received during the notification period. The issues relate to density and height concerns. The application has not satisfactorily addressed the concerns raised.

The application is recommended for refusal.

BACKGROUND

The site is within the Showground Precinct which is one of four Precincts identified by the NSW Government to be planned as part of its 'Planned Precinct Program' along the Sydney Metro Northwest corridor. Under LEP 2019, the subject site is located within R4 High Density zoned land comprising a maximum height of 21m (6 storeys) however directly interfaces land zoned R3 Medium Density Residential to the north east and south east which comprises a maximum height of 10m (3 storeys).

On 20 February 2020, the Sydney Central City Planning Panel (SCCPP) approved 1262/2019/JP for a Concept Development Application for a residential flat building development comprising 228 apartments, basement car parking and associated landscaping. The development was supported with a Clause 4.6 written submission to vary the maximum height standard by 13.57%. The Council officer's report recommended the following condition:

3. Dwelling Yield

The maximum dwelling yield for the site is not to exceed 228 units.

The Panel approved the application subject to condition 3 being amended as follows –

3. Dwelling Yield

The maximum dwelling yield for the site is not to exceed 228 units and a Floor Space Ratio of 2.1:1.

As this condition was recommended by the SCCPP, the subject application is referred to the Panel in accordance with Clause 123BA of the Environmental Planning and Assessment Regulation 2000.

The Environmental Planning and Assessment Act 1979 defines a concept development application as "*a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications*".

The approved development comprised of the following:

- A maximum dwelling yield of 228 dwellings for the site;
- Maximum building envelopes;
- Maximum heights ranging from four to seven storeys;
- 2m wide land dedication to the Cadman Avenue frontages;
- A maximum 310 car parking spaces (including 3 spaces for service vehicles) across two levels of basement parking; and
- Loading, vehicular and pedestrian access arrangements including vehicular access from Hughes Avenue.

The original application was reviewed by the Design Review Panel on two occasions (2 May 2019 and 27 November 2019). On 2 May 2019, the DRP reviewed the original proposal and concluded that the Concept Development Application did not meet the requirements of design excellence. It was recommended that the applicant address the issues identified in the DRP report and present a revised application to the DRP. Amended plans were submitted to address the concerns raised by the DRP. Most notably, the dwelling yield was reduced from 255 dwellings to 228 dwellings. The DRP reviewed the amended Concept Development Application on 27 November 2019. The Panel supported the amended Concept Masterplan subject to retaining the upper level setbacks to each of the block facades, providing fine grain and architectural diversity, not reducing the dimensions of the

central communal open space and keeping the extensive deep soil planting and existing trees, to establish 'green' street frontages.

The subject Modification Application was lodged on 23 July 2020. An email requesting additional information was sent to the Applicant on 11 August 2020 seeking clarification on a number of engineering matters including swept path diagrams and clarification on the number of dwellings proposed.

Council's Design Review Panel (DRP) reviewed the subject application on 28 October 2020 and 23 June 2021. On both occasions, the Design Review Panel concluded that it does not support the proposed amendments to the approved Concept masterplan, as the revised scheme does not satisfy the requirements of design excellence.

A pre-lodgement meeting for a Stage 2 built form Development Application for the site was held between Council Development Assessment staff and the Applicant on 23 July 2021. The plans submitted with the pre-lodgement application included built form that was predicated on the approval of the subject Modification Application.

A meeting was held between Council Development Assessment staff and the Applicant on 10 August 2021. The Applicant requested Council staff not determine the application until after the built form Development Application was lodged.

On 29 September 2021, Council Development Assessment staff discussed administrative matters and monthly reporting of Development Applications with the SCCPP. The record of discussion notes the following:

The Chair noted the monthly update tabled by Council, for which 13 DAs are listed. Updates and actions for each DA were discussed and agreed jointly. Emphasis remains on addressing those applications that have been in the system for more than 180 days, of which there are nine. The Chair provided the following comments and actions on specific applications:

- *Section 4.55 Modification – 7 Cadman Crescent, Castle Hill (1262/2019/JP/A) – The application requires ongoing discussions with the Design Review Panel. The Chair observed that at 433 days old Council should consider finalising the assessment with a view to a Panel determination in October 2021.*

DETAILS AND SUBMISSIONS

Owner:	Mr K Root, Mrs M P Root, Mr C Gao, Galvlad Property Pty Ltd, Mr B Merhi, Mrs S S Merhi, Mr D A Lincoln, Mrs M A Lincoln, Mrs J Berger, Mr VH Chan, Mrs E H Chan, Mr V P Tangonan, Mrs M M Tangonan, Mr L Tao, Ms L Xu, Mrs A Matic, Ms M Stevenson, Mr C M K Fernando, Mrs M A Fernando, Mr R E Beeldman, Mr S W Kim, Mr G S Maiolo and Mrs J J Maiolo
Zoning:	R4 High Density Residential
Area:	12,403.8m ²
Existing Development:	14 dwellings
Section 7.12 Contribution	Contributions will be charged for subsequent Development Applications for built form
Exhibition:	Not required

Notice Adj Owners:	Yes, 14 days
Number Advised:	41
Submissions Received:	One

PROPOSAL

The subject Section 4.55(2) modification seeks approval for the following amendments:

- Removal of a dwelling cap of 228 dwellings and instead propose either a gross floor area cap of 28,589m² reflective of 264 dwellings submitted as part of the modification, or an upper dwelling limit of 315 dwellings (refer note below);
- Increase height of Building C from 3 to 5 storeys;
- Establish apartment connectors between Buildings A-B and D-E;
- Amendments to building envelopes to provide improved articulation;
- Provide new rooftop communal open space areas; and
- Increase the site's landscaped area.

Note: Whilst the application seeks the option of "an upper dwelling limit of 315 dwellings", the plans submitted only indicate 264 dwellings. In this regard, an assessment against the relevant provisions for a maximum dwelling yield of 264 dwellings has been undertaken in this assessment report.

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

	Approved DA	Modified Proposal
Site Area	12,403.8m ²	12,403.8m ²
Maximum height	Building A 7 storeys (23.6m) Building B 7 storeys (23.15m) Building C 3 storeys (14.8m) Building D 7 storeys (23.8m) Building E 7 storeys (22.69m)	Building A 7 storeys (23.6m) Building B 7 storeys (23.15m) Building C 5 storeys (19.3m) Building D 7 storeys (23.8m) Building E 7 storeys (22.69m)
Number of apartments	1 bedroom – 57 2 bedroom – 125 3 bedroom – 27 4 bedroom – 19 Total 228	1 bedroom – 66 2 bedroom – 145 3 bedroom – 32 4 bedroom – 21 Total 264
Gross Floor Area	26,112m ²	28,589m ²
Floor Space Ratio	2.1:1	2.3:1
Communal Open space	4,469m ² (36%)	4,931m ² (40%)
Car Parking Spaces	Residential: 248 Visitor: 59 Total: 310	Residential: 264 Visitor: 53 Total: 317

STRATEGIC CONTEXT

Greater Sydney Region Plan – A Metropolis of Three Cities

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

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

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

Central City District Plan

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

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

ISSUES FOR CONSIDERATION

1. 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 the development, as modified, is "substantially the same" development as originally approved.

The "substantially the same" test requires a qualitative and quantitative analysis to be undertaken before and after the modification. Moto Projects (No. 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280 describes the following:

55. "*The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified*

development is “essentially or materially” the same as the approved development.

56. *The comparative task does not merely involve a comparison of the physical features or components of the development as approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).*
58. *Qualitatively appreciated, that difference is in respect of material and essential features of the approved development, that materiality involving the importance attributed to the physical features of the approved development sought to be modified.”*

In assessing a proposed modification, the Consent Authority is to consider whether a modification will vary an “essential component” of a development. Decisions made by the Land and Environment Court have found that if a particular element of the original consent, or “essential component”, was to be varied, the development is therefore not “substantially the same” (Arrange v Inner West Council [2019] NSWLEC 85, Council of Trinity Grammar School v Ashfield Council [2015] NSWLEC 1086 and Innerwest 888 Pty Ltd v Canterbury Bankstown Council [2017] NSWLEC 1241).

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 proposed modification is made under Section 4.55(2) of the EP&A Act which provides that a consent authority may modify a development consent if “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)”.

While there are many decisions in the Land and Environment Court relating to whether a proposed modification is substantially the same, it is important to note that North Shore Property Developments Pty Ltd v Lane Cove Council [2013] NSWLEC 1140 identifies that finding satisfaction of s96(2)(a) is a jurisdictional fact which must be satisfied before an application can be considered on its merits. In Vacik Pty Ltd v Penrith City Council [1992] NSWLEC 8 the Court determined that the term “substantially” means “essentially or materially or having the same essence”.

Consideration of whether the development is substantially the same requires both qualitative and quantitative comparison as espoused within Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSW LEC 280.

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves appreciates, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted, (Bignold, J).

Of particular relevance are two matters from 2018, which both involve the addition of a single storey to an approved mixed use building. In both Trinvass Pty Ltd v City of Sydney Council [2018] NSWLEC 1691 and Ahmed Corp Pty Ltd v Fairfield City

Council [2018] NSWLEC 1526 the Court held that each modification was found to be substantially the same.

Quantitative assessment

In terms of a quantitative assessment, the modification does not result in any major significant changes to the envelope of the approved building.

The modification seeks to increase the density on the site to 2.3:1 (GFA of 28,589m²) however, the fundamental master planned layout, open space areas, siting and location of building envelopes remain unchanged. This represents an increase of 9.48% GFA from the original approval.

While the building will provide an additional two levels to Building C, in our opinion this is not a significant material change and, in our view, on a quantitative assessment of the changes, the proposed development is found to be substantially the same as the approved development.

In Trinvass Pty Ltd v City of Sydney Council [2018] NSWLEC 1691 the modification sought to add an additional upper level to a 7 storey mixed use development and the Court held that, quantitatively, the increase did not render the development to not be substantially the same.

Based on the above, we consider the modification to be substantially the same from a quantitative perspective.

Qualitative assessment

A qualitative assessment of the modification demonstrates that the essential elements of the building design, as approved will not be significantly altered. In addition, the relationship of the building to adjoining development will remain generally as approved aided by the increased upper level setbacks to Building C and additional façade articulation.

The footprints of the buildings are generally unchanged and where minor adjustments are proposed, such as the recessed entrances of Buildings A – B and C – D, these are within the bounds of the approved concept application.

It is considered the internal changes to the development will have a minor environmental impact with respect to surrounding land uses as it does not result in a change the essence of what has been previously been approved. The amendments are considered to be qualitatively the same development due to the modified building retaining the same use and the same building typology to the approved development.

Overall, the amendments are not so large as to transform the development or render it something other than substantially the same development.

As such, the modification does not require a new development application as the proposal is substantially the same as the approved development. The proposal does not seek to alter the type of uses anticipated on the site or significantly alter the intensity of activity. Accordingly, the modification is considered a 4.55(2)

Comment:

The proposed modifications would result in the following quantitative changes to the Concept Development Application:

- 15.8% - 38.2% increase in units (36 to 87 additional units);
- 9.5% increase in FSR (2,477m² increase in Gross Floor Area);
- Increased building height of Building C by 4.5m (from 3 to 5 storeys);
- An addition of 16 residential car parking spaces and reduction in 6 visitor car parking spaces;
- Additional “apartment connectors” between Buildings A/B and D/E;
- 2.4m reduction in building separation between Buildings A and B (from 10m to 7.6m);
- 4% increase in communal open space area (to roof tops); and
- 1% decrease in the provision of 2 hour solar access to 50% of the principal usable communal open space area between 9am and 3pm mid-winter.

It is considered that a number of the quantitative changes above including the dwelling yield, building height for Building C and building separation relate to “essential components” to the originally approved concept development and formed the basis or circumstance from which development consent was granted. Whilst the quantitative changes alone may be considered “substantially the same development”, these changes also compromise qualitative aspects of the originally approved concept application. The plans approved under the original concept application demonstrated that qualitative measures such as design excellence and high quality built form outcomes could be achieved for the site for 228 units. As a result, it was considered that variations to the height standard under the LEP and variations to the DCP controls including storeys in height, front setbacks, upper level setbacks and façade lengths could be supported under the original application.

A qualitative comparison between the approved and the modified development relies on the compatibility of the building within the local site context and the associated amenity impacts to the surrounding area. The context of the site is determined by the controls that are applicable to the land under Part 9 Showground Station Precinct of the LEP and the Part D Section 19 Showground Station Precinct of the DCP, the physical characteristics of the locality (ie. topography and environmental factors), approved and envisaged future development in the vicinity of the site. Specific reference is made to the zoning and height of building provided in Attachments 3 and 4. A review of these factors can determine the site’s context which the currently approved concept application fits.

The site is located at the interface of the R4 High Density and R3 Medium Density zone within the Showground Station Precinct. The northern and eastern property boundary adjoins lower scale development which is envisaged for three storey terrace dwellings. In its current approved form, the development provides an appropriate response to the context of the site with the approved Building C envelope comprising a three storey height limit with an encroachment to the required front setback controls under the DCP. The two storey increase as a result of the proposed modifications is not considered reasonable as it does not provide a sensitive height transition to the interface as originally approved.

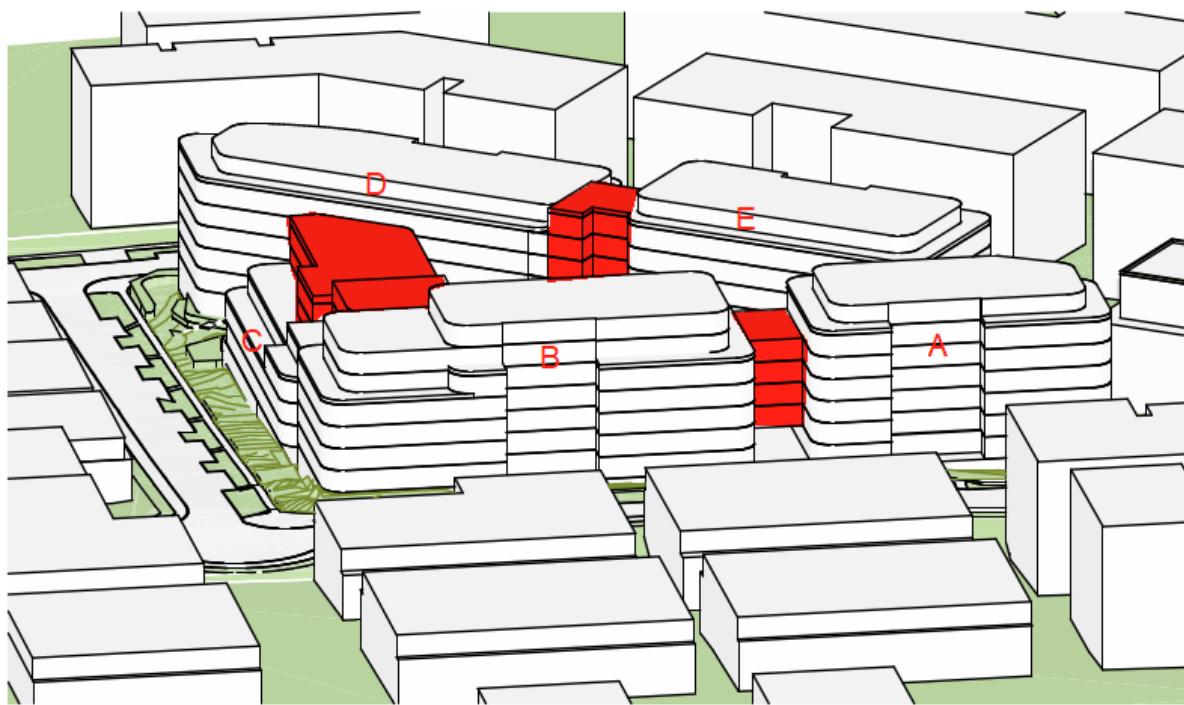


Figure 1: Additions (highlighted in red) proposed to originally approved Concept DA.

The quantitative changes to the building envelopes from the proposed modification application will result in an intensification of the approved parameters for bulk and scale of the concept application when viewed from the Cadman Crescent (north) and Hughes Avenue frontages. The addition of “apartment connectors” between the buildings result in an exceedance to the maximum 65m building length control under the DCP. This results in the potential for future built form that will be overwhelming in bulk and scale and do not allow for view corridors between building towers. Refer to Section 6 for further discussion regarding the non-compliance. Notwithstanding the “apartment connectors”, the building separation between the northern buildings (Building A and B) has been reduced from 10m to 7.6m and will result in the provision of less solar access to the central communal open space area. It is noted that the Design Review Panel attributed the success of the original concept application to the high level of amenity provided to the central communal open space area. The DRP notes that *“the central communal open space is pivotal to the success of the originally approved concept application and the proposed bridging elements reduces visual connectivity into and out of the courtyard space”*.

Further, the quantitative changes to the building envelopes compromise the environmental amenity of the development. The submitted shadow diagrams indicate that an increase in overshadowing would occur to the central communal open space of the development between 11am to 2pm during mid winter and additional overshadowing would occur along the frontages of future terrace dwellings along Cadman Crescent (east) between 1pm – 3pm during mid winter. Refer Attachment 16.

It is acknowledged that some of the quantitative changes proposed such as minor changes to the building envelopes, a minor increase to the overall communal open space area or increase in carparking/traffic generation are not be considered significant enough such that the development could be considered not substantially the same. However, when considered in qualitative terms, with respect to the impacts of the proposed density, height and bulk and scale on the character of the area and having regard to the site’s location adjoining a lower R3 Medium Density Residential zone, the proposed modifications do not provide an appropriate response, nor contribution to the site’s context. The bulk and scale

generated by the additional yield, height and “apartment connectors” change essential elements and the “essence” of the development such that it is not considered to be substantially the same.

The proposed modified Concept Development Application differs, both quantitatively and qualitatively, from the original approved development. These differences result in the proposed modified development not being substantially the same as the originally approved development and therefore is not supported pursuant to Section 4.55 of the Environmental Planning and Assessment 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 Development Application had a Capital Investment Value of \$80,528,682.

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 proposes amendments to condition 3 which is a condition of development consent recommended in the council assessment report but which was amended by the Panel, 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 site has been used for residential purposes and is unlikely to be contaminated however a Preliminary Site Investigation prepared by Douglas Partners, Document Number R.001.Rev 1 Project Number 86559.01 dated 17 January 2019 was submitted with the original Development Application. The investigation identified that filling, hazardous building materials in previous structures and market garden usage could be potential sources of contamination for the site, however the potential for resultant significant contamination is low. In this regard, condition 5 was recommended in the original Development Consent that any future built form Development Applications will require the submission of a further Phase 1 Contamination Report including soil sampling, further assessment of past land uses including later historical aerial photographs, historical land tiles and Safe Work NSW records and a more thorough site walkover be undertaken to confirm (or otherwise) that there is an absence of contamination. In addition, a hazardous building materials survey is to be conducted prior to demolition works.

In this regard, it is considered that the development satisfies the provisions of SEPP 55.

4. Compliance with The Hills Local Environmental Plan (LEP) 2019

a. Permissibility

The subject site is zoned R4 High Density Residential under the LEP. The proposed modification application seeks to modify a Concept Development Application for a residential flat building development. In this regard, the land use of a “Residential flat building” remain permissible with consent under the provision of the LEP.

b. Zone Objectives

The objectives of the R4 High Density Residential zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

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

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

c. Development Standards

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

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height of Buildings	21 metres	Building A 7 storeys (23.6m) - Unchanged Building B 7 storeys (23.15m) - Unchanged Building C 5 storeys (19.3m) – increase of 2 storeys or 4.8m Building D 7 storeys (23.8m) - Unchanged Building E 7 storeys (22.69m) - Unchanged	No, however variations approved for Buildings A, B, D and E under the original development consent. The only change relates to Building C which complies with the standard.
4.4 Floor Space Ratio	1.6:1	N/A	N/A. The proposal seeks to utilise the 'incentive' floor space ratio provision under Clause 9.7 of the LEP.
9.1 Minimum Lot Sizes for Residential Flat Buildings	Residential flat building with a height of 11 metres of more – R4 High Density Residential – 3,600m ²	12,403.8m ²	N/A. No change proposed.
9.2 Site Area of Proposed Development includes dedicated land	Road dedication included as part of the site area for the purpose of calculating FSR.	Land dedication area of approximately 530m ² included in FSR calculation.	Yes.
9.3 Minimum Building Setbacks	Front Building Setbacks to be equal to, or greater than, the distances shown for the land on the Building Setbacks Map .	Cadman Cres and Hughes Avenue are not identified with front setbacks in the mapping instrument.	N/A.

<p>9.7 Residential development yield on certain land</p>	<p>If the development is on a lot that has an area of 10,000m² within the Showground Precinct and provides the following apartment mix, diversity and parking type, an incentive Floor Space Ratio of 2.3:1 can be applied as identified on the FSR mapping instrument.</p> <p>Apartment Mix: One bedroom dwellings (max. 25%)</p> <p>Three or more bedroom dwellings (min. 20%)</p> <p>Apartment Diversity: ≥40% min. internal floor area of 2 bedroom dwellings is 110m² ≥40% min. internal floor area of 3 bedroom dwellings is 135m²</p> <p>Parking Type: 1 space per dwelling and 1 space per 5 units</p>	<p>Site Area: 12,403.8m²</p> <p><u>Proposed FSR</u> 2.3:1 (28,589m² GFA)</p> <p>66 (25%) 1 bedroom units</p> <p>53 (20%) 3 bedroom or more units</p> <p>40% (2 bedroom at least 110m²)</p> <p>45% (3 bedrooms at least 135m²)</p> <p>317 spaces required. 317 spaces provided.</p>	<p>Yes.</p>
<p>9.8 Maximum Number of Dwellings</p>	<p>Development Consent must not be granted to development that results in more than 5,000 dwellings on land within the Showground Precinct</p>	<p>228 units approved under the original Development Application. 264 units proposed under subject application. Therefore an additional 36 units proposed. The total number of dwellings approved within the Showground Precinct is 3,433 dwellings. Approval of the subject application would result in 3,469 dwellings within the Showground Precinct.</p>	<p>Yes.</p>

i. Design Excellence

Clause 9.5 of the LEP specifies an objective to deliver the highest standard of architectural urban and landscape design and applies to development within the Showground Station Precinct. The Clause also prescribes that development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) *whether the development detrimentally impacts on view corridors,*
- (d) *whether the development detrimentally impacts on any land protected by solar access controls established in the development control plan referred to in clause 9.4,*
- (e) *the requirements of the development control plan referred to in clause 9.4,*
- (f) *how the development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*
 - (xi) *the impact on any special character area,*
 - (xii) *achieving appropriate interfaces at ground level between the building and the public domain,*
 - (xiii) *excellence and integration of landscape design.*

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

- (a) *if the development is in respect of a building that is, or will be, higher than 21 metres or 6 storeys —*
 - (i) *a design review panel reviews the development, and*
 - (ii) *the consent authority takes into account the findings of the design review panel.*

Comment:

The design excellence of the original Concept Development Application was considered by the Design Review Panel (DRP) on two occasions. After substantial modifications to the original application, at its second meeting, the DRP offered qualified support of the concept master plan subject to retaining the upper level setbacks to each of the development block facades, providing fine grain and architectural diversity, not reducing the dimensions of the central communal open space and keeping the extensive deep soil planting and existing trees, and design of effective and 'green' street frontages.

The design excellence of the subject application was considered at two DRP meetings held on 28 October 2020 and 23 June 2021. The meeting minutes of the DRP are included at

Attachment 19. On both occasions, the DRP concluded that the proposed modifications do not satisfy the requirements of design excellence.

The DRP concerns raised at the first review for the subject application are summarised below:

- Design Quality
The proposed amendments reduces the design quality and compromises its contribution to the future surrounding context.
- Bulk and Scale
The extent of modification and increase in bulk and scale is so substantial that the changes have significant adverse impacts on the approved overall design quality of the development. The proposed amendments results in an increase in height and scale that is considered to be detrimental to the building design. In particular the linking elements of Buildings A and B and C to D result in building lengths that are not compliant with the DCP, excessive for the precinct and are not in keeping with the envisaged future character.
- Site Coverage/Landscaped Open Space
Whilst the quantum of open space provided has numerically increased, the internal open space is compromised by the excessive building lengths and unrelenting sheer walls of built form addressing the internal common open space.
- Density
The Panel is concerned about the rationale and intent of the applicant seeking consent for a theoretical upper limit of 315 dwellings, yet the drawings only show schematic plans for 264 dwellings. The Panel is not satisfied with the applicant's explanation that 315 dwellings is the site's potential. The submitted plans provide no evidence of how the increased number of apartments can comply with the incentive FSR provisions for larger dwellings. The increase in density proposed results in the development losing the qualities the Panel was supportive of previously.
- Setbacks
The Panel considered the non-compliance in DCP setback controls for the original Concept Application to be reasonable given the scheme's specific configuration and massing, however the proposed changes are so extensive that previously supported street setback non-compliance should not automatically apply to a modified scheme. The Panel supported the setback non-compliance to the controls for the original application as the development proposal provided a sensitive interface to the adjacent 3 storey medium density residential zone to the south of the development and landscaped open spaces between all building blocks. The changes to the scale and massing of the development generate a different relationship to the streets and the Panel considers that compliant 7.5m streets setbacks should be required along all street interfaces for the subject proposal.
- Landscape Design
The central communal open space is pivotal to the success of the originally approved concept application. The proposed bridging elements reduces visual connectivity into and out of the courtyard space.

The DRP made the following recommendations:

- Revise the building envelopes to comply with the height standard for all buildings.

- Revise the building envelopes to comply with the 7.5m street setbacks under the DCP.
- Revise the building envelopes to comply with the maximum building lengths required under the DCP.

The Applicant requested a review of amended concept sketches by the DRP without the formal lodgement of amended plans for the application. A presentation at a further Design Review Panel meeting held on 23 June 2021 included the deletion of 6 units from the previous plans as lodged, resulting in a maximum of 258 dwellings. The “apartment connectors” were proposed to be deleted. The presentation also provided a comparison of the proposal with the originally approved application.

Notwithstanding, the DRP again concluded that it does not support the proposed amendments to the originally approved Concept Development Application as the revised scheme does not satisfy the requirements of design excellence. Further comment and concerns raised by the DRP are summarised below:

- The original concept provided a distinctive and singular approach to the site, which in its view warranted some concession to certain planning controls that in typical circumstances would require numeric compliance, however the proposed modification application now amends the original proposal by seeking provision of increased building envelopes while keeping the concessions to primary and secondary setbacks and variations in height that were initially supported by the Panel.
- If the current amended proposal had been submitted with the original Development Application, the non-compliances with setback and height controls that guide future precinct character and built form outcomes would not have been supported.
- The deletion of the proposed bridging elements between buildings A/B and D/E is supported.
- The Panel acknowledges that the proposed amendment to Building C is compliant with the height control, however it considers this change to have significant impact on the quality and character of the central courtyard space and surrounding public domain, by diminishing the design clarity of the transition to the lower density zone to the south. The increase in height also impacts the Cadman Crescent East street frontage, particularly considering a reduced setback has been provided to this street edge.
- The Panel considers that the increase in yield adversely impacts upon the previously supported and approved design quality of the scheme, as a consequence of the increase in height of Building C and resultant increase in overall bulk and scale of the development.
- The drawings do not clearly explain the relationship of apartment ground levels along Cadman Crescent East with existing footpath levels. The inclusion of subterranean apartments creates poor residential amenity.

The following further recommendations were also made by the DRP:

- The bridging elements between buildings be deleted on the submitted drawings.

- The dimensions and deep soil provision of the central courtyard are retained.
- That any “upper limit” of dwelling yield be made consistent with the number of apartments shown on the drawings.
- That the presented scheme is further revised to either comply with all relevant built form controls in the DCP ie. street setbacks, building separation, building length and height or the building form of Building C is revised to be consistent with the heights and design intent of the approved original concept application.

The Applicant has not submitted amended plans for the application and the concerns raised by the Design Review Panel have not been satisfactorily addressed. In taking into account the findings of the Design Review Panel, it is considered that the proposal does not exhibit design excellence in accordance with Clause 9.5 of the LEP.

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

The proposal has been reviewed under the provisions of SEPP 65 and the Apartment Design Guide.

A Design Verification Statement was prepared by Brian Meyerson, registration number 4907 of MHN Design Union.

a. **Design Quality Principles**

An assessment against the relevant design quality principles contained within SEPP 65 is provided below;

Principle 1: Context and neighbourhood character

The proposal is not compatible with the desired context and neighbourhood character of the Showground Station precinct. The future desired character for residential areas within the precinct are focused highly on an appropriate scale and an attractive environment for pedestrians. The Design Review Panel has considered the application and has concluded that the proposal does not exhibit design excellence. The concerns raised by the DRP have not been satisfactorily addressed. It is considered that the amended proposal will not provide for built forms that would be appropriate in scale or an attractive streetscape presentation and landscaped setting as envisaged for the precinct. In this regard, the proposal is not compatible with the desired neighbourhood character of the Showground Station precinct.

Principle 2: Built form and scale

The proposal does not satisfy the provisions under Clause 9.5 Design Excellence of the LEP and results in a further variations to the solar access requirements for communal open space design criteria under the Apartment Design Guide and building length control under the DCP. In this regard, approval of this application would result in future built form that would be considered excessive in bulk and scale and would have a negative impact on the approved developments relationship with the public domain. The interface between the development and the future built forms on adjoining sites have not been appropriately considered and would not provide an appealing scale to pedestrians or ensure a high level of amenity is provided. In particular, a sensitive transition between the high density and medium density zones approved under the original application will not be maintained.

Principle 3: Density

The subject proposal provides for 264 dwellings on the site which is an increase of 36 dwellings. When the original concept application was lodged, the applicant initially sought consent for 255 units however reduced the dwelling yield and height of the built form to ensure the proposal met design excellence. The original application was approved on this basis. The subject application seeks to modify the approved concept application to further increase the density for the site. The proposal has not demonstrated compliance with the provision of design excellence under the LEP. In this regard, whilst the proposal achieves technical compliance to the incentive FSR provisions under Clause 9.7 of the LEP, the application does not satisfy the provisions of Clause 9.5 Design Excellence and is not considered appropriate for the site.

Principle 4: Sustainability

The assessment under this design quality principle remains unchanged from the original application. The diagrams provided indicate that the design could achieve natural ventilation and solar access as required by the Apartment Design Guide for 264 dwellings.

Principle 5: Landscape

Whilst deep soil diagrams have been submitted with the application, an amended concept landscape plan has not been provided. In this regard, the assessment under this design quality principle remains unchanged from the original application.

Principle 6: Amenity

The proposed modifications do not demonstrate that future building design could be developed to provide for appropriate amenity of the occupants as well as the public domain. Whilst the proposal includes diagrams that demonstrate that the proposal would achieve the requirements of solar access, natural ventilation in accordance with the Apartment Design Guide, the modifications result in an increase in overshadowing to the central communal open space area on the subject site as well as within the frontage of future terrace dwellings along Cadman Crescent East. In addition, the matters raised by the Design Review Panel have not been adequately addressed and the proposal does not satisfy the provisions under Clause 9.5 of the LEP.

Principle 7: Safety

The assessment under this design quality principle remains unchanged from the original application.

Principle 8: Housing diversity and social interaction

The assessment under this design quality principle remains unchanged from the original application.

Principle 9: Aesthetic

The assessment under this design quality principle remains unchanged from the original application. All future built form applications will address the aesthetics principle.

b. Apartment Design Guide

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

Clause	Design Criteria	Compliance
Siting		
Communal open space	25% of the site, with 50% of the principal usable part of the communal open space area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	No. 39% (4930m ²) of the development site area is proposed for communal open space on the ground floor and roof tops. The principal usable part of the communal open space area is considered to be the central ground floor communal courtyard. The modifications result in additional shadow cast from 11am – 2pm during midwinter and do not achieve the required 50% direct sunlight for 2 hours during midwinter. Refer to discussion below.
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. No change proposed to approved deep soil zones. Approximately 38% of the development site area is capable of being defined as deep soil zones as defined within the ADG.
Separation	For habitable rooms, 12m (6m to boundary) for 4 storeys, 18m (9m to boundary) for 5-8 storeys and 24m (12m to boundary) for 9+ storeys	Yes. The proposal includes “apartment connectors” for Level 2 – 6 between Buildings A/B and D/E. The indicative floor plans demonstrate that the building separation distances could be achieved as internal blank walls are proposed.
Car parking	Car parking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 39.6 0.9 spaces per 2 bedroom unit. 130.5 1.40 spaces per 3 bedroom unit. 74.2 1 space per 5 units (visitor parking). 52.8	Yes. The site is located within 800m of the Showground Station. Therefore, 297.1 car spaces required. 317 car spaces provided.
Designing the Building		
Solar and daylight access	1. Living and private open spaces of at least 70% of	Yes. The proposed development is capable of

	<p>apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.</p> <p>2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>achieving two hours solar access for 70.45% (186 of 264) of apartments between 9am and 3.00pm midwinter.</p> <p>Yes.</p> <p>The proposal demonstrates that 10.6% (28 of 264) of apartments will not receive any solar access between 9.00 am and 3.00 pm midwinter.</p>
Natural ventilation	<p>1. At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.</p>	<p>Yes.</p> <p>A total of 68% (180 of 264) of units are capable of achieving the cross ventilation requirements.</p>
Apartment size	<p>Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	<p>Yes.</p> <p>The proposal is capable of achieving compliance.</p>
Apartment mix	<p>A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.</p>	<p>Yes. The proposal is capable of achieving the apartment mix in accordance with Clause 9.7 of The Hills LEP 2019.</p>

a. Communal Open Space

The Apartment Design Guide requires that developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June. It is considered that the principal useable part of the communal open space is the centrally located courtyard at ground level. The principal useable part of the ground floor communal open space will receive the following solar access:

Time	Percentage of Solar Access
9am	0%
10am	1%
11am	16%
12pm	23%
1pm	26%
2pm	50%
3pm	25%

Accordingly, the proposal does not meet the requirements of the Apartment Design Guide. The Applicant has provided the following justification in support of the variation:

Due to the configuration of the approved envelopes and island nature of the site, the proposal has provided additional rooftop communal areas to maximise solar access more evenly across the development. If we consider a combination of ground and rooftop communal open space areas, the development provides 2,819.31m² or 51% of communal open space as achieving the minimum 2 hours solar.

Comment:

The originally approved concept application demonstrated that at least 2 hours of solar access would be provided to the principal usable part of the ground floor communal open space during midwinter. The proposed modification includes “apartment connectors” and a reduced building separation from 10m to 7.6m between northern buildings A and B which reduces the solar access provided for the ground level central communal open space area. It is noted that the high level of amenity provided to the ground level central communal open space was an essential component to the approved concept development. Whilst additional rooftop communal open space areas are proposed above the “apartment connectors” between Buildings A and B (area of 99.33m²), C and D (area of 134.66m²) and above the sixth storey of Building B (area of 267m²), these are not large enough to provide adequate space for informal recreational and outdoor activities including play facilities for 264 dwellings. The combined rooftop communal open space area is 1,139m² which equates to 9.2% of the total site area and would need to be substantially increased to provide for sufficient residential amenity for future occupants of the site.

It is considered that the proposed modification application compromises the amenity of the well designed ground level communal open space approved under the original application. The amendments to the building envelopes would result in insufficient outdoor recreation opportunities for residents and diminishes valuable “breathing space” between apartment buildings. In this regard, the proposed modification application is not supported with regard to insufficient solar access and amenity provided to the principal usable communal open space.

6. Compliance with The Hills DCP 2012

The proposed modification has been assessed against the following provisions of The Hills Development Control Plan:

- Part D Section 19 Showground Station Precinct,
- Part B Section 5 Residential Flat Buildings,
- Part C Section 1 Parking and
- Part C Section 3 Landscaping.

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

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Front Setbacks	<p>7.5m front setback from the existing property boundary to Cadman Crescent and Hughes Ave. Balconies shall not protrude into the setback areas.</p> <p>4m upper level setback for storeys above the 4th storey</p>	<p>6m - Cadman Crescent east and north</p> <p>6.5m - Hughes Avenue</p> <p>3m - Cadman Crescent east and north and Hughes Avenue</p>	No. Refer to discussion below.
Façade and Building length	<p>On road reserves less than 20m in width, the length of the façade shall not exceed 40m.</p> <p>Buildings are to have a maximum length of 65m. Where a building has a length greater than 30m it is to be separated into at least two parts by a significant recess or projection.</p>	<p>Cadman Crescent and Hughes Ave are both local roads with a road reserve of 17m in width.</p> <p>The proposed façade and building lengths are:</p> <p>Building A/B – 107.5m Building C – 50m Building D/E – 106m</p>	No. Refer to discussion below.

The approved development achieved compliance with the relevant requirements of The Hills Development Control Plan except for site specific Showground Precinct controls relating to the structure plan, front and upper level setbacks and maximum façade/building length. As the original application demonstrated that the provisions of design excellence were met, these variations were supported. The proposed modification does not satisfy the provisions under Clause 9.5 Design Excellence and seeks further variations to the building length control. Whilst a variation to front setbacks were supported under the original application, the subject proposal seeks to increase the height and bulk and scale of the building envelopes. The variations to the building length and front setback controls are discussed below.

a. Building Lengths

The DCP requires that buildings are to have a maximum length of 65m. Where a building has a length greater than 30m it is to be separated into at least two parts by a significant recess or projection. The proposed modification includes “apartment connectors” between Buildings A/B and D/E resulting in maximum building lengths of 107.6m and 106m respectively.

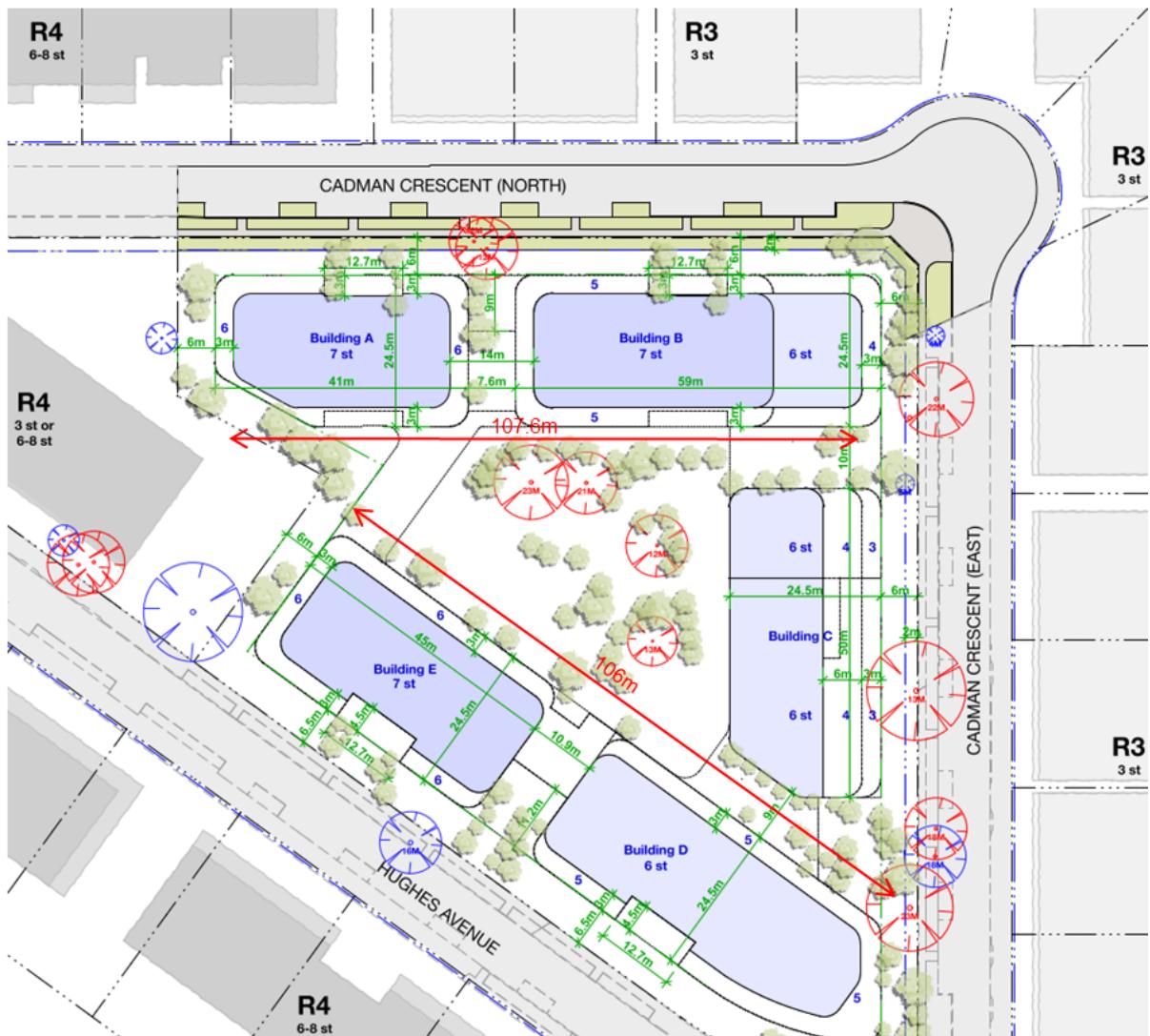


Figure 2: Proposed Building Lengths, Separation and Setbacks

The DCP provides the following objective relating to the control:

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

Comment:

It is acknowledged that the proposed modifications relate to a concept development application with indicative building envelopes and no built form is proposed as part of the application. It is noted that whilst the original application did not comply with the maximum 40m façade lengths required under the DCP, however the application was approved with the following compliant maximum building lengths:

Building A 41m
 Building B 57m
 Building C 50m
 Building D 49m
 Building E 45m

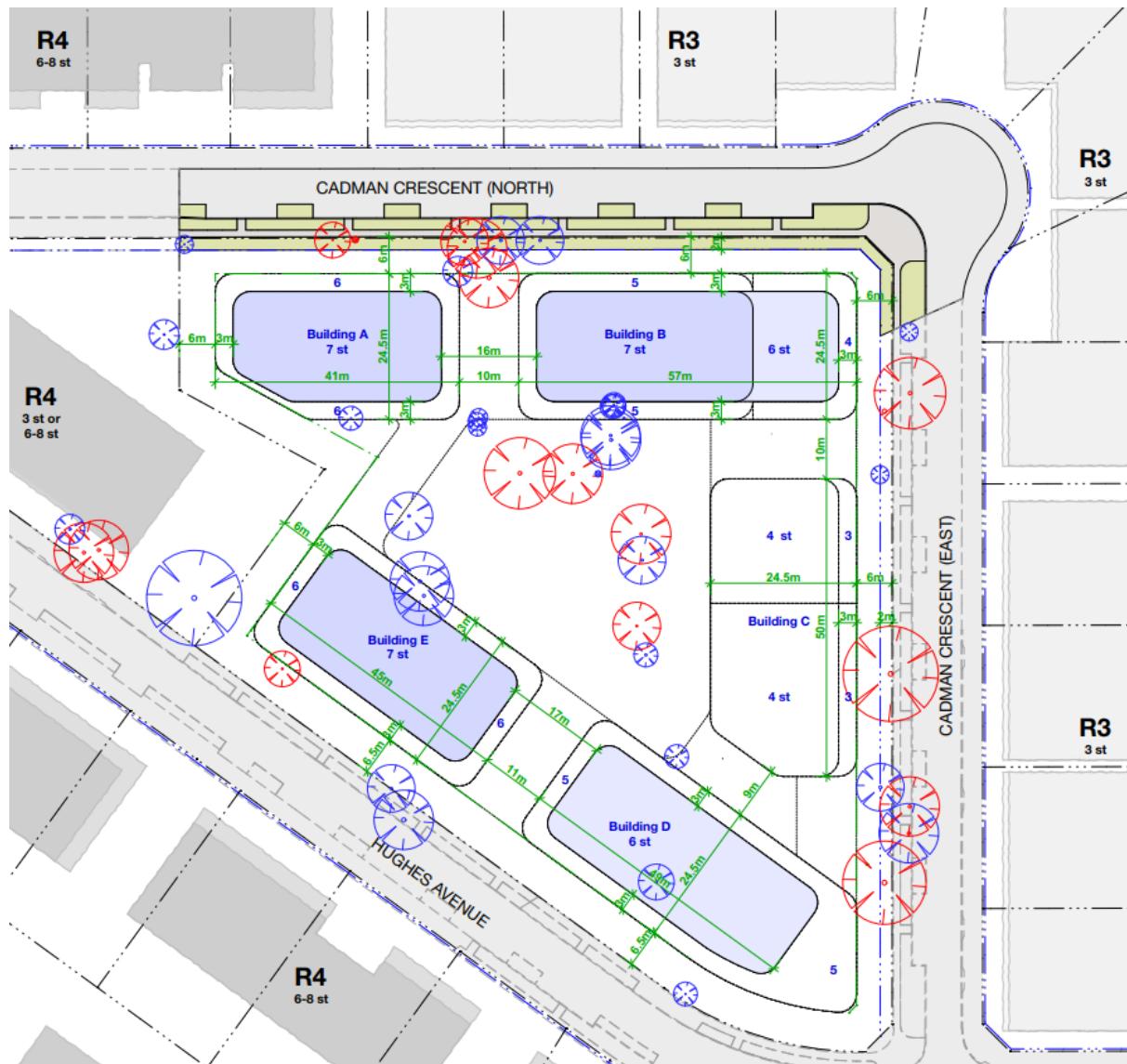


Figure 3: Approved Building Lengths, Separation and Setbacks

The variation to façade lengths was supported as it was envisaged that subsequent built form Development Applications would include significant recesses and projections detailing sufficient articulation to break up the building mass.

The “apartment connectors” and reduced internal building separation between Buildings A/B and D/E would result in built form outcomes that are not consistent with the desired positive streetscape and high quality architectural design envisaged for the Showground Precinct. In particular, the Design Review Panel has noted the following:

“The proposed amendments results in an increase in height and scale that is considered to be detrimental to the building design. In particular the linking elements of Buildings A and B and C to D result in building lengths that are not compliant with the DCP, excessive for the precinct and are not in keeping with the envisaged future character”.

Whilst it is acknowledged that the Applicant has indicated that these “apartment connectors” could be deleted at the second Design Review Panel meeting, amended plans were not lodged with the subject application. In this regard, the proposal has not been amended to

exhibit design excellence and the concept proposal has not demonstrated the potential to achieve high-quality built form design outcomes (refer Section 4c).

The proposal does not meet the intent of the control and the variation is not supported.

b. Setbacks

The DCP requires that buildings are to provide a 7.5m front setback to Cadman Crescent and Hughes Ave and an upper level setback of 4m behind the building line for four storeys and above. The approved and modified proposal provides for a 6m front setback and 3m upper level setback to Cadman Crescent east and north and a 6.5m front setback and 3m upper level setback to Hughes Avenue.

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

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

Comment:

The original concept application was approved with a variation to the front and upper floor of the building envelopes of block A, B and C which encroach within the Cadman Crescent East and North front setback by 1.5m and 1m respectively resulting in a front setback of 6m and upper floor setback of 3m.

The minor reduction to the 7.5m street setback control on Cadman Crescent was supported, due to the lower adjacent heights and density, the irregular shape of the site, and the adverse impact on the internal communal open space. It was assessed that the reduced front setbacks were more commensurate with the interface between the differing R4/R3 residential density zones given the maximum three storey height of Building C. It was considered that this building envelope would provide for future built form that has the potential to provide strong definition to the public domain and create a consistent streetscape.

The subject application seeks to increase the building lengths of Buildings A/B and D/E and height of Building C from three storeys to five storeys. As discussed under Section 3 above, the Design Review Panel considered the non-compliance in DCP setback controls for the original concept application to be reasonable given the scheme's specific configuration and massing and noted that the proposal provided a sensitive interface to the adjacent three storey medium density residential zone to the south east of the development and high quality landscaped open spaces between all building blocks. As a result, the changes to the scale and massing of the development generate a different relationship to the streets and the Design Review Panel considers that compliant 7.5m streets setbacks should be required along all street interfaces for the subject proposal. The modified proposal increases the bulk and scale of the development, does not demonstrate that a consistent streetscape is provided and results in additional overshadowing to the public domain and frontages for future terrace housing along Cadman Crescent East.

The proposed modification does not meet the intent of the control and the variation to the front setbacks is not supported.

7. Issues Raised in Submissions

ISSUE/OBJECTION	COMMENT
Density The developer is trying to have “another bite of the cherry” after his first proposal was accepted at the expense of local residents who have lived in this street for over 30 years. The developer is desperate to increase density to maximise his dollar return by increasing heights and the number of units allowed. The height increase should not be approved it does not meet concerns of local residents and the developer already has had ample opportunity to produce a workable development. Some times local residents concerned should be considered.	The original application was assessed under the matters of consideration required under Section 4.15 of the Environmental Planning and Assessment Act 1979. The SCCPP approved the original application with a maximum dwelling cap of 228 units and a maximum FSR of 2.1:1 for the site which was considered suitable and compliant with the relevant standards under the LEP, SEPP 65 and relevant DCP controls. All submissions received following the notification periods for the original application were considered and addressed in the body of the Council assessment report. The increase in FSR and yield proposed under the subject modification application is not supported. The application is recommended for refusal.
Height The height increase should not be approved as it does not meet concerns of local residents and the developer already has had ample opportunity to produce a workable development. Some times local residents concerned should be considered.	The application proposes to increase Building C from a height of 3 storeys (14.8m) to 5 storeys (19.3m). Whilst this complies with the maximum height standard of 21m permitted under the LEP, the proposal does not meet Clause 9.5 Design Excellence under the LEP and is not supported. The application is recommended for refusal.

8. Internal Referrals

The application was referred to following sections of Council:

- Engineering
- Tree Management

Engineering

Additional information was requested on 11 August 2020 regarding the submission of swept paths to ensure vehicle turn movements are satisfactory and clarification was sought regarding the number of dwellings and bedrooms proposed. Whilst the Applicant has presented a revised scheme to the Design Review Panel on 23 June 2021 regarding a scheme for 258 dwellings, amended plans have not been submitted with the application. In this regard, insufficient information has been provided to make a proper assessment of the application. The application is recommended for refusal.

Tree Management

Council's Landscape Assessment Officer has indicated that no amended Concept Landscape Plan has been provided as part of the application. It is noted that the proposed modification is for a concept application and indicative communal open space areas and deep soil zones have been included as part of the application. In this regard, additional information is not required to make a complete assessment of the application.

CONCLUSION

The 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 65 – Design Quality of Residential Apartment Buildings, The Hills Local Environmental Plan 2019 and The Hills Development Control Plan 2012 and is considered unsatisfactory.

The proposal is not considered to be substantially the same development in that proposed modified Concept Development Application differs, both quantitatively and qualitatively, from the original approved development. The proposed modification seeks to amend essential components to the approved concept Development Application including an increase to the approved dwelling yield from 228 units to 264 units. The application is not supported pursuant to Section 4.55 of the Environmental Planning and Assessment Act, 1979.

Further variations to the Apartment Design Guide have been identified with regard to solar access to usable principal communal open space. Variations to the DCP control have also been identified regarding building length and front setbacks.

In taking account the findings of the Design Review Panel, it is considered that the proposal does not exhibit design excellence and is inconsistent with the desired future character of the Showground Station Precinct.

One submission was received following the notification period. The concerns raised regarding density and height have not been satisfactorily addressed.

Accordingly refusal of the application is recommended.

IMPACTS:

Financial

This matter may have a direct financial impact upon Council's adopted budget as refusal of this matter may result in Council having to defend a Class 1 Appeal in the NSW Land and Environment Court.

The Hills Future - Community Strategic Plan

The proposed development is inconsistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development has not demonstrated satisfactory urban growth without adverse environmental or social amenity impacts. A consistent built form has not been provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be refused for the following reasons:

1. The proposed modifications to the Concept Development Application does not result in a development that is substantially the same as it differs, both quantitatively and qualitatively from the original approved development and seeks to amend essential components including density, bulk and scale and is incompatible with the surrounding context and streetscape.

(Section 4.15(1)(a)(i), (iii) and 4.55(2)(a) of the Environmental Planning and Assessment Act, 1979).

2. The application does not satisfy the provisions under Clause 9.5 Design Excellence of the Hills LEP 2019.
(Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
3. The proposal does not satisfy the design quality principles contained within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development with respect to context and neighbourhood character, built form and scale, density and amenity resulting in a development that is not substantially the same as originally approved.
(Section 4.15(1)(a)(i) and 4.55(2)(a) of the Environmental Planning and Assessment Act, 1979).
4. The proposal does not provide for sufficient solar access and residential amenity to the principal usable communal open space area in accordance with the design criteria of the Apartment Design Guide under Clause 29 SEPP 65 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
(Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
5. The proposal does not provide for the appropriate building lengths and setbacks as required under The Hills DCP 2012.
(Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).
6. The applicant has not submitted information requested to properly assess the impacts to the built environment including amended plans as detailed in the presentation to the Design Review Panel on 23 June 2021 and vehicle swept paths to the satisfaction of Council's engineers.
(Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979).
7. The site is not suitable for the development as proposed to be modified and is inconsistent with the built environment of the locality.
(Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act, 1979).
8. The proposal is not in the public interest due to the incompatible bulk and scale and its departure from the requirements of design excellence under The Hills LEP 2019 and Part D Section 19 Showground Precinct Development Control Plan.
(Section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act, 1979).

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map
4. LEP Height of Buildings Map
5. LEP FSR (Base) Map
6. LEP FSR (Incentive) Map
7. Site Plan
8. Approved Building Envelopes Under DA 1262/2019/JP
9. Proposed Building Envelopes
10. Approved Deep Soil Plan under DA 1262/2019/JP
11. Proposed Deep Soil Plan
12. Approved Street Elevations under DA 1262/2019/JP
13. Proposed Street Elevations
14. Approved Sections under DA 1262/2019/JP
15. Proposed Sections
16. Shadow Diagrams

17. Perspectives
18. Urban Design Peer Review
19. Design Review Panel Minutes
20. SCCPP Determination and Statement of Reasons
21. Development Consent 1262/2019/JP

ATTACHMENT 1 – LOCALITY PLAN



- SUBJECT SITE
- PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

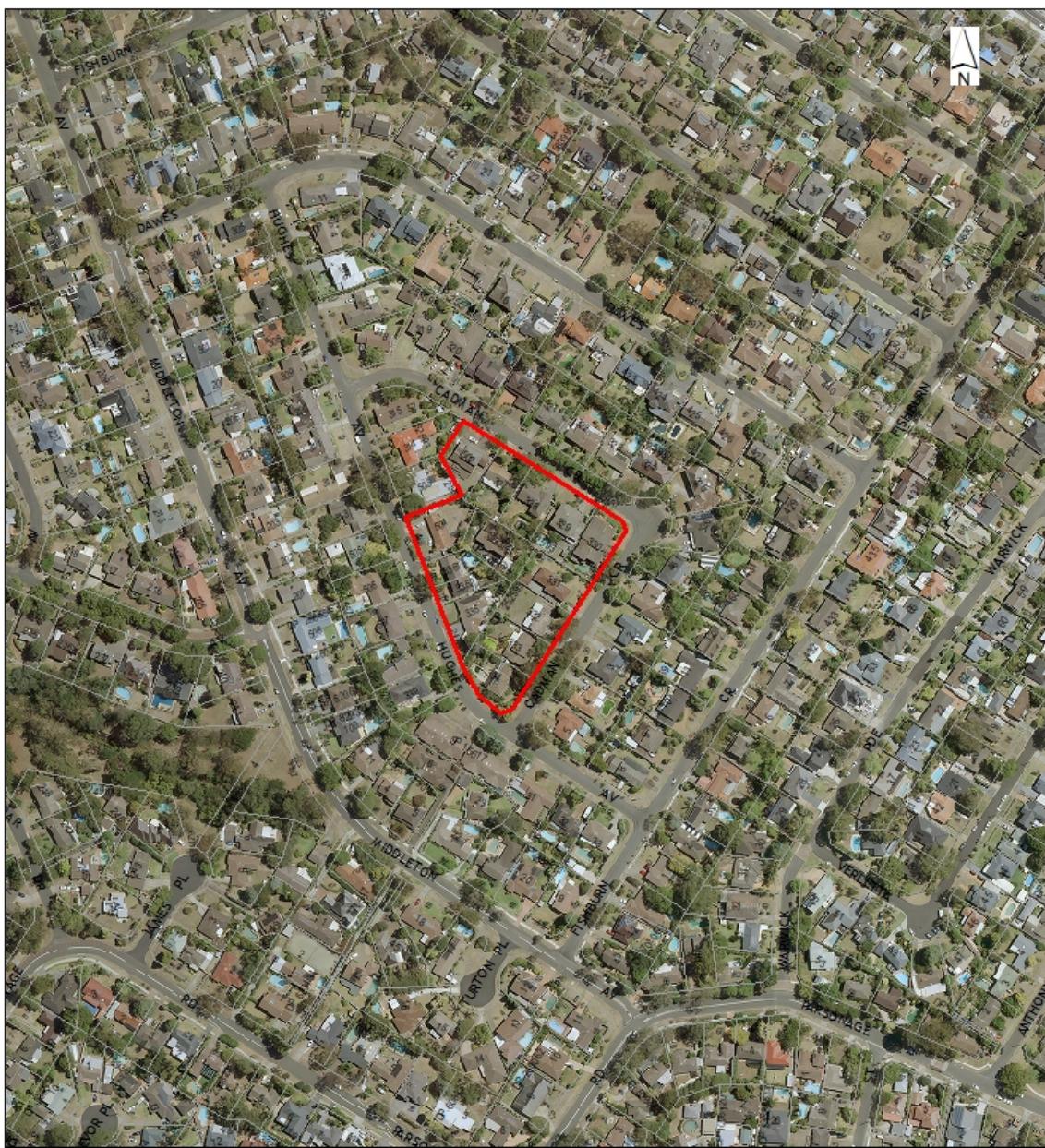
THE HILLS

Sydney's Garden Shire

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ATTACHMENT 2 – AERIAL MAP



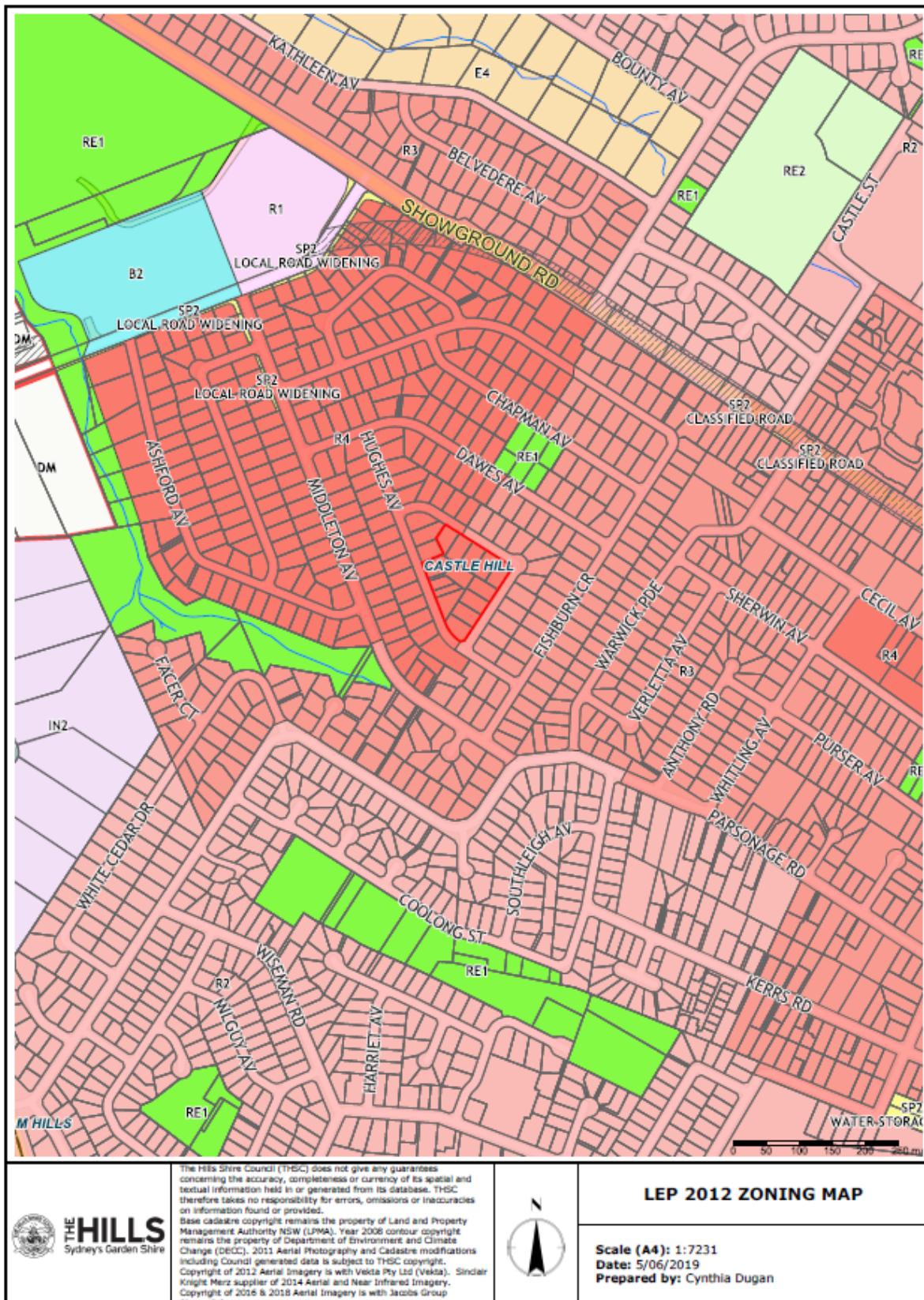
SUBJECT SITE

THE HILLS
Sydney's Garden Shire

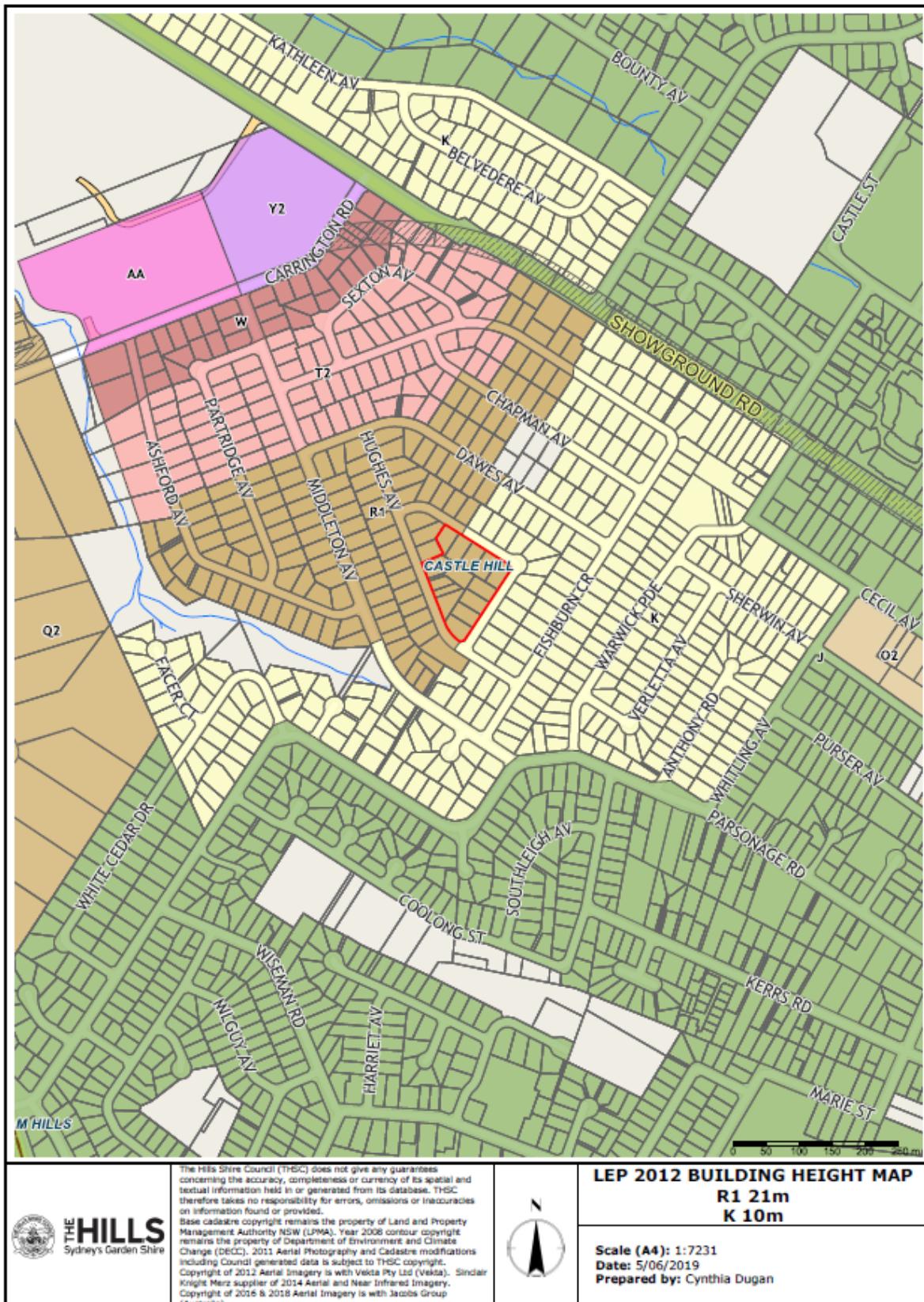
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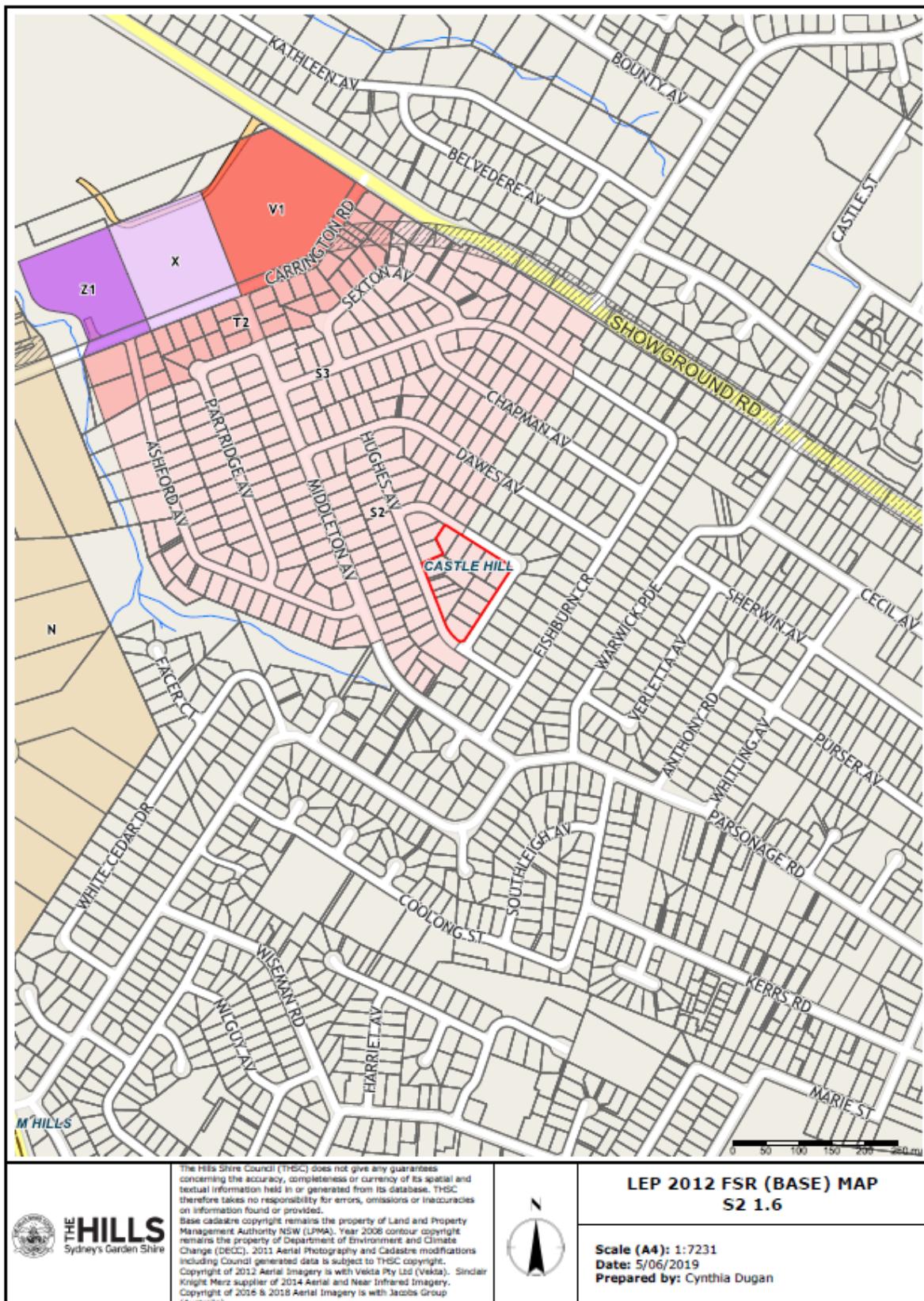
ATTACHMENT 3 – LEP ZONING MAP



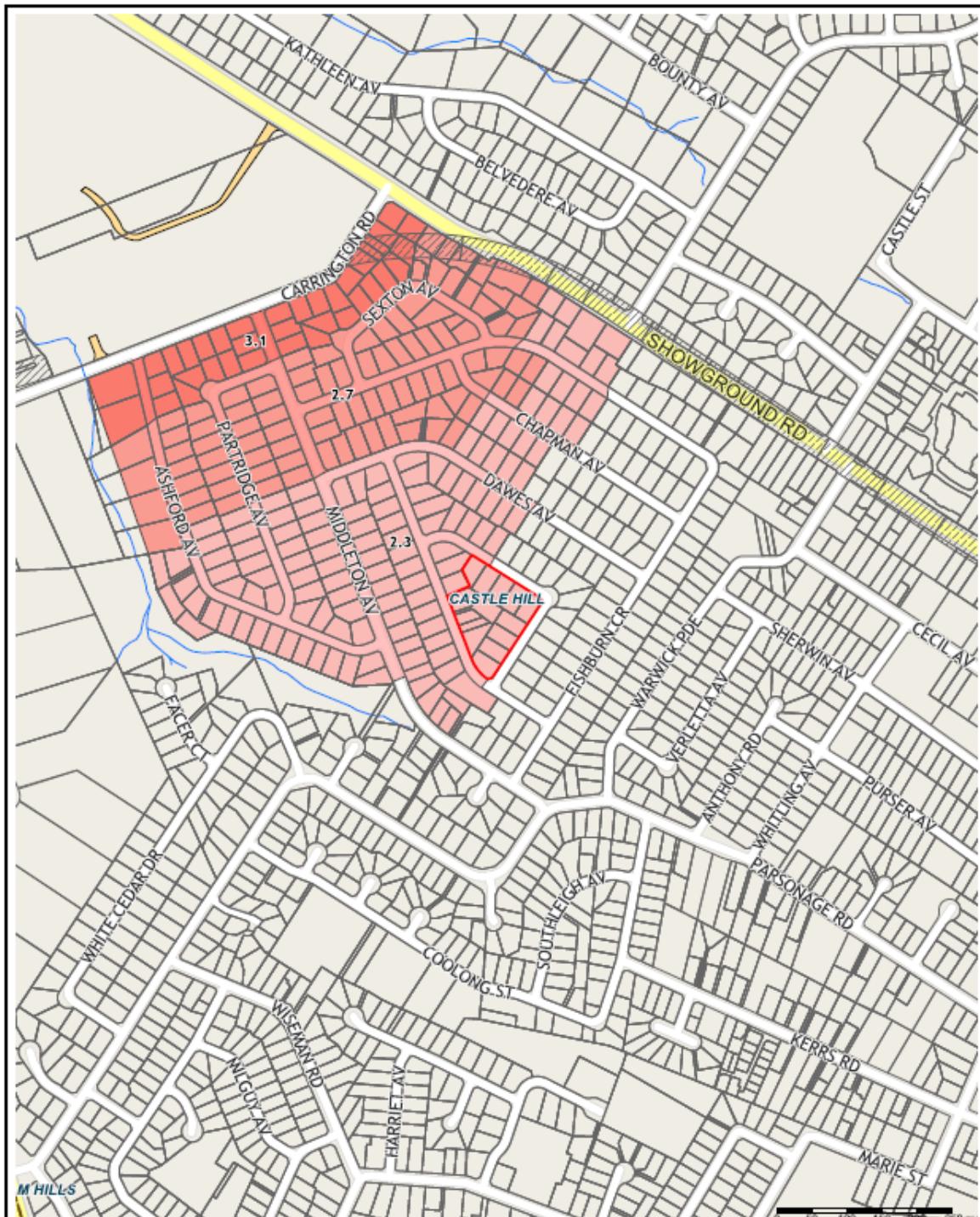
ATTACHMENT 4 – LEP HEIGHT OF BUILDINGS MAP



ATTACHMENT 5 – LEP FSR (BASE) MAP

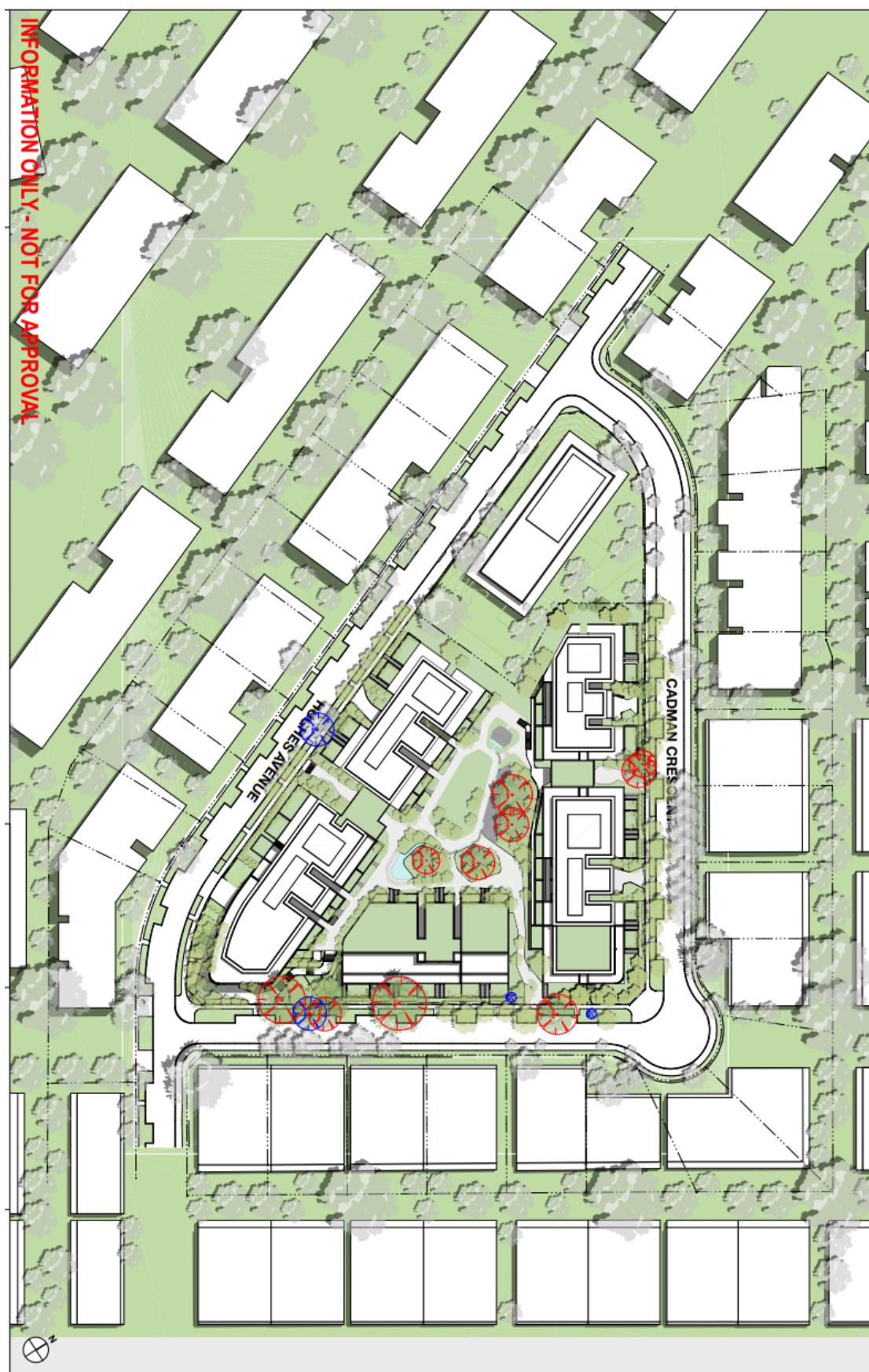


ATTACHMENT 6 – LEP FSR (INCENTIVE) MAP

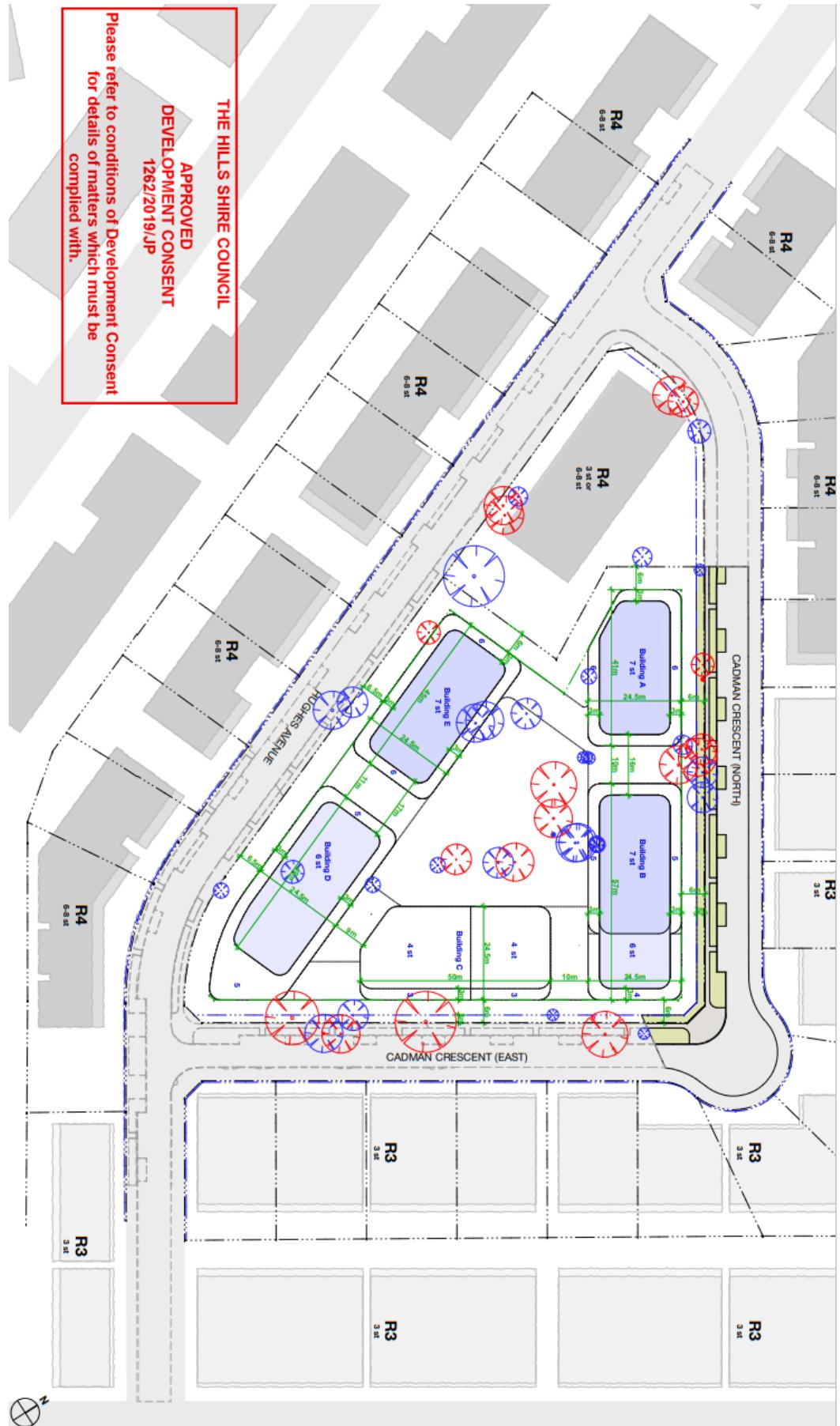


 THE HILLS Sydney's Garden Shire	<p>The Hills Shire Council (THSC) does not give any guarantees concerning the accuracy, completeness or currency of its spatial and textual information held in or generated from its database. THSC therefore takes no responsibility for errors, omissions or inaccuracies on information found or provided.</p> <p>Bei cadastral copyright material the property of Land and Property Management Authority, now (LPA). The year 2014 material copyright remains the property of Department of Environment and Climate Change (DECC). 2011 Aerial Photography and Cadastre modifications including Council generated data is subject to THSC copyright.</p> <p>Copyright of 2012 Aerial Imagery is with Vekta Pty Ltd (Vekta). Sinclair Knight Merz supplier of 2014 Aerial and Near Infrared Imagery.</p> <p>Copyright of 2015 & 2018 Aerial Imagery is with Jacobs Group (Australia).</p>		LEP 2012 (INCENTIVISED) MAP T 2.3
Scale (A4): 1:7231 Date: 5/06/2019 Prepared by: Cynthia Dugan			

ATTACHMENT 7 – SITE PLAN



ATTACHMENT 8 – APPROVED BUILDING ENVELOPES UNDER DA 1262/2019/JP



ATTACHMENT 9 – PROPOSED BUILDING ENVELOPES

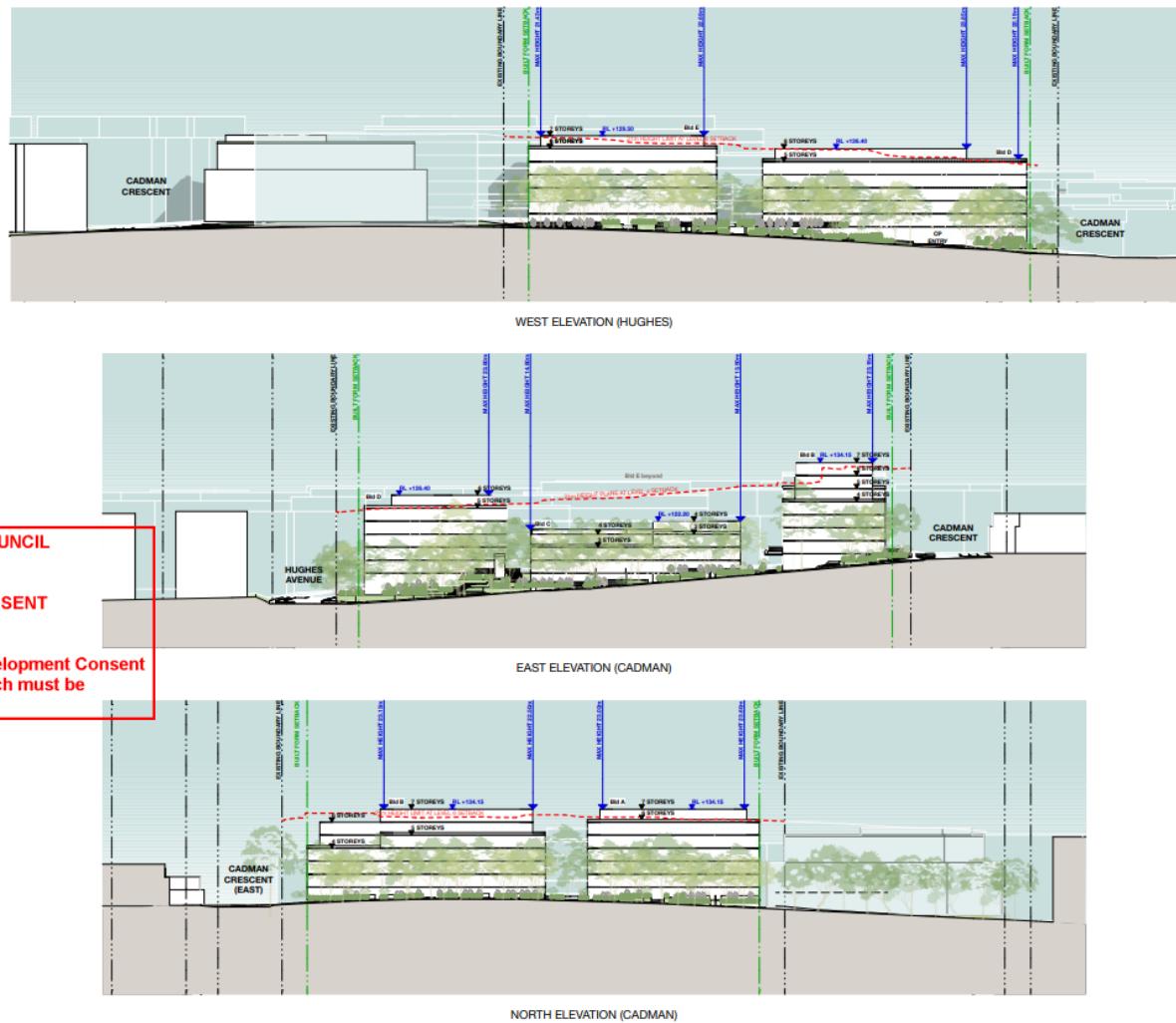


ATTACHMENT 10 – APPROVED DEEP SOIL PLAN UNDER DA 1262/2019/JP

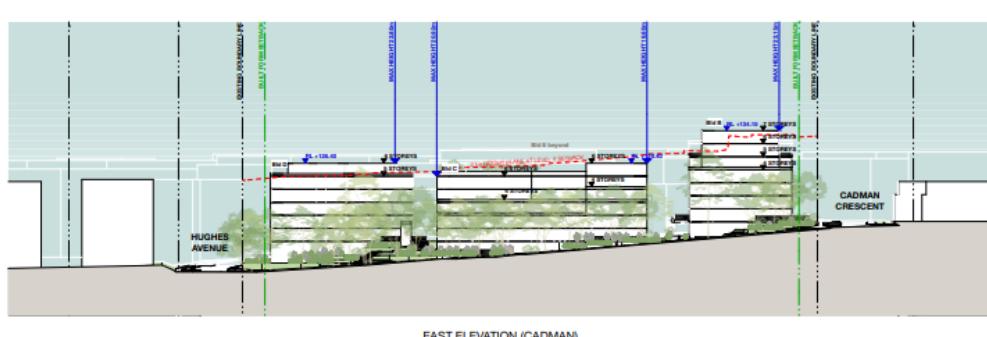
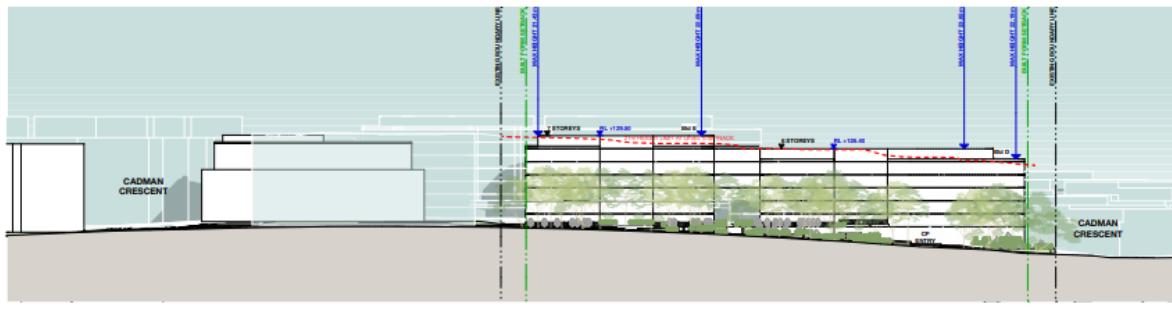
ATTACHMENT 11 – PROPOSED DEEP SOIL PLAN



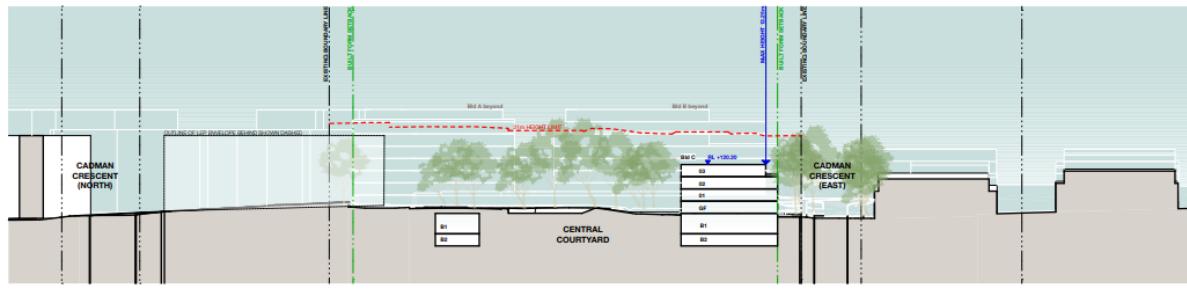
ATTACHMENT 12 – APPROVED STREET ELEVATIONS UNDER DA 1262/2019/JP



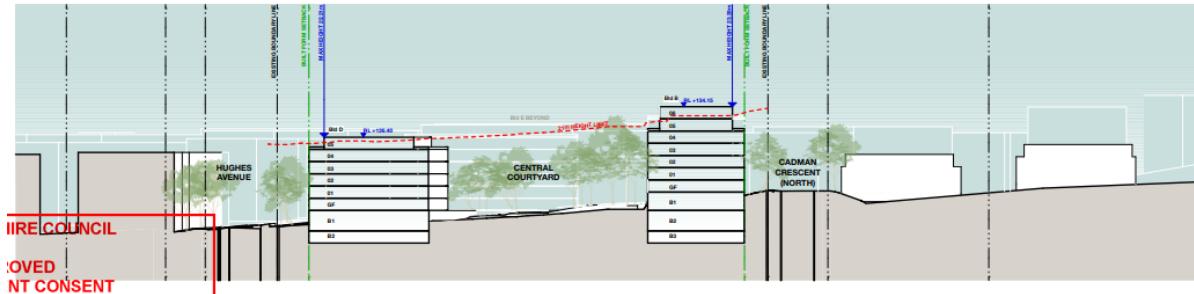
ATTACHMENT 13 – PROPOSED STREET ELEVATIONS UNDER DA 1262/2019/JP



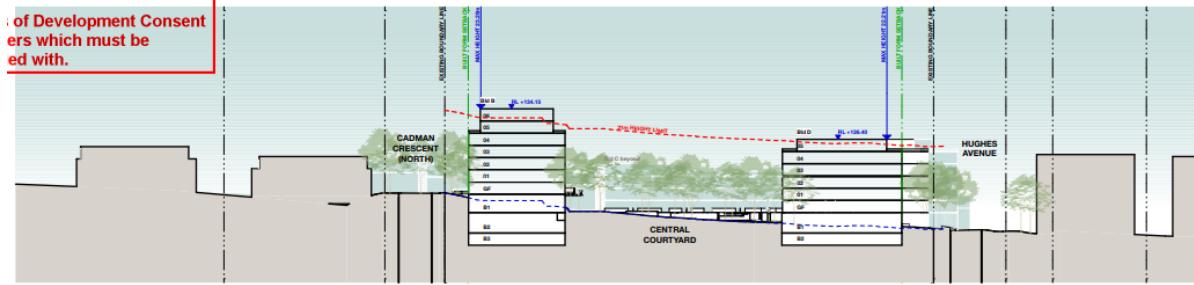
ATTACHMENT 14 – APPROVED SECTIONS UNDER DA 1262/2019/JP



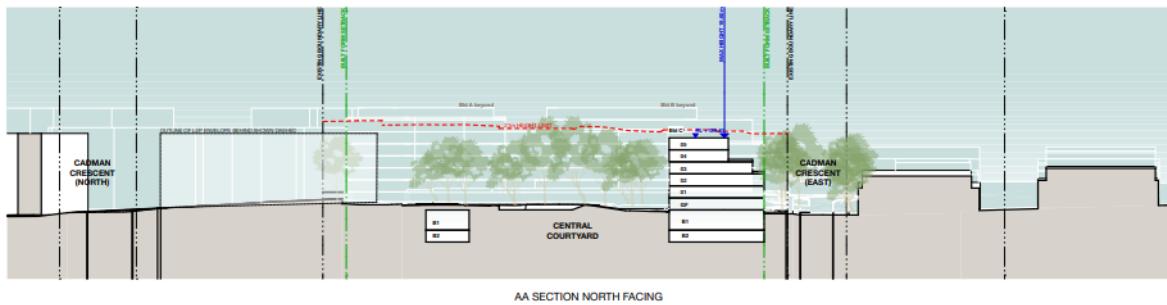
AA SECTION NORTH FACING



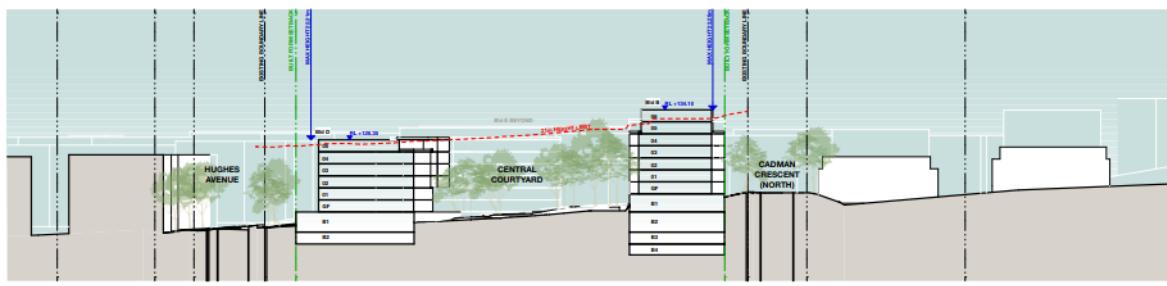
BB SECTION NORTH-WEST FACING



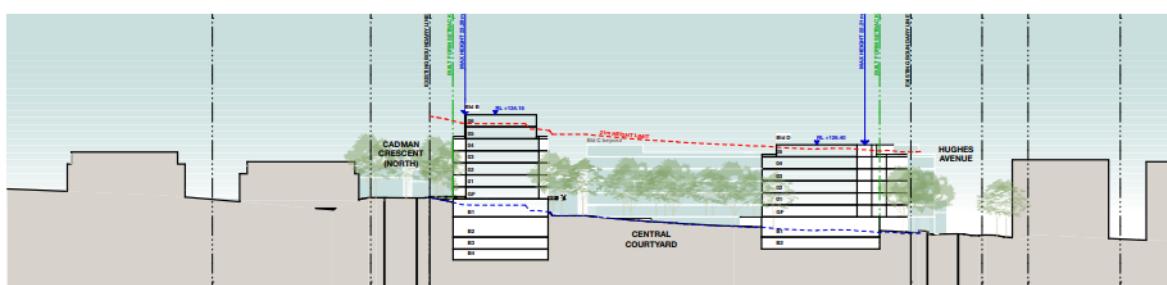
ATTACHMENT 15 – PROPOSED SECTIONS



AA SECTION NORTH FACING

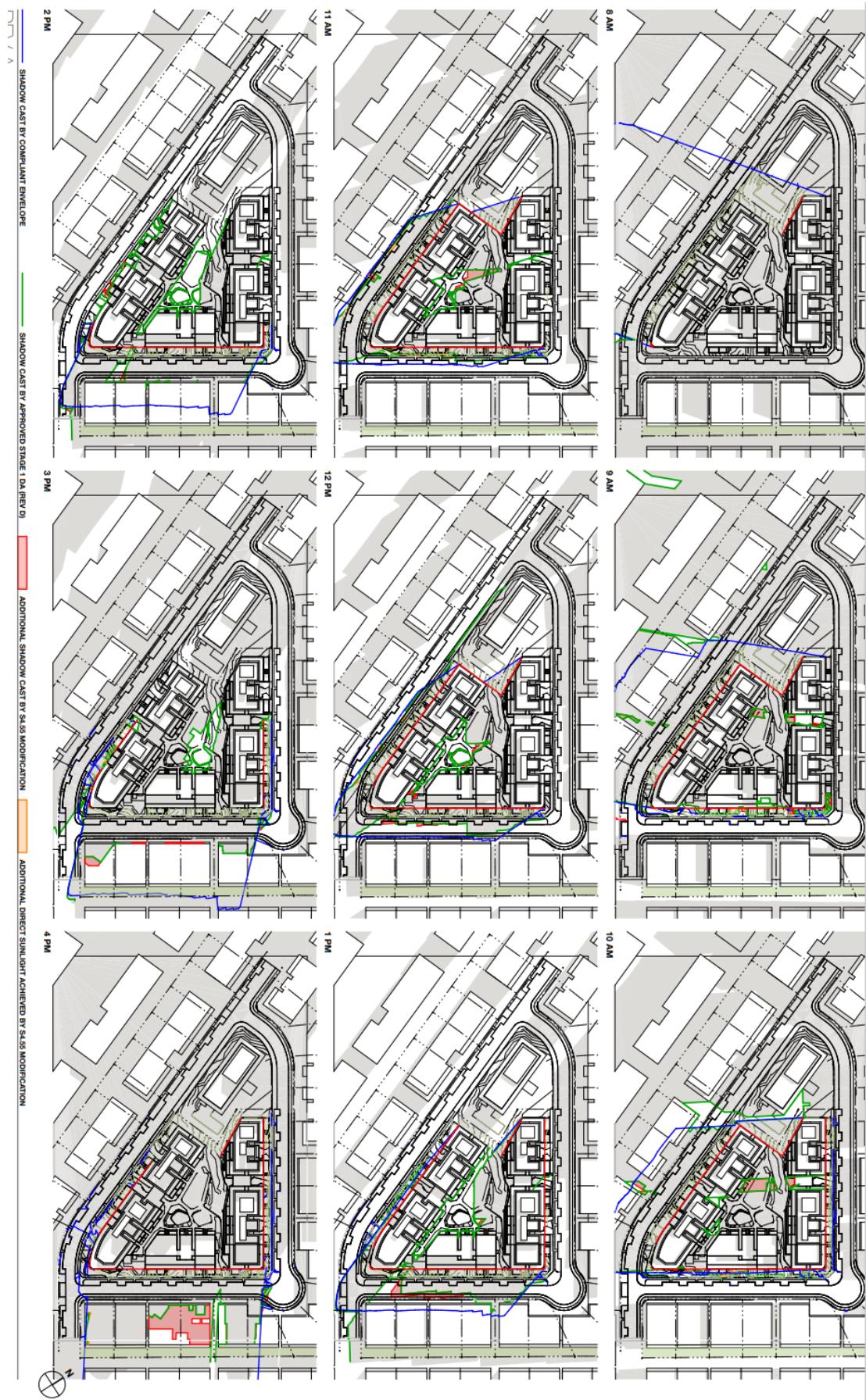


BB SECTION NORTH-WEST FACING



DD SECTION EAST FACING

ATTACHMENT 16 – SHADOW DIAGRAMS



ATTACHMENT 17 – PERSPECTIVES



STREET PHOTOMONTAGE

ATTACHMENT 18 – URBAN DESIGN PEER REVIEW



6 July 2020

Re. S.4.55 Modification Application for Nos. 7-23 Cadman Crescent and Nos. 18-24 Hughes Avenue, Castle Hill.

GM Urban Design and Architecture (GMU) have been engaged by Castle Hill Panorama Pty Ltd (the client) to undertake a peer review of a proposed S4.55 Modification Application to the approved Concept Development Application (DA 1262/2019/JP) for the mixed use development located at Nos. 7-23 Cadman Crescent and Nos. 18-24 Hughes Avenue (the site), Castle Hill. GMU assisted in preparing the urban design strategy for the original concept DA lodged in February, 2019.

The original concept plan accommodated only 2.1:1 FSR of the maximum allowable 2.3:1 FSR (including bonus provisions). Castle Hill Panorama seeks to amend the proposal to increase density whilst still maintaining the key built form relationships evident in the original concept plan. The need for additional FSR is required to make the project financially feasible as the approved FSR is not viable under current conditions.

The amended proposal increases the number of units from 228 to 264. GMU have reviewed the proposed amendments to the original design with a focus on maintaining a reasonable outcome in terms of:

- Streetwall scale;
- Building length;
- Setbacks and built form articulation;
- Amenity outcomes.

Streetwall Scale

The amended proposal seeks to increase the height of part of Building C by 2 levels (6.2m). GMU have reviewed design revisions and have advised the team that any additional upper levels must be sufficiently recessed from the primary building alignment, to maintain a strong visual 3 storey streetwall scale to Cadman Crescent, to maintain the previous built form response to the likely future development scale within the R3 zone to the southeast.

The two additional levels are proposed to Building C located to the south-eastern part of the site setback by 6.6m – 9.3m from the streetwall alignment fronting Cadman Crescent East. This substantial setback ensures that the additional massing has minimal impact from the street and ensures it does not detrimentally contribute to additional overshadowing impacts to adjoining public and private domain areas.

GMU consider the additional setback two levels achieve an acceptable outcome that is consistent with the objectives of the original concept and approval, still providing scale transition at the zone interface and harmonious streetscape proportions. The original proposal sought to acknowledge and respond to the lower permissible scale (maximum 10m) within the adjacent R3 zoned area.

The proposed modifications to Building C results in a 6 storey built form is wholly accommodated within the maximum LEP height permissible for the site. We understand the amendments will not result in additional tree loss or significant additional overshadowing impacts to the adjoining sites to the south and on this basis, we find the proposed amendments to be acceptable. Overshadowing impacts are discussed in a later chapter of this letter.

The streetwall scale of buildings A, B, D and E is unchanged.

Building length

The amended proposal connects Buildings A and B as well as Buildings D and E on upper levels to accommodate 8 additional units and communal open space at the rooftop level. To ensure that this amendment does not result in a very long built form the connecting elements are heavily recessed from the street front alignment of the proposal by 9m (Cadman North) to 11.3m (Hughes Avenue) with an open connection is provided at ground level.

To Hughes Avenue (Buildings D and E) the new 2 storey connection is generously inset (dimensioned 11.2m (W) x 11.2m (D)) and to Cadman Crescent (North) the new connection is incorporated into the design as built form inset (dimensioned 7.6m (W) x 9m (D)), retaining visual connectivity from the street and improving articulation to the building forms. To further reduce the apparent building length additional setbacks have also been provided to the existing concept frontages which is discussed below.

GMU find the proposed modifications to building length acceptable as the new massing is heavily recessed and is accompanied by additional articulation to the rest of the buildings. The design maintains the original site configuration and the surrounding streetscape proportions. Due to increased setbacks and additional articulation, which is discussed below, the amended scheme will continue to provide built form proportions to complement the surrounding streetscapes and the residential character of the area.

Setbacks and built form articulation

The amended proposal includes increased setbacks to Hughes Avenue (south-west) and Cadman Crescent (North). As discussed, additional levels are proposed to Building C fronting Cadman Crescent (East) however, existing setbacks for the lower levels are consistent with the approved. No changes are approved to the setbacks to the north-western boundaries to adjacent lots within the block.

As part of the design amendments, additional built form articulation is introduced to site edges, to break up the building forms and allow the development to be read as smaller groupings separated by vertical indentations. To Hughes Avenue, two 12.7m wide indentations are proposed to Buildings D and E where setbacks are increased from 6.5m (as approved) to 11.1m. To Cadman Crescent (North), two 12.7m wide building indentations are introduced where setbacks are increased from 6m (as approved) to a 9.3m setback to the Hughes Avenue boundary. The indentations assist in breaking up the perceived bulk of the development and introduce a rhythm when viewed from the public domain.

GMU find the amended configuration acceptable as it introduces further built form articulation referencing the traditional lot pattern of the area and enables increased landscape opportunities, contributing to the 'greening' of surrounding streets.

Amenity outcomes

The proposed modifications result in adjustments to the typical layouts however, the proposal continues to meet key ADG guidelines with some improvements to residential amenity. According to the information provided by the project architects, the proposed modifications result in the following key amenity outcomes:

- Additional communal open space on rooftop areas is now accommodated, improving access for residents of Buildings A, B, D and E;
- No additional tree loss;
- Provision of communal open space is increased to 4,931sqm (40% of site area);
- Provision of communal open space (principle usable part) enjoying minimum 2 hours of direct sunlight during mid-winter is 1,422sqm which equates 50% which is consistent with ADG guidelines.
- Provision of deep soil is retained at 5,014sqm which equates to 40% of the site area.
- Landscaped area is increased to 6,468sqm (52% of the site area)
- Minimum 2 hours direct solar access is provided during mid-winter to 186 units which equates to minimum 70% of the total number of units;
- Natural cross ventilation is provided to 180 units which equates to 68% of the total number of units.

In Building C, the lobby area at Ground Floor Level has been relocated to the south-western end of the building which is considered acceptable because it contributes to the activation of the pedestrian entry area at the southern corner of the site.

The proposed modifications result in minor additional overshadowing from 1-3pm due to the two new levels on Building C. However, the additional overshadowing primarily impacts the road surface (Cadman Crescent East), causing only minor additional impacts to the northern site edges of lots within the R3 zoned areas.

The testing prepared by the design team (MP 3002 – Shadow diagrams) indicates that no additional overshadowing is likely to impact the primary open space to the rear of the R3 zoned dwellings between 9am-3pm mid-winter. Between 9am-10am, a small amount of additional overshadowing would impact the lot along the southern side of Hughes Avenue but this is considered a minor increase compared to the proposed.

Minor areas of additional overshadowing impacts occur to the central open space between 9am-12pm. Nevertheless, the landscaped area enjoys afternoon sun during mid-winter and communal open spaces are also located at rooftops benefitting from solar access and views.

Conclusions

Based on the urban design considerations summarised above, GMU consider the proposed modifications acceptable as the outcomes are compatible with the key objectives of the original proposal and the proposal continues to provide the following positive outcomes to enhance the character of the site and the emerging precinct:

- Reinforcement of the existing street pattern;
- Retention of existing high-value and medium value trees;
- Maximised landscape amenity through the retention of a large deep soil area to the centre of the site and concentrating built form to the perimeter of the site;
- Improved site permeability;
- Built form scale transition to the lower density areas;
- A scale distribution which responds to the topography of the area;
- Varied street setbacks to allow for built form articulation and landscape treatment;
- And well proportioned built forms with recessed upper levels.

ATTACHMENT 19 – DESIGN REVIEW PANEL MEETING REPORTS



DESIGN REVIEW PANEL
DESIGN ADVISORY MEETING REPORT – 28th October 2020

Item 4.2	11.35am – 12.15pm
DA Number	DA 1262/2019/JP/A
DA officer	Cynthia Dugan
Applicant	Castle Hill Panorama Pty Ltd
Planner	Jordan Faeghi, Mecone
Property Address	7-23 Cadman Crescent & 18-24 Hughes Avenue, Castle Hill
Proposal	 <p>Proposed modification to an approved Concept DA resulting in an upper cap of 315 residential apartments over basement parking. Additional modifications detailed later.</p>
Design review	This is an approved DA that is seeking amendments under Section 4.55(2)
Background	The site has been previously reviewed by the Panel.
Applicant representative address to the design review panel	Liam Hancock –(not registered in NSW) MHNDU Nominated Architect Brian Meyerson ARB 4907
Key Issues	<p>Summary of key issues discussed:</p> <ul style="list-style-type: none"> • Substantial Increase in bulk and scale • Loss in design quality of development • Transition to adjacent 3 storey development is poor • Building length in excess of 100m where DCP requires maximum 40m • Increase the number of dwellings from the approved cap of 228 to an upper limit of 315 units, although documentation submitted to the Panel shows a 'theoretical' arrangement with 264 units
Panel Location	Electronic Meeting
Panel Members	Chairperson - Paul Berkemeier (previous Panel chair) Panel Member - Tony Caro (previous Panel member) Panel Member - Steven Hammond (previous Panel member)
Declaration of Interest	None
Councillors	None present
Council Staff	Paul Osborne, Cynthia Dugan, Elise Leeder, Marika Hahn, Jen Lai

Other attendees	Adam Coburn, Mecone – Planner Jordan Faeghi, Mecone Project Planner Liam Hancock, MHNDU – Designer George Tisseverasinghe - Castle Hill Panorama Pty Ltd
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SUBJECT SITE BACKGROUND SUMMARY

The subject site is located in the Showground Planned Precinct. The Concept Development Application was reviewed by the Panel on 2nd May 2019 and 27th November 2019. The development was approved by the Sydney Central City Planning Panel (SCCPP) on 20th February 2020 subject to a dwelling cap of 228 units and an FSR of 2.1: 1, a minimum provision of communal open space comprising 3,780sqm at ground level and 689sqm at roof level.

PROPOSED MODIFICATION

The proposed modification seeks consent for the following:

- Remove the dwelling cap of 228 dwellings and instead propose either a gross floor area cap of 26,112m² or upper dwelling limit of 315 dwellings;
- Increase height of Building C from 4 to 6 storeys;
- Establish bridge elements with apartments connecting Buildings A-B and D-E;
- Amendments to building envelopes to provide improved articulation;
- Provide new rooftop communal open space areas;
- Increase site's landscaped area with additional rooftop communal open space.

DOCUMENTATION

The Design Excellence Panel reviewed the following drawings issued to Council by the applicant:

Traffic Report, 02/05/19, by INROADS GROUP

Architectural Report, rev A, dated July 3 2020 by MHNDU

Statement of Environmental Effects, July 2020, by Mecone

Urban Design Peer Review, 06 July 2020, GMU,

Presentation, September 2020, by GMU/ MHNDU/ TURF

PANEL COMMENT

DA 1262/2019/JP/A – 7-23 Cadman Crescent & 18-24 Hughes Avenue, Castle Hill

The Panel commenced at 11.35am and concluded at 12.15pm.

1. Precinct planning, appreciation and response to context

COMMENT: The Panel commented that they had reviewed many applications within the precinct over the past two years and this project, as previously reviewed and approved, had stood out from others, presenting a higher design quality and potential.

The proposed amendment unfortunately reduces the design quality and compromises its contribution to the future surrounding context.

Prior to the meeting the Panel discussed the extent of modifications proposed in the Section 4.55 application and questioned whether it should be considered as a new DA rather than an amendment.

The Panel noted this may be a planning technicality for a Concept DA so decided to review the scheme as presented. Nevertheless the Panel considers the extent of modifications and increase in bulk and scale to be so substantial that the changes have significant adverse impacts on the approved design quality of the development.

2. Site planning and built form strategy

Bulk, Scale and Massing

COMMENT: The proposed amendments result in an increase in height and scale that is considered to be detrimental to the building design.

The linking of Buildings A to B and C to D results in building lengths that are not compliant with the DCP, excessive for the precinct and are not in keeping with the envisaged future character. All development blocks in the precinct on streets less than 20m in width are required to have a maximum block length of 40m. This is to create a fine grain and to maintain a human scale, as well as facilitating the passage of breezes through the precinct at street level.

The proposed new bridge elements have a significant impact on the built form and are not supported as shown. The under-croft to the bridge between blocks A and B appears to be only one storey high. The Panel considers that any such space should be minimum of two storeys clear height.

The proposed revisions to the existing street right of way and kerb re-alignments is not supported by the Panel, as has been stated clearly in previous Panel meetings. All proposed changes to the existing streets are to be provided to Council's subdivision team for review with Council's DA planner and landscape officer prior to determination. This is to mitigate future development issues that may arise when the applicant seeks to amend kerb locations and is unable to do so.

The drawings provided are diagrammatic and do not communicate the full intent of the development application amendment. The Panel recommends correctly drawn engineering drawings that clearly detail the extent of the proposed development and impact on the public domain be provided to the development assessment team.

Site Coverage/ Landscaped Open Space

COMMENT: The applicant states compliance.

The Panel notes the quantum of open space provided has numerically increased. This does not however mitigate the overall impact of the substantially increased bulk and scale of the development.

The Panel is of the opinion the internal open space and the quality of the open space is compromised by the excessive building lengths and unrelenting sheer walls of built form addressing the internal common open space.

3. Compliance

Height

COMMENT: Non-compliant. The Panel does not generally support LEP height non-compliance. On sloping sites or in other specific circumstances consideration is given to minor exceedance for roof access elements and shading devices serving roof top communal open space, provided that such elements are not seen from the surrounding public domain or impact on the amenity of adjacent development.

Density

COMMENT: The Panel is concerned about the rationale and intent of the applicant seeking consent for a theoretical upper cap of 315 dwellings, yet the drawings only show schematic plans for 264 dwellings. The Panel is not satisfied with the applicant's explanation that 315 dwellings is the site potential. The submitted plans provide no evidence of how the increased number of apartments can comply with the incentivised FSR provisions for larger dwellings.

Detailed floor plans are required to demonstrate how claimed ADG compliance for solar access, natural ventilation, balcony size, building separation etc can be achieved.

The Panel does not therefore support the sought revised dwelling cap of 315 dwellings as this has not been shown nor demonstrated to be achievable within the building envelopes illustrated.

The development density appears to be too high for the site, the search for additional FSR has resulted in the development losing the qualities the Panel was supportive of previously.

Setbacks

COMMENT: Non-compliant. The Panel considers that the proposed changes have resulted in an over-scaled development

The Panel is concerned that the Section 4.55 mechanism is being used to gain incremental concessions to the controls. The Panel considered the earlier non-compliance in setbacks to be reasonable for the scheme's specific configuration and massing, however the proposed changes are so extensive that previously supported street setback non-compliance should not automatically apply to a modified scheme.

The setback control is a character setting control put in place to enable the achievement of the principles of ecologically sustainable development. This is consistent with the strategic directives of the Greater Sydney Metropolitan Plan *A City in its Landscape*: Planning priority C16 Objective 3 - *Urban tree Canopy is increased* and directive *Adapting to the impacts of urban and natural hazards and climate change*: Planning priority C20 Objectives; 36 *People and places adapt to climate change and future shocks and stresses*, and 38 *Heatwaves and extreme heat are managed*.

The Panel had previously supported the setback non-compliance as the development proposal provided a sensitive interface to the adjacent 3 storey zone to the south of the development and landscaped open spaces between all building blocks. The changes to the scale and massing of the development generate a different relationship to the streets and the Panel considers that compliant street setbacks should be required along all street interfaces.

Apartment Mix and Building Design

COMMENT: Ensure adequate built form separation, visual privacy, acoustic amenity and solar access compliance with all number of apartments.

4. Landscape Design

Public Domain

COMMENT:

The proposal is not consistent with The Hills garden landscape character setting due to the compromised street setbacks, however it is acknowledged the significant amenity which is provided through the large central courtyard. The central communal open space is pivotal to the success of this proposal.

The proposed bridge elements with building connections will impact the central courtyard by reducing visual connectivity into and out of the courtyard space, and reducing air flow.

Landscape architectural and engineering drawing sets are to be coordinated and developed further with the DA lodgement.

Private Domain

COMMENT: Landscape architectural and engineering drawing sets are to be coordinated and developed further with the DA lodgement.

Detail design of the private landscapes and frontages will be required in the DA submission with regards to walling, grading, egress, and terrace areas. This is of particular importance where reduced setbacks are being proposed. The overall intent of setbacks to provide significant planting areas and tree planting to the street frontages is to be maintained.

5. SEPP 65 items to be clarified or revised:

Apartment Design Guide

COMMENT:

Further information will be needed to demonstrate ADG compliance for any proposed design revisions that may be acceptable to Council.

6. Sustainability and Environmental amenity

COMMENT:

Further information will be needed to demonstrate ADG compliance.

7. Architecture and Aesthetics

COMMENT: Architectural articulation was discussed at length by the Architect during the Panel meeting with massing models in a sketch-up format shown to the Panel, (note: these were not provided to the Panel prior to the meeting as requested).

The proposal is for amendments to an approved Concept DA and as such there is little detailed information of architectural character and aesthetic qualities. The Panel does not have sufficient information to assess how it will achieve design excellence.

SUMMARY OF PANEL RECOMMENDATIONS

- Revise the building envelope to comply with the height control controls (minor non GFA elements may be considered if designed as noted in report).
- Revise the building envelope as required to comply with building setbacks.
- Revise the building envelope as required to comply with compliant building lengths.
- Provide updated information demonstrating ADG compliance, in particular building separation, solar access, natural ventilation, balconies and shadowing of ground level landscaped open spaces

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

PANEL CONCLUSION

The Panel does not support the proposed amendments in their current form as they do not meet the requirements of design excellence.

DESIGN REVIEW PANEL
DESIGN ADVISORY MEETING REPORT – 23rd June 2021

Item 4.3	1.30pm – 2.30pm
DA Number	DA 1262/2019/JP/A
DA officer	Cynthia Dugan
Applicant	Castle Hill Panorama Pty Ltd
Planner	Jordan Faeghi, Mecone
Property Address	7-23 Cadman Crescent & 18-24 Hughes Avenue, Castle Hill
Proposal	 <p>Proposed modification to an approved Concept DA, to increase the existing conditioned cap of 228 dwellings and 2.1:1 FSR to 256 units and 2.3:1 FSR.</p>
Design review	This is an approved Concept DA seeking amendments under Section 4.55(2)
Background	The site has been previously reviewed by the Panel. All panel members have visited the site.
Applicant representative address to the design review panel	Liam Hancock – (not registered in NSW) MHNDU Nominated Architect Brian Meyerson ARB 4907(not in attendance)
Key Issues	<ul style="list-style-type: none"> Loss in overall design quality of the scheme. Inadequate drawing submission that does not clearly or accurately convey the proposed changes. Proposed modification is not consistent with the submitted CGI imagery. Inconsistency through the drawing set regarding final apartment numbers. This is the fourth time the Panel has met to review proposed section 4.55 (2) amendments. The Panel has previously commented: <i>The Panel does not have sufficient information to assess how it will achieve design excellence.</i>
Panel Location	Electronic Meeting
Panel Members	Chairperson – Tony Caro (Panel chair) Panel Member – Paul Berkemeier Panel Member - Steven Hammond
Declaration of Interest	None
Councillors	None present
Council Staff	Paul Osborne, Sandra Watts, Marika Hahn,

Other attendees	Adam Coburn, Mecone – Planner Jordan Faeghi, Mecone Project Planner Liam Hancock, MHNDU – Designer George Tisseverasinghe, Castle Hill Panorama Pty Ltd Paul Miron, Msquared Capital Stephen Fitzpatrick, Ellipse Edward Sutton, Development and Capital Advisory Gabrielle Morrish, GMU Urban Design & Architecture Elina Braunstein, GMU Urban Design & Architecture
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SUBJECT SITE BACKGROUND SUMMARY

The subject site is located in the southern portion of Showground Planned Precinct at the Cadman Crescent interface between the R4 high zone (6 storey) and R3 medium density zone (3 storey).

- **2nd May 2019 and 27th November 2019.** The Concept Development Application was reviewed by the Panel.

The Panel conclusion to the November 2019 meeting was:

The Panel supports the proposal as a Concept Masterplan. This support is subject to retaining the upper level setbacks to each of the development block facades, providing fine grain and architectural diversity, not reducing the dimensions of the central communal open space and keeping the extensive deep soil planting and existing trees, and design of effective and 'green' street frontages.

If the DA officer is satisfied that the applicant has addressed the Panel's concerns and recommendations, the project need not return to the Panel for further consideration.

- **20th February 2020.** Concept Masterplan DA1262/2019/JP/D (Stage 1DA) was approved by the Sydney Central City Planning Panel (SCCPP). Conditions included a dwelling cap of 228 units, an FSR of 2.1:1 as well as a minimum provision of communal open space comprising 3,780sqm at ground level and 689sqm at roof level.
- **28th October 2020.** A proposed modification to the approved Concept Masterplan per section 4.55c was submitted for review by the Panel. The Panel conclusion was: *The Panel does not support the proposed amendments in their current form as they do not meet the requirements of design excellence.*
- **24th March 2021.** The applicant sought a Panel meeting on the 24th March 2021, however two Panel members were unable to attend on that date. The applicant insisted on original Panel members for the Panel meeting and requested an alternate date.
- **31st March 2021.** Council offered an alternative date on the 31st March 2021 for which all Panel members were available (outside of the Panel schedule). This was declined by the applicant.
- **28th April 2021.** Council offered a meeting at the next scheduled Panel meeting on April 28th 2021 for which all Panel members were available. This was declined by the applicant.
- **25th May 2021.** The proposed s.4.55c modification to the approved Concept Masterplan was reviewed by the Panel on 25th May 2021. One of the Panel members was unavailable however the meeting was able to proceed as a quorum was achieved. The meeting was terminated early as a result of the insufficient documentation provided. The Panel noted that *as a result of the diagrammatic nature of the documentation and lack of detail, it was not possible to provide constructive advice on the proposed design modification.*

- **23rd June 2021.** Council offered an alternative date on the 23rd June 2021 to review the proposed s.4.55c modification to the concept Masterplan, for which all Panel members were available. This meeting is the subject of this Panel meeting report

DOCUMENTATION

The Design Review Panel reviewed the following drawings previously issued to Council by the applicant for the May 25th meeting.

- S4.55 amendment to approved Concept Masterplan DA 1262/2019/JP, Rev C, March 2021, by GMU/ MHNDU/ TURF (23 pages)
- Late submission not received by the Panel prior to the meeting (05/25/21) (41 pages)
- S4.55 amendment to approved Concept Masterplan DA 1262/2019/JP, Rev D, May 2021, by GMU/ MHNDU/ TURF

PANEL COMMENTS

This meeting report is to be read with conjunction with comments previously provided by the Panel in relation to the subject s.4.55c amendment to approved Concept Masterplan (DA 1262/2019/JP/D).

The June 23rd Panel meeting was arranged by Council to allow the applicant an opportunity to provide a presentation that all Panel members had reviewed. The Panel meeting commenced at 1.30pm.

1. The Panel commented that the original concept it supported in November 2019 provided a distinctive and singular approach to the site, which in its view warranted some concession to certain planning controls that in typical circumstances would require numeric compliance. However the proposed modification via the section 4.55(2) mechanism now amends the original proposal by seeking provision of increased building envelopes while keeping the concessions to primary and secondary setbacks and variations in height that were initially supported by the Panel.



Image taken from approved DA

2. The support given to the project on November 27th 2019 was conditional as previously noted, and re-iterated in this report. The Panel advises that had the current amended proposal been submitted in the first instance, non-compliances with setback and height controls that guide future precinct character and built form outcomes would not have been supported.
3. With respect to improvements to the proposal since the amendments presented on November 28th 2021, the Panel advises that deletion of the proposed bridging elements between building blocks A+B and C+D is supported. The formerly proposed length of building form was unprecedented, and not compliant with the maximum 40m length for buildings as stipulated in the DCP.

4. The Panel queried whether separation between buildings had been reduced from the approved building footprint. The Panel does not support introduction of large areas of solid facade between development blocks as a basis for non-compliant setbacks. This is for design and amenity reasons including CPTED concerns, cross privacy, and impact on built form and landscape character. ADG separation requirements should be complied with as a minimum, to the satisfaction of the responsible council officer.
5. It is further recommended that if a difference of opinion occurs between council and the applicant then the design be reviewed by an agreed independent peer reviewer not part of the current applicant project team, to verify that ADG compliance is achievable and adverse effects to residential amenity are avoided.
6. The Panel clarified that the applicant was seeking an additional 28 dwellings over the existing 228 dwelling cap, resulting in a total dwelling number of 256 for the development. It also noted that the application documents were inconsistent, as they proposed an "upper limit" numeric dwelling yield that is higher than the number of units actually drawn on the plans.
7. The Panel noted that the increase in height sought for Building C resulted in an additional nine (9) dwellings. When questioned the applicant was not able to demonstrate where the additional 19 dwellings were to be located.
8. Some of the 3D illustrations provided did not appear to accurately reflect the changes sought, and must be amended to address this.
9. The Panel acknowledges that the proposed amendment to Building C is compliant with the height control, however it considers this change to have a significant impact on the quality and character of the central courtyard space and surrounding public domain, by diminishing the design clarity of the transition to the lower density precinct to the south.

The increase in height also impacts the Cadman Crescent East street frontage, as viewed in the 3D perspectives provided, particularly considering a reduced setback has been provided to this street edge.

10. The Panel considers that the sought increase in development yield adversely impacts upon the previously supported and approved design quality of the scheme, as a consequence of the increase in height of Building C and resultant increase in overall bulk and scale of the development.
11. The drawings do not clearly explain the relationship of apartment ground levels along Cadman Crescent East with existing footpath levels. The inclusion of subterranean apartments creates poor residential amenity, and dwellings that are lower than the adjacent foot path level are not consistent with DCP objectives.
12. As noted in previous reports, the level of documentation information provided in relation to the detailed architectural character of the various buildings remains unclear. The documents provided included a mix of unidentified precedent examples and inaccurate photomontages.

PREVIOUS PANEL RECOMMENDATIONS (October 28th 2020)

- *Revise the building envelope to comply with the height control controls (minor non GFA elements may be considered if designed as noted in report).*
- *Revise the building envelope as required to comply with building setbacks.*
- *Revise the building envelope as required to comply with compliant building lengths.*
- *Provide updated information demonstrating ADG compliance, in particular building separation, solar access, natural ventilation, balconies and shadowing of ground level landscaped open spaces*

ADDITIONAL PANEL RECOMMENDATIONS

The Panel recommends:

- that bridging elements between buildings be deleted, as shown on current drawings.

- that the dimensions and deep soil provision of the central courtyard as shown on the current drawings are retained.
- that any "upper limit" of dwelling yield (if and where noted) be made consistent with the number of apartments shown on the drawings.
- that illustrations of the development be updated to accurately reflect the design of the scheme.
- that the presented scheme is further revised to either:
 - comply with all relevant building envelope controls (in particular street setbacks, building separation, building length and height),

OR

- the built form of Building C is revised to be consistent with the heights and design intent of the approved concept Masterplan.

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

PANEL CONCLUSION

The Panel's conclusion remains consistent with the previous meeting advice. It does not support the proposed amendments to the approved Concept Masterplan, as the revised scheme does not satisfy the requirements of design excellence.

The Panel looks forward to review of a full DA submission that takes into account the above advice. It should be noted that the Panels role is advisory only, and the applicant may elect to proceed with the DA assessment as it sees fit.

ATTACHMENT 20 – DETERMINATION AND STATEMENT OF REASONS



DETERMINATION AND STATEMENT OF REASONS SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	20 February 2020
PANEL MEMBERS	Abigail Goldberg (Chair), Garry Fielding, David Ryan and Chandi Saba
APOLOGIES	Gabrielle Morrish, Mark Colburt and Stewart Seale
DECLARATIONS OF INTEREST	Nil

Public meeting held at Rydalmer Operations Centre on 20 February 2020, opened at 1.00pm and closed at 2.00pm.

MATTER DETERMINED

2019CCI016 - The Hills Shire – DA1262/2019/JP, 7 - 23 Cadman Crescent and 18 - 24 Hughes Avenue, Castle Hill, Concept Development Application for five residential flat buildings comprising 228 apartments, two levels of basement parking and associated landscaping (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Hills Local Environmental Plan 2012 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

The Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the R4 zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* with amendments to conditions as detailed below.

The decision was unanimous.

REASONS FOR THE DECISION

1. The proposed concept proposal is satisfactory having regard to relevant considerations under Section 4.15.
2. The proposed development concept is supported by the Council's DRP.

3. The Panel heard a submission on behalf of the Applicant regarding a proposed change to condition 3 seeking greater flexibility in the maximum number of units. The Panel considered the Applicant's rationale but asserted that the maximum number of 228 dwellings should be retained in the context of the overall dwelling cap for the Precinct. In addition, the Panel amended condition 3 to incorporate the maximum FSR sought, and agreed to by the Design Review Panel.
4. The Panel heard a submission on behalf of the Applicant regarding a proposed change to condition 4 seeking greater flexibility with regard to the quantum of communal open space. The Panel noted the Applicant's rationale but considered that as the quantum had been recommended by Council's Design Review Panel after an extended process, this should be maintained.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments to Condition 3, Condition 4 and Condition 5.

Condition 3 is amended to read as follows –

The maximum dwelling yield for the site is not to exceed 228 units and a Floor Space Ratio of 2.1:1.

Condition 4 Communal Open Space is amended to read as follows -

All future development applications for new buildings or works must comply with the following requirements:

- A minimum of 3,780m² (ground level) and 689m² (roof level) central communal open space area is to be provided for the entire site.
- Community facilities such as children's play areas are to be provided within the communal open space.

Condition 5 is amended to correct administrative details –

The recommendations of the Preliminary Site Investigation prepared by Douglas Partners, Document Number R.001.Rev 1 Project Number 86559.01 dated 17 January 2019 is to be implemented. Any future built form Development Applications will require the submission of a further Phase 1 Contamination Report including soil sampling, further assessment of past land uses including later historical aerial photographs, historical land titles and Safe Work NSW records and a more thorough site walkover should undertaken to confirm (or otherwise) that there is an absence of contamination. In addition, a hazardous building materials survey is to be conducted prior to any demolition works.

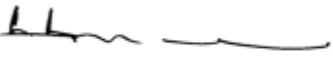
CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Excessive height
- Increase in density
- Increased traffic
- Traffic safety at the bend of Cadman Street and Hughes Avenue
- Developments closer to station
- Overshadowing impacts
- Implications of change of demographics
- Lack of recreational and parkland facilities
- Noise and disruption during construction for local residents.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
	 Garry Fielding

Abigail Goldberg (Chair)	
	
David Ryan	Chandi Saba

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019CCI016 - The Hills Shire – DA1262/2019/JP
2	PROPOSED DEVELOPMENT	Concept Development Application for five residential flat buildings comprising 228 apartments, two levels of basement parking and associated landscaping
3	STREET ADDRESS	Lot 502 DP 258587, Lot 327 DP 252593, Lot 328 DP 252593, Lot 329 DP 252593, Lot 330 DP 252593, Lot 331 DP 252593, Lot 332 DP 252593, Lot 333 DP 252593, Lot 334 DP 252593, Lot 504 DP 258587, Lot 337 DP 252593, Lot 3361 DP 865725, Lot 3362 DP 865725, Lot 335 DP 252593, 7 - 23 Cadman Crescent and 18 - 24 Hughes Avenue, Castle Hill
4	APPLICANT/OWNER	Castle Hill Panorama Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Mr K Root, Mrs M P Root, Mr C Gao, Galvlad Property Pty Ltd, Mr B Merhi, Mrs S S Merhi, Mr D A Lincoln, Mrs M A Lincoln, Mrs J Berger, Mr VH Chan, Mrs E H Chan, Mr V P Tangonan, Mrs M M Tangonan, Mr L Tao, Ms L Xu, Mrs A Matic, Ms M Stevenson, Mr C M K Fernando, Mrs M A Fernando, Mr R E Beeldman, Mr S W Kim, Mr G S Maiolo and Mrs J J Maiolo
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ◦ State Environmental Planning Policy (State and Regional Development) 2011 ◦ State Environmental Planning Policy No. 55- Remediation of Land ◦ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development ◦ State Environmental Planning Policy – Building Sustainability Index (BASIX) 2004 ◦ Apartment Design Guide ◦ The Hills Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ◦ DCP 2012 – Part C Section 1 – Parking ◦ DCP 2012 – Part C – Section 3 – Landscaping ◦ DCP 2012 – Part D Section 19 – Showground Precinct • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • Coastal zone management plan: [Nil] • The likely impacts of the development, including environmental impacts

		<p>on the natural and built environment and social and economic impacts in the locality</p> <ul style="list-style-type: none"> • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 20 January 2020 • Clause 4.6 written request • Written submissions during public exhibition: 7 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ◦ In support – Nil ◦ In objection – Wei-Lin Chueh ◦ Council assessment officer – Paul Osborne and Cynthia Dugan ◦ On behalf of the applicant – Jordan Faeghi
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing – 20 June 2019 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Paul Mitchell (Acting Chair), Peter Brennan, Mary-Lynne Taylor, Chandi Saba and Mark Colburt ◦ <u>Council assessment staff</u>: Paul Osborne and Cynthia Dugan • Site inspection: 20 February 2020 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Abigail Goldberg (Chair), Garry Fielding, David Ryan and Chandi Saba ◦ <u>Council assessment staff</u>: Paul Osborne and Cynthia Dugan • Final briefing to discuss council's recommendation, 20 February 2020, 12.00pm. Attendees: <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Abigail Goldberg (Chair), Garry Fielding, David Ryan and Chandi Saba ◦ <u>Council assessment staff</u>: Paul Osborne and Cynthia Dugan
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

ATTACHMENT 21 – DEVELOPMENT CONSENT 1262/2019/JP



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
3 Columbia Court, Norwest NSW 2153
PO Box 7064, Norwest 2153
ABN 25 034 494 656 | DX 9966 Norwest

4 March 2020

Castle Hill Panorama
C/- MECOME NSW,
Level 2, 3 Horwood Pl,
PARRAMATTA

Ref No.:1262/2019/JP
Sydney Central City Planning Panel: 20 February 2020

Dear Sir/Madam

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

Pursuant to Section 4.18(1) of the Environmental Planning and Assessment Act, 1979, notice is hereby given of the determination by Sydney Central City Planning Panel of the Development Application referred to herein.

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

The conditions of the Consent referred to herein are deemed necessary by The Hills Shire Council, pursuant to Part 4, Division 4.3, Section 4.17 of the Environmental Planning and Assessment Act, 1979.

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

This Consent shall lapse unless development, the subject of the Consent, is commenced within five (5) years from the endorsed date of Consent or as otherwise provided under Section 4.53 of the Environmental Planning and Assessment Act, 1979 which may vary the above date of the lapsing of the Consent.

Right of Appeal

Section 8.7 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 after receipt of this notice. For development applications lodged before 28 February 2011, the statutory timeframe for appeal is twelve (12) months from the determination date.

APPLICANT Castle Hill Panorama

OWNER: Mr K Root, Mrs M P Root, Mr C Gao, Galvlad Property Pty Ltd, Mr B Merhi, Mrs S S Merhi, Mr D A Lincoln, Mrs M A Lincoln, Mrs J Berger, Mr VH Chan, Mrs E H Chan, Mr V P Tangonan, Mrs M M Tangonan, Mr L Tao, Ms L Xu, Mrs A Matic, Ms M Stevenson, Mr C M K Fernando, Mrs M A Fernando, Mr R E Beeldman, Mr S W Kim, Mr G S Maiolo and Mrs J J Maiolo

PROPERTY: Lot 502 DP 258587, Lot 327 DP 252593, Lot 328 DP 252593, Lot 329 DP 252593, Lot 330 DP 252593, Lot 331 DP 252593, Lot 332 DP 252593, Lot 333 DP 252593, Lot 334 DP 252593, Lot 504 DP 258587, Lot 337 DP 252593, Lot 3361 DP 865725, Lot 3362 DP 865725, Lot 335 DP 252593, 7 - 23 Cadman Crescent and 18 - 24 Hughes Avenue, Castle Hill

DEVELOPMENT: Concept Development Application for five residential flat buildings comprising 228 Apartments, two levels of basement parking and associated landscaping

ENDORSED DATE OF CONSENT: 20 February 2020

CONDITIONS OF CONSENT

GENERAL MATTERS

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

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

The amendments in red include: -

- The indented parking bays within the 2m land dedication for road widening purposes along Cadman Crescent must be amended in accordance with the Showground Precinct - Verge Treatment Details Sheet 01 – Sheet 06 as specified on Council's website.
- No trees have been approved for removal under the subject Development Application.
- The Stage 1 - Architectural Design Report and Landscape Plans are conceptual only and only to be used as a design guide. Detailed designs including layouts of apartments are subject to future built form Development Applications.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO	DESCRIPTION	SHEET	REVISION	DATE
MP 1001	Masterplan – Land Dedication and Setbacks		D	17/12/2019

MP 1002	Masterplan – Building Envelopes	D	17/12/2019
MP 1003	Deep Soil Areas	D	17/12/2019
MP 1004	Street Elevations	D	17/12/2019
MP 1005	Sections	D	17/12/2019
	Architectural Design Report – Stage 1 DA Cadman Crescent Castle Hill prepared by MHN Design Union	D	17/12/2019
	Landscape Stage 1 DA Report prepared by Turf Design Studio	A	20/12/2019

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

2. Determination of Future Development Applications

Approval is granted for the proposed Concept Development Application in accordance with the plans and details provided with the application to provide guidance for future development of the site. In accordance with section 4.22(1) of the Environmental Planning and Assessment Act all development under the concept development application shall be subject of future development application(s). The determination of future development application(s) are to be generally consistent with the terms of the subject development consent.

3. Dwelling Yield

The maximum dwelling yield for the site is not to exceed 228 units and a Floor Space Ratio of 2.1:1.

4. Communal Open Space

All future development applications for new buildings or works must comply with the following requirements:

- A minimum of 3,780m² (ground level) and 689m² (roof level) central communal open space area is to be provided for the entire site.
- Community facilities such as children's play areas are to be provided within the communal open space.

5. Contamination

The recommendations of the Preliminary Site Investigation prepared by Douglas Partners, Document Number R.001.Rev 1 Project Number 86559.01 dated 17 January 2019 is to be implemented. Any future built form Development Applications will require the submission of a further Phase 1 Contamination Report including soil sampling, further assessment of past land uses including later historical aerial photographs, historical land titles and Safe Work NSW records and a more thorough site walkover should be undertaken to confirm (or otherwise) that there is an absence of contamination. In addition, a hazardous building materials survey is to be conducted prior to any demolition works.

6. Acoustic Requirements

Site specific acoustic assessments are to be submitted for every built form Development Application. The acoustic assessment is to address internal noise levels, mechanical plant and construction noise management.

7. Land Dedication

2m land dedication is required for road widening purposes along Cadman Crescent east and north in accordance with Figure 10 with Council DCP Part D Section 19. No land dedication is required along Hughes Avenue. This is required to be conditioned in the first built form Development Application lodged for the site.

8. Subdivision Works

A subdivision works concept plan relating to the indented parking bays and associated public domain works must be prepared and submitted in support of any future built form Development Application.

9. Stormwater Drainage

Any future Development Application for built form or any works must provide the following:

- Stormwater treatment measures in accordance with Councils Design Guidelines Subdivision/Developments and Showground Precinct DCP and this must be supported with modelling (MUSIC).
- Onsite detention in accordance with Upper Parramatta River Catchment Trust V3 or V4 and The Hills Shire Council Design Guidelines Subdivision/Developments.

10. Accessible Units

10% of all dwellings units are to be adaptable or accessible.

11. Waste Management

All future built form applications must be accompanied by a construction and operational waste management plan. Built form designs are subject to a further detailed assessment. The built form designs must be generally in accordance with the details provided in the Concept Development Application and the following requirements:

- Future waste collection for the site is to be serviced by a 12.5m long Heavy Rigid Vehicle.
- A minimum of 120 litres of garbage capacity per unit per a weekly collection and 60 litres of recycling capacity per unit per a weekly collection would need to be allowed for. Garbage and recyclables will be collected in 1100 litre bins. The measurements of an 1100 litre bin are 1245mm (d), 1370mm (w) and 1470mm (h).
- Twin chutes systems must be proposed to enable chute disposal of garbage and recycling for a development of this height and density. Chute openings must be provided on every residential floor level within building corridors. The chutes must terminate in bin storage rooms located on lower ground (same level as loading dock).
- Bin storage rooms must contain appropriate infrastructure (e.g. linear conveyors and bin carousels) to ensure that there is enough bin capacity at the termination point of all chutes for at least 2 days' worth of garbage and recycling. For a proposal of this scale, garbage must be compacted at the chute termination points at a ratio of 2:1.

12. Vehicular Access and Car Parking

Vehicular Access for the entire development is to be provided via a single driveway on Hughes Avenue. The driveway is to be setback at least 6m from the tangent point at the intersection between Cadman Crescent/Hughes Avenue.

13. Crime Prevention Through Environmental Design

All future built form applications must comply with the recommendations made by the NSW Police in letter dated 28 February 2019 and attached to this development consent (Attachment 1) and in the Crime Prevention Through Environmental Design Report prepared by Mecone submitted with the subject Concept Development Application.

14. Section 7.11 Contributions

All future built form Development Applications must be levied in accordance with Contributions Plan No. 19 Showground Station Precinct and 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.

ATTACHMENT 1: DEVELOPMENT ADVISORY NOTES

ATTACHMENT 2: SCCPP DETERMINATION AND STATEMENT OF REASONS

ATTACHMENT 3: NSW POLICE REFERRAL COMMENTS

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, the reasons for the conditions imposed on this application are as follows:-

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

Should you require any further information please contact Cynthia Dugan on 9843 0334.

Yours faithfully



Paul Osborne
MANAGER-DEVELOPMENT ASSESSMENT