

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-132
DA Number	DA 172/2021/JP
LGA	The Hills Shire Council
Proposed Development	Mixed Use Development including Commercial Office Floor Space and Serviced Apartments.
Street Address	21-23 Lexington Drive Bella Vista
Applicant	Capital Projects Corporation Pty Limited
Consultant/s	Urbis (Town Planner) Koichi Takada Architects (Architects) Scott Carver Associates (Landscape Architect) Stantec (Traffic Impact Assessment) Windtech (Wind Assessment) Acoustic Logic (Acoustic Assessment) Waste Audit & Consultancy Services (Waste Management) Urban Arbor (Arborist) Vic Lilly & Partners (Building Code Assessment) BCA Logic (Fire Engineering Strategy) Morris Goding Access Consulting (Access and Adaptability) Aargus (Site Contamination and Geotechnical Assessment) Lowry Hydraulic (Stormwater and Water Management) Haron Robson (Electrical Services) Taylor (Preliminary Construction Management Plan) SCP (Civil Design) Newton Fisher (Cost Summary Report)
Date of DA lodgement	06 August 2020
Number of Submissions	One
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV exceeding \$30 million (\$91,310,000)
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy Infrastructure 2007 • State Environmental Planning Policy No 55 — Remediation of Land • The Hills Local Environmental Plan 2019 • The Hills Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	• Plans • Clause 4.6 • Design Review Panel Minutes • Sydney Metro Concurrence • Transport for NSW submissions
Clause 4.6 requests	• The Hills LEP 2019 • Clause 4.3 Height of Buildings • B7 Business Park

Summary of key submissions	• Referral required to Sydney Metro • Site Coverage and Landscaping • Bulk and scale • Interface with adjoining eastern development • Economic justification for serviced apartments
Report prepared by	Cynthia Dugan - Principal Coordinator Development Assessment
Report date	May 2021 (Electronic Determination)

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

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

Conditions

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

EXECUTIVE SUMMARY

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

- The application seeks to vary Clause 4.3 Height of Buildings of the LEP. The proposal exceeds the height limit of RL116m by a maximum 4.15m or 12%. The exceedance is associated with the lift-runs, stair and plant. A Clause 4.6 submission to vary the height standard was submitted with the Development Application. It is considered that strict compliance is unreasonable and unnecessary in this instance and the variation can be supported.
- The application comprises a Floor Space Ratio (FSR) of 2:1 (gross floor area of 36,734m²) which complies with the maximum FSR standard of 2:1 required under the LEP.
- The application was referred to the Design Excellence Panel (DEP) and exhibits design excellence in accordance with Clause 7.7 of the LEP.
- The proposal has been assessed against the requirements of The Hills DCP 2012 and variations have been identified with respect to front setbacks and loading bays. The building façade complies with the 20m front setback control however balconies and a feature landscaped trellis are located a minimum of 9.5m from the Lexington Drive boundary. This trellis feature is considered to provide visual interest to the streetscape and the front setback still provides for a high quality landscape outcome. The one loading bay provided is considered to be commensurate with the size of mixed use commercial development.
- The proposal provides for the minimum carparking spaces required under The Hills DCP 2012.
- The proposal has received concurrence from Sydney Metro Northwest as required under Clause 86 of SEPP (Infrastructure) 2007 as a rail corridor traverses the north eastern half of the site. The location of the rail corridor limits the depth of excavation to provide appropriate basement levels for car parking as the top of level of the rail easement is RL 74.1m
- The proposal was referred to Transport for NSW in accordance with Clause 104 of SEPP (Infrastructure). Transport for NSW has objected to the proposal and requested the Applicant provide SIDRA modelling for a number of nearby intersections as no funding had been allocated for any improvement works. It is considered that this request is not warranted as Council staff, together with Transport for NSW and the Department of Planning, Infrastructure and Environment are approaching completion of a full traffic analysis for the entire Norwest Business Park, resulting from the ultimate development potential of the two rail station precincts at Norwest and at Bella Vista. The scope of the station precinct analysis includes recommendations of intersection treatments for the nearby intersections as requested to be modelled by Transport for NSW. Road improvement works and intersection upgrades on Lexington Drive are proposed to be funded under draft Section 7.12 Contributions Plan for the Norwest Innovation Precinct.
- The application was notified for 14 days and one submission was received during the notification period. The issues raised primarily relate to a referral required to Sydney Metro, excessive site coverage and insufficient landscaping, bulk and scale, interface with adjoining eastern development and lack of economic justification for serviced

apartments. These matters are addressed in this report and it is considered that they do not warrant refusal of the application.

The application is recommended for approval subject to conditions.

BACKGROUND

The site is part of the Norwest Business Park which is identified as a strategic centre under the Greater Sydney Region Plan. The site is located approximately 450m from Bella Vista Metro Station to the northwest, bounded by Lexington Drive to the south-west, adjoins the Bella Vista Hotel to the east and is surrounded by commercial office developments. It is noted that Development Application 1083/2020/JP was approved for a mixed use development on the adjoining eastern site.

The site is part of the Sydney Metro Northwest Urban Corridor, Bella Vista Station Precinct. In December 2017, the Department of Planning, Industry and Environment (DPIE) increased the permitted FSR from 1:1 to 2:1 in the LEP to encourage the reuse of existing sites and development of vacant sites for increased employment opportunities. In the DPIE's Bella Vista Station Precinct Finalisation Report, the Department indicated that they will *"continue to work with Council and TfNSW to identify costs of upgrades and new transport infrastructure to inform a new Section 94 development contributions plan for the area"*. A draft Section 7.12 development contributions plan for the Norwest Innovation Precinct was considered by Council on 23 March 2021. Council resolved that the Plan be publicly exhibited and submitted to the Department of Planning, Industry and Environment to enable the commencement of the Ministerial review process. The Plan was exhibited between 12 April 2021 to 12 May 2021. The draft Plan applies to the subject site and would enable Council to levy a maximum 2.8% of the proposed cost of the development in order to fund new and upgraded infrastructure necessary to service the precinct. Notwithstanding, the draft Contributions Plan has not been made and thus the current Section 7.12 Contributions Plan applies to the subject application.

The Development Application was lodged on 6 August 2020 for the construction of a 12 storey mixed use development within the Norwest Business Park comprising of commercial offices, food and drink premises and serviced apartments.

A request for additional information letter was sent to the Applicant on 9 September 2020 regarding Sydney Metro and Transport for NSW concerns. Further additional information was requested by Sydney Metro on 3 November 2020 and 24 December 2020. The Applicant provided a satisfactory response to all outstanding matters raised by the external agencies on 22 March 2021. Concurrence was granted by Sydney Metro on 15 April 2021.

A request for additional information letter was sent to the Applicant on 12 December 2020 regarding engineering and landscaping concerns. Additional information was received from the Applicant on 15 March 2021, however not all matters had been satisfactorily addressed. A further request for additional information letter was sent to the Applicant on 29 April 2021 and 5 May 2021.

On 29 January 2021, Council received a revised planning proposal package for the subject site under 1/2019/PLP. The planning proposal was originally lodged with Council in July 2018 however since this time, the Proponent (Urbis Pty Ltd on behalf of Capital Projects Corporation) requested that the planning proposal be placed on hold in order to consider preliminary feedback from Council Officers, undertake a design competition and consider alternative development pathways via a compliant development application. The planning proposal seeks to increase the maximum floor space ratio applicable to the site, from 2:1 to 2.7:1 to facilitate an 11 storey commercial building comprising 27,769m² GFA (approximately

1,100 jobs). The development concept also includes approximately 58 serviced apartments and ground floor cafés. The proposed amendments to LEP 2019 are provided in the table below, along with a comparison between the original and revised proposal.

	Current	Proposed (2018)	Proposed (2021)
Land Zone	B7 Business Park	No change	No change
Max. Height	RL116	RL133.45	RL116 (no change to current)
Max. FSR	2:1	3.45:1	2.7:1

The planning proposal seeks the application of a reduced parking rate, from the currently applicable rate of 1 space per 25m² of GFA to a lower rate of 1 space per 40m² of GFA (consistent with Council's Commercial Centres rate, which does not currently apply to the Norwest Business Park).

The planning proposal will be reported to the Local Planning Panel on 16 June 2021 for advice, then to Council for a decision on whether to forward the proposal to the Department of Planning, Industry and Environment for a Gateway Determination. In this regard, as no Gateway Determination has been issued and the draft instrument has not yet been exhibited, it is considered that the draft planning instrument is not imminent or certain.

The application was reviewed by the Design Excellence Panel on 3 April 2020 (pre-lodgement stage) and 14 October 2020. The minutes for the latest meeting indicate that the Panel is of the view that the proposal *does not yet exhibit design excellence across all facets and consideration should be given to reducing the site area dedicated to hard paving and vehicle access, as well as the overall bulk and scale of the development through a reduction in the extent of above-ground car parking*. The Applicant provided an amended design and a response to the concerns raised by the Design Excellence Panel on 21 December 2020 and 10 May 2021.

A restriction as to user exists on title for right of carriageway which burdens the subject lot and benefits the adjoining site (Lot 7082 DP 1037626, 17- 19 Lexington Drive). The design of the right of carriageway for the development is consistent with the plans approved under 1083/2020/JP for a mixed use development on the benefitting lot. In this regard, the adjoining lot can still benefit from the right of way to ingress and egress the site.

DETAILS AND SUBMISSIONS

Zoning:	B7 Business Park
Area:	10,200m ²
Existing Development:	Vacant lot
Section 7.12 Contribution	\$913,100
Exhibition:	Not required
Notice Adj Owners:	Yes, 14 days
Number Advised:	13
Submissions Received:	One

PROPOSAL

The proposal is for the construction of a 12 storey commercial mixed use building comprising the following:

- Car parking and office space within the basement level
- Office floor space, food and drink premises on the ground floor
- Associated car parking split over seven levels (basement to level 5)
- A function room, meeting rooms and a gymnasium on Level 2
- Office floor space on Levels 1-3 and 6-9.

- Serviced apartments on Level 10.

The development comprises a total gross floor area of 20,400m² (FSR of 2:1) with 16,500m² Gross Floor Area (GFA) commercial floor space, 800m² GFA Food and Drink Premises, 251m² GFA indoor recreation facility, 3,100m² GFA serviced apartments.

The proposal includes 753 car spaces including 3 service bays and 1 loading bay and a communal trace through the centre of the building on level 4.

Bulk earthworks are proposed to a notional level of RL 79.4 with footings to RL78.1. It is noted that the top of level of the rail corridor easement is RL74.1.

The development includes the reconstruction and embellishment of the shared right of carriageway to the south of the site.

Two vehicular access points from Lexington Drive with a shared connection for a drop off/loading zone along the frontage of the building and direct pedestrian access to the lobby and frontage of the building is proposed.

Associated landscaping and services are also proposed.

A maximum height of RL 120.15m is proposed which exceeds the maximum development standard of RL 116. A Clause 4.6 written submission to vary the height of buildings development standard is submitted with the Development Application.

STRATEGIC PLANNING FRAMEWORK

a. 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. 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). To achieve this, the Plan seeks to develop a network of 34 strategic centres, one of which is Norwest Business Park, which extends into the suburb of Bella Vista and incorporates the subject site. The Plan aims to ensure economic corridors are better connected and more competitive.

The Plan also advocates investment and business activity in centres, particularly strategic centres identified for delivering the 30-minute city. Strategic centres should facilitate high levels of private sector investment, co-location of a wide mix of land uses, include areas identified for commercial use, and where appropriate, commercial cores (Objective 22). Norwest Business Park is identified within the Plan as one of nine (9) commercial office precincts that are essential for growing jobs and productivity to enhance Sydney's global economic competitiveness.

The proposed development would provide additional jobs, a choice of modern office space, and co-located uses of commercial premises, serviced apartments, food and drink premises, and indoor recreational facilities within 450m to the Bella Vista Metro Station. The proposal will enhance the global competitiveness of Norwest Business Park.

The Plan identifies that the built form of development within business parks is critical to their ability to evolve into places with high amenity and vibrancy, while supporting the role of a specialised employment precinct.

b. Central City District Plan

The plan requires integration of land use planning and transport to facilitate walkable 30-minute cities amongst the 34 strategic centres identified. Norwest, being within the Sydney Metro Northwest Rail Corridor should seek to facilitate growth and change that enables efficient access to jobs, services, residential opportunities and a wide range of other uses through reduced travel times (Planning Priority C9). The site would support the objectives of the B7 Business Park Zone and the role of the employment precinct.

In facilitating the 30-minute city, the Plan also encourages growth in investment, business opportunities and jobs in strategic centres. Norwest is identified as a strategic centre and an established commercial centre that has the opportunity to develop into a more diversified, specialised centre with higher employment densities supported by residential use (Planning Priority C10). Norwest (including the Castle Hill industrial area and business park land in Bella Vista) has a 2036 baseline target of providing 49,000 jobs. In support of the Greater Sydney Region Plan, the District Plan also emphasises the role that the built form of development in business parks has to play in creating places with high amenity and vibrancy, while maintaining their function as an employment precinct. The proposed development would result in the creation of more jobs with an estimated 1,300 jobs for the office component alone. The proposal will enhance economic and business opportunities within the business park along with supporting uses such as café/restaurants, an indoor recreation facility and serviced apartments.

ISSUES FOR CONSIDERATION

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

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

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

The proposed development has a capital investment value of \$91,310,000 thereby requiring referral to, and determination by, a Regional Planning Panel.

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

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

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

Clause 7 of the SEPP states:-

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

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Comment:

A detailed site investigation has been undertaken by Aargus. The investigation found that the areas of potential environmental concern included potential imported fill materials, leaking vehicles and metal degradation. The laboratory results indicate that the concentrations of heavy metals were below the recommended guidelines and that the risks to human health and the environment associated with soil contamination were negligible within the context of the proposed use and is therefore considered suitable for the site.

Council's Environmental Health section reviewed the detailed site investigation and raised no objection to the proposal, subject to conditions requiring ground conditions to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council's Manager- Environment and Health is to be notified and a site contamination investigation is to be carried out in accordance with *State Environmental Planning Policy 55 – Remediation of Land*. Refer condition 86.

Subject to this condition, the proposal is considered satisfactory with regard to land contamination as the site is suitable for the proposed development as required under the provisions of SEPP 55.

3. State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the delivery of infrastructure and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. Specifically the SEPP contains provisions relating to development adjacent to a rail corridor, traffic generating development and development with access to a classified road.

a. Excavation in, above, below or adjacent to rail corridors

Clause 86 'Excavation in, above, below or adjacent to rail corridors' of the SEPP states:-

(1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land—

- (a) within, below or above a rail corridor, or*
- (b) within 25m (measured horizontally) of a rail corridor, or*
- (b1) within 25m (measured horizontally) of the ground directly below a rail corridor, or*

(c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.

(2) Before determining a development application for development to which this clause applies, the consent authority must—

(a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and

(b) take into consideration—

(i) any response to the notice that is received within 21 days after the notice is given, and

(ii) any guidelines issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) Subject to subclause (5), the consent authority must not grant consent to development to which this clause applies without the concurrence of the rail authority for the rail corridor to which the development application relates.

(4) In deciding whether to provide concurrence, the rail authority must take into account—

(a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on—

(i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and

(ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and

(b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

(5) The consent authority may grant consent to development to which this clause applies without the concurrence of the rail authority concerned if—

(a) the rail corridor is owned by or vested in ARTC or is the subject of an ARTC arrangement, or

(b) in any other case, 21 days have passed since the consent authority gave notice under subclause (2)(a) and the rail authority has not granted or refused to grant concurrence.

Comment:

The Sydney Metro rail corridor traverses the northern eastern half of the site. The proposal includes excavation works which exceed 2m in depth within the Sydney Metro Reserve Limit. In this regard, the SEPP requires development to be referred to the Sydney Metro Northwest for concurrence.

Sydney Metro has assessed the potential impacts of the development on the safety or structural integrity of the existing rail infrastructure facility on the rail corridor and the safe and effective operation of this infrastructure and the measures proposed to minimise potential effects.

Sydney Metro granted concurrence to the proposal on 8 April 2021 subject to recommended conditions. Refer condition 5.

b. Traffic generating development

Clause 104 'Traffic-generating development' of the SEPP states:-

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) new premises of the relevant size or capacity, or*
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

(2) In this clause, relevant size or capacity means:

- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
- (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*

(2A) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies that this Policy provides may be carried out without consent unless the authority or person has:

- (a) given written notice of the intention to carry out the development to RMS in relation to the development, and*
- (b) taken into consideration any response to the notice that is received from RMS within 21 days after the notice is given.*

(3) Before determining a development application for development to which this clause applies, the consent authority must:

- (a) give written notice of the application to the RMS within 7 days after the application is made, and*
- (b) take into consideration:*

(i) any submission that the RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RMS advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give the RMS a copy of the determination of the application within 7 days after the determination is made.

Comment:

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP requires development to be referred to Transport for NSW (previously Roads and Maritime Services) where a commercial premises results in a gross floor area of 10,000m² or greater. The proposed mixed use development results in a gross floor area of 20,400m² and 16,500m² of commercial office floor space.

The Development Application was referred to Transport for NSW. Transport for NSW have raised concerns regarding the impact of the proposed development on the State road network and does not support the proposal. Two letters have been received from Transport for NSW objecting to the proposal. Refer Attachment 16. The following concerns were raised:

1. *TfNSW requests the following intersections to be assessed and included in the traffic report in addition to the intersections modelled:*
 - *Old Windsor Road/Norwest Boulevard*
 - *Old Windsor Road/Celebration Drive*
 - *Lexington Drive/Celebration Drive*

All intersections should be modelled in SIDRA for both existing and future year 2036 scenarios.

2. *It is noted from the traffic report that the intersection of Lexington Drive/Norwest Boulevard would operate at level of service 'F' in both AM and PM peak hours after the completion of the development. The report concludes that intersection upgrades are expected following 'planned study by Council and TfNSW'.*

As there is no funding allocated for intersections upgrades at this stage, TfNSW requests the proponent should assess the cumulative impact of the development on nearby intersections and investigate the need/associated funding for upgrading road improvement works (if required). The proponent should demonstrate that their development does not reduce the performance of these intersections or undertake works to restore existing levels of intersection performance.

Since November 2005, Council's Infrastructure and Transport Planning section have been developing a Traffic Masterplan for various intersection improvements within the Norwest Business Park including the intersections mentioned by Transport for NSW above. Discussions relating to the design and funding of these improvement works including upgrade works required at these intersections have been held with the Network Planning Section in Transport for NSW (previously RTA) since the early stages of the master planning process. A Norwest Boulevard Corridor Investigation carried out for Transport RMS Network Sydney West Precinct Network Development was conducted in April 2017 which details road widening along Norwest Boulevard and intersection upgrades required at the Lexington Drive/Norwest Boulevard intersection.

Further, Transport for NSW is aware that Council is approaching completion of a full traffic analysis for the entire Norwest Business Park, resulting from the ultimate development potential of the two rail station precincts at Norwest and at Bella Vista. This investigation is chaired by a Project Coordination Group that has membership of Transport for NSW, Department of Planning, Industry and Environment and Council staff. The scope of the station precinct analysis requires the Project Coordination Group to recommend an intersection treatment at the above mentioned intersections, and to determine a strategic estimate for the ultimate upgrade.

A draft Section 7.12 development contributions plan for the Norwest Innovation Precinct was considered by Council on 23 March 2021. Council resolved that the Plan be publicly exhibited and submitted to the Department of Planning, Industry and Environment to enable the commencement of the Ministerial review process. The Plan was exhibited between 12 April 2021 to 12 May 2021. The works schedule includes road upgrade works to Lexington Drive, Contributions to signals for Lexington Drive/Norwest Boulevard, intersection expansion to Lexington/Irvine and Woolworths Way and Lexington/Meridian Place.

In this regard, the request for additional SIDRA modelling at the above mentioned intersections by Transport for NSW is redundant as strategic estimates for the upgrade works will be recommended by the Project Coordination Group which will supersede any traffic modelling if provided by the Applicant under this application. Further, the associated funding required for intersection upgrades and road improvement works will likely be provided under the draft Section 7.12 Norwest Innovation development contributions plan when adopted by Council and upon coming into force.

4. The Hills Local Environmental Plan 2019

a. Permissibility

The land is zoned B7 Business Park under Local Environmental Plan 2019. The proposal comprises uses defined as the following:

Office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

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

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

Serviced Apartments means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note—

Serviced apartments are a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.

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

The proposal comprises office premises with ancillary function and meeting rooms, a recreational facility (indoor), café/restaurants which are defined as food and drink premises and serviced apartments. In this regard, the proposed uses are permitted within the B7 Business Park zone under the provisions of LEP 2019.

b. Zone Objectives

The site is zoned B7 Business Park under The Hills LEP 2019. The objectives of the zone are:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To make provision for high technology industries that use and develop advanced technologies, products and processes.*

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal will provide for a range of office, serviced apartments, indoor recreation facility, food and drink premises that would encourage additional employment opportunities. The food and drink premises and indoor recreation facility would provide services that meet the day to day needs of workers in the area.

As such the proposal is considered satisfactory in respect to the LEP 2019 zone objectives.

c. Development Standards

The following addresses the principal development standards of the LEP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height	RL 116	RL 120.15	No, however a Clause 4.6 written submission has been provided. Refer to discussion below.
4.4 Floor Space Ratio	2:1 20,400m ²	2:1 20,400m ²	Yes

(i) Variation to Clause 4.3 Height of Buildings

Clause 4.3 of LEP 2019 limits the height of the development site to RL116m. The proposed maximum building height is RL120.15m which represents a variation of 4.15m (12%) to the height standard. The extent of the variation is summarised in the below table:

Building Element	Maximum Height	Departure from Maximum RL 116m Height Standard
Plant zone (top of screen)	RL 119.75m	3.75m (11.2%)
Lift over-run	RL 120.15m	4.15m (12%)
Top of stairs	RL 118.75m	2.15m (6.3%)

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 13.

Clause 4.6 Exceptions to Development Standards states:

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

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

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

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

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

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

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

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

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

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

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

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

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

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,*
- (c) clause 5.4,*
- (ca) clause 6.2 or 6.3,*
- (cb) clause 7.11.*
- (cc) clause 7.15.*

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

- Compliance with the existing development standard is unreasonable in the circumstances of the subject site which would unnecessarily limit the development potential of the subject site;
- The proposed development is generally consistent with the RL116m, with exceedances for plant, stair and lift-runs only;
- The locations of the exceedances are setback from the building facades and therefore some are barely discernible (if visible at all) from surrounding properties and streets;
- Due to the location (setback from building facades) and scale of exceedance (maximum of 4.15m), there are no shadow impacts on adjoining properties – even at 21 June.
- There is no adverse visual impact arising from the proposed development exceedance. From Bella Vista Farm, it has been confirmed that the proposed development shall not be visible.
- There are no adjoining open spaces that would have any privacy impacts arising from the proposed development and specifically from the minor height exceedance.
- There are no adjoining open spaces that would have any privacy impacts arising from the proposed development and specifically from the minor height exceedance.

- Compliance would also prevent development on the site that achieves the maximum permissible FSR which would be a hindrance to the development growth of the Norwest Business Park.
- There are sufficient environmental planning grounds to justify contravening the development standard; and
- Notwithstanding the variation to the development standard, the proposed development is in the public interest.
- Nearby sites are progressively being advanced for future development generally up to the RL116m height plan.

Comment:

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

The proposed departure to the building height development standard is limited to lift overruns, stairs and plants and will not cause adverse impacts on the amenity of adjoining properties with respect to overshadowing, privacy, view loss and perceived bulk and scale. Refer figure 1.

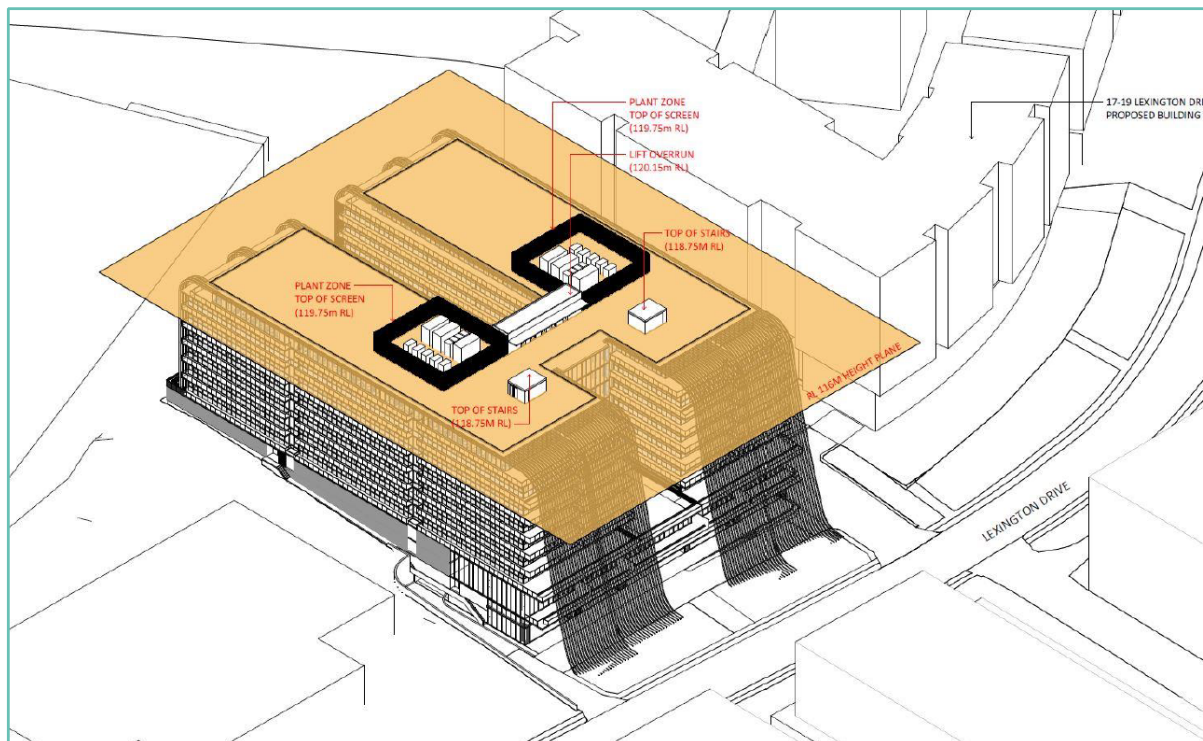


Figure 1: Height Plane Diagram – RL 116

The building comprises a 4.15m (12%) height exceedance to the lift overrun, a 3.75m (11.2%) variation to the top of screen within the plant zone and 2.15m (6.3%) exceedance to the stairs. The lift overruns, stairs and plants on the building are centrally located and would not result in additional overshadowing impacts to adjoining development and would result in negligible visual amenity impacts when viewed from the street or adjoining development. The Applicant has submitted shadow diagrams demonstrating that this variation results in

negligible overshadowing impacts compared to that of a fully compliant scheme and any additional shadow cast as a result of the height exceedance would be contained within the site. Refer Figures 9, 10 and 11 in Attachment 13.

The development has been designed to provide a unique built form outcome that will align with the strategic objectives, being located within the Sydney Metro Northwest Urban Corridor, Bella Vista Station Precinct. The proposal is located 450m south from the Bella Vista Station, complies with FSR standard for the site and is compatible with the scale and character of the Norwest Business Park. The commercial mixed use development is consistent with the objectives of the B7 Business Park zone which promotes a range of uses that would encourage additional employment opportunities. The food and drink premises and indoor recreational facility would provide services that meet the day to day needs of workers in the area.

The proposal responds to the site's constraints, being located above the Norwest Rail corridor which traverses the north eastern half of the site and limits the depth of excavation to provide appropriate basement levels for car parking. The proposal fully complies with the car parking controls under the Hills DCP. The development has been designed to respond to the topography of the land and the bulk and scale of the development and is considered appropriate within the business park as the unique architectural landscape elements and split of the building mass result in interesting fenestration and articulation providing a high level of visual amenity to the streetscape. The height exceedance does not impact any heritage view corridors extending to and from State Significant Heritage Item Bella Vista Farm or towards the Blue Mountains. The variations to the height standard are considered negligible when viewed from the public domain. In this regard, there are sufficient environmental planning grounds to justify the contravention.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.3 'Building Height' and the B7 Business zone. The variation to building height will not create buildings of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining properties. A variation to the building height in this instance is considered to be satisfactory and can be supported.

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

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the B7 Business Park zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance and there are sufficient environmental grounds to justify the contravention; and
- The proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

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

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

(ii) Clause 7.7 Design Excellence

Clause 7.7 of the LEP specifies an objective to deliver the highest standard of architectural and urban design and applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more. 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 under a development control plan,*
- (e) the requirements of any development control plan to the extent that it is relevant to the proposed development,*
- (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 configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*
- (g) the findings of a panel of 3 or more persons that has been convened by the consent authority for the purposes of reviewing the design excellence of the development proposal.*

Comment:

The design excellence of the proposal was considered at two Design Excellence Panel meetings convened by Council and held on 3 April 2020 (pre-lodgement stage) and 14

October 2020. The meeting minutes of the Design Excellence Panel are included at Attachment 14. At the end of the last meeting, the Design Excellence Panel concluded that:

“The Panel notes incremental improvement in comparison to the pre-DA drawings. However the proposal still presents as a development within a car-dominated precinct, rather than a transit oriented and pedestrian activated precinct. The Panel is of the view that the current proposal does not yet exhibit design excellence across all facets and consideration should be given to reducing the site area dedicated to hard paving and vehicle access, as well as the overall bulk and scale of the development through a reduction in the extent of above-ground car parking. These changes would greatly benefit the overall urban design integration of the development into its future context. The Panel has considered the proposal based on the material submitted and in the context of the current planning controls. Should the applicant subsequently seek to increase the permitted GFA on the site through a separate planning proposal (potentially in line with a reduction in car parking), it would be appropriate to holistically consider appropriate built form outcomes, at that higher FSR, as part of the strategic planning process”.

The Applicant has provided the following response to the above:

Is the overall bulk and scale appropriate?

Firstly, it is important to appreciate that the proposed development is designed to comply with relevant controls including:

- *Achieving a Floor Space Ratio of 2:1, consistent with the LEP.*
- *Providing a building height generally at RL116m, consistent with the LEP, with only minor exceedances identified for roof-plant in limited locations.*

Given the conformance with Council's planning controls, the scale and bulk of the proposed is entirely appropriate.

From an architectural design perspective, the building mass is split into two sections allowing two internal courtyards for the occupants use. The east and west courtyards also maximise the natural daylight and deliver well-lit spaces that provide high levels of visual comfort to the fitout occupants. The architectural design is highly sustainable and aims to set a new benchmark for commercial development in Norwest with a focus on healthy workplaces.

Significant scale developments do also form part of existing context and character for the area. By contrast, previous developments have had a strong auto-centric focus where as the proposed development has a strong pedestrian focus – aligned with the desired future character. The trellis greenery on the façade further blurs the line between landscape and architecture and breaks down the overall building height within its context.

Alignment with strategic planning objectives?

The proposed building has been carefully designed to minimise and mitigate detrimental impacts. This includes consideration of the following:

- *Solar access/shadow impacts – any potential impacts are negligible at most, contained within the B7 zone and casting no shadows on residential public open space or other sensitive land-uses.*
- *Streetscape – the proposed bulk and scale of the development presents a positive contribution to the streetscape through comprehensive landscape elements, passive surveillance and activation.*

- *View impacts – there are no identified important view corridors relating to this site set out in the DCP or similar. The site is located away from identified corridors extending to/from Bella Vista Farm in directions across the Norwest Business Park (toward Spurway Drive) and also in a westerly direction toward the Blue Mountains. The site is not visible from Bella Vista Farm.*
- *Heritage impacts – relating to the above point regarding view impacts and the relation of the site, a heritage impact assessment has been prepared and is attached to this letter. This assessment confirms that there are no impacts on the heritage values associated with Bella Vista Farm.*
- *Roof plant height beyond RL116m – there are minor exceedances for roof-plant, extending to RL120.15m. It has been confirmed that these are in the public interest and have negligible impact, as set out in the submitted Clause 4.6 submission.*

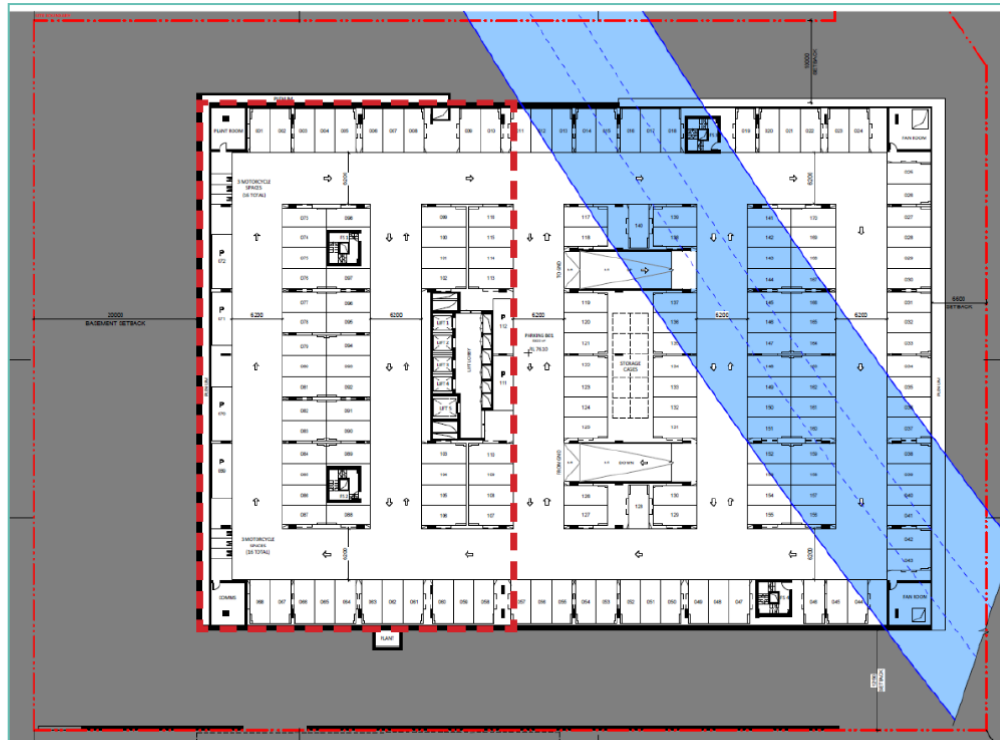
Is there opportunity to relocate car parking below ground?

The Design Excellence Panel, as part of its early (pre-lodgement) consideration of the development scheme, requested the project team to consider whether there was scope to deliver some of the parking in additional basement levels as an alternative approach. This was considered and incorporated into subsequent presentation material.

In summary:

- *The location of the Sydney Metro rail corridor significantly constrains the ability to construct additional basement level parking areas.*
- *A concept design identified that only 50-60 bays would be achievable per floor, in contrast to the standard capacity of approximately 170 bays – refer below.*
- *A considerable number of basement levels (and depth of excavation) would be required to achieve any significant number of parking spaces.*

Additional below ground parking would represent a highly inefficient outcome in terms of both initial excavation/construction, as well as ongoing operation – taking into account ventilation and lighting requirements.



Concept layout for basement parking review

Could a reduced parking rate result in a reduced scale of building?

The Design Excellence Panel has requested considered be given to whether a reduced parking rate could result in a reduced building bulk and scale. There are a number of key points of consider in relation to this:

- *The development scheme has been intentionally designed to both comply with the planning controls and yet provide flexibility for future changes, with the parking levels able to be adapted for reuse as additional commercial floorspace – providing flexibility fo the future, without any impact on the built form.*
- *Detailed impact assessments have not identified any need for a reduced scale.*
- *A reduced scaled development would unnecessarily impinge on the optimisation of employment generation provided from the site and thereby undermine achievement of the objectives of the zone to encourage and facilitate commercial development.*

Incorporating flexibility into the built form, to accommodate potential future needs, was a key component of the design and commercial brief for the competition process....to assist the delivery of a project with a high level of architectural merit, the landowner elected to run a design competition process – inviting a total of four different architectural practices to prepare design submissions.

A number of improvements have been made to the design as recommended by the Design Excellence Panel including the following:

- Reduction in site area dedicated to hard paving and vehicle access.
- An updated southern façade with additional landscape elements.
- The bulk and scale of the development has been reduced with an increased landscaped trellis front setback of 9.5m (previously a minimum of 6m) from the Lexington Drive boundary and an increase in permeability of the trellis to the façade by increasing to 750mm centre to centre. The results are illustrated in the below perspectives.



Figure 2: Perspective of amended design from Lexington Drive



Figure 3: Perspective of amended design with increased setback and permeable trellis.

- An increase of 132m² landscaping has been provided, as a result of the increased trellis setback.
- Modifications were also made to the porte cochere in order to create a pedestrian priority zone. The landscaped trellis serves as a visual buffer and a sun-shading device that will improve the amenity for future patrons of the development.

- The layby (second aisle) was removed to decrease prominence of vehicle access and the introduction of a single lane aisle bounded by planters and a continuation of the brick paving of the existing footpath extends throughout the drop off zone to create an appropriate transition to the lobby space.

Whilst the proposal does not include the reduction in the number of above-ground car parking spaces, the proposal achieves full compliance with the minimum number of car parking spaces required under the DCP. Refer to table 1 in Section 5d. below.

The site is located above the Norwest Rail corridor which traverses the north eastern half of the site and limits the depth of excavation to provide appropriate basement levels for car parking. Further, Transport for NSW, the Department of Planning, Industry and Environment and Council staff are approaching completion of a full traffic analysis for the entire Norwest Business Park, resulting from the ultimate development potential of the two rail station precincts at Norwest and at Bella Vista. The scope of the station precinct analysis will inform the parking rates suitable for the Norwest Business Park. It is envisaged that car parking rates will be amended in the DCP as a result of this analysis. Notwithstanding, this traffic analysis has not yet been completed and the proposed development is required to be assessed under the current DCP controls.

It is noted that planning proposal 1/2019/PLP has been lodged with Council seeking to increase the maximum floor space ratio applicable to the site, from 2:1 to 2.7:1. The planning proposal also seeks the application of a reduced parking rate, from the currently applicable rate of 1 space per 25m² of GFA to a lower rate of 1 space per 40m² of GFA (consistent with Council's Commercial Centres rate, which does not currently apply to the Norwest Business Park). The planning proposal has not yet been reported to the Local Planning Panel or considered by Council as to whether to forward the proposal to the Department of Planning, Industry and Environment for a Gateway Determination. In this regard, the draft instrument is not considered to be certain and imminent.

The development complies with the maximum 2:1 FSR standard and with the exception of centrally located lift overruns, stairs and plants, the building complies with the height standard. A Clause 4.6 written submission to the height standard was lodged with the application and demonstrates that despite the variation, the proposal achieves the relevant objectives of the standard and B7 Business Park zone objectives. Refer to Section 4c(i) above. It is considered that the bulk and scale of the development is suitable for the site and the desired future character of the Norwest Innovation Precinct.

With regard to Clause 7.7(4)(a), the design has been amended to ensure that the standard of design, building materials, building type and location is consistent with the streetscape character of existing development and desired future character of the Bella Vista Station Precinct within the Norwest Business Park.

With regard to Clause 7.7(4)(b), the split in building mass, interesting landscaped trellis design and activated frontage comprise a high level of architectural design that ensures the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain.

With regard to Clause 7.7(4)(c), the Applicant has adequately demonstrated that there would be negligible impacts to heritage view corridors to and from Bella Vista Farm Park as the height is below the maximum height permitted under the LEP.

With regard to Clause 7.7(4)(d), the proposal results in no impact on adjoining properties in terms of overshadowing.

With regard to Clause 7.7(4)(e), the proposed development has been assessed in detail and addressed in Section 5 below.

With regard to Clause 7.7(f), site suitability and existing and proposed uses are considered satisfactory and is consistent with the requirements of this sub-clause.

With regard to Clause 7.7(4)(g), the findings of Council's Design Excellence Panel have been considered above.

In this regard, the proposal satisfies the provisions under Clause 7.7 of LEP 2019.

(iii) Clause 5.10 Heritage Conservation

Clause 5.10 prescribes that the consent authority, may, before granting consent to any development on land that is within the vicinity of a heritage item or heritage conservation area requires a heritage management document to be prepared to assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The subject site does not contain or directly adjoin a State Significant heritage item. The subject site does not contain or directly adjoin a State Significant heritage item. Therefore, the The Heritage Council of NSW is not a referral body under the Environmental Planning and Assessment Act 1979 and approval is not required under Section 57(1) of the Heritage Act 1997. In this regard, a merit based assessment on the subject Clause is undertaken. The proposal is located within the vicinity of Bella Vista Farm Park which is 430m south east of the site. Bella Vista Farm is a heritage item of State and local significance, comprising a grouping of early farm buildings and surrounding parklands. The heritage listing of Bella Vista Farm Park includes the built form and the Bunya Pines and includes protection of key vistas to and from the Park.

A Heritage Impact Assessment was submitted with the Development Application that demonstrates that the proposal is not on the alignment of any significant view corridors as identified in the Conservation Management Plan for Bella Vista Farm Park. The built form is largely compliant with the height development standard of RL 116. Whilst there is a breach to the height standard, this only occurs for the lift overrun, stairs and acoustic plant screen. Further, the views towards the subject site from the Bella Vista Farm/Homestead are screened by existing vegetation. The identified significant views from Bella Vista Farm as outlined in the DCP will not be impacted by the proposed development as no structure is proposed to be built within the view corridors marked B and C in the DCP.

In this regard, the proposal is responsive to the heritage significance of the cultural significance of the farm, associated structures and plantings and is considered satisfactory with regard to the Clause.

5. Compliance with The Hills Development Control Plan 2012

The proposal has been against the relevant provisions of The Hills Development Control Plan 2012. The proposed development achieves compliance with the relevant requirements of DCP 2012 with the exception of the following:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 6 – Business Clause 2.5 Setbacks	Public Road Setback: Minimum 20 metres to any public road with no parking forward of the building line.	Building façade: 20m Balcony: 17m Landscaped trellis: 9.5m - 11m	No. A variation occurs to the front setback for the landscaped trellis and balcony. Refer to discussion below.
Part B Section 6 – Business Clause 2.18 Loading Docks and Part C Section 1 – Parking	For offices (GFA), 1 loading bay is required for 1,860m ² , 1 for next 3,720m ² , 1 for next 3,720m ² and 1 for each extra 9,250m ² . Therefore, 3 bays required for office GFA of 16,500m ²	1 loading bay	No, however considered to be commensurate with size of mixed use commercial development. Refer to discussion below.

A discussion on the identified variations and compliance with car parking and site coverage controls are also provided below.

a. Front Setback

The DCP requires a minimum 20m front setback to any public road with no parking forward of the building line. The proposed commercial building façade is setback 20m from the Lexington Drive property boundary however balconies and a landscaped trellis encroach within this setback to a minimum of 10m.

The Applicant has provided the following justification for the variation:

The proposed building has a front setback of 20m to the main building structure. Approval is sought, however, for trellis structure within the subject area.

The proposal is consistent with the established DCP objectives:

- (1) The proposal seeks to deliver an attractive streetscape and substantial (additional) areas of landscaping and screen planting*
- (2) Adequate site distances is available*
- (3) The proposed variation results in no overshadowing of adjoining properties.*
- (4) The proposed variations result in no privacy or amenity impacts of any adjoining land uses.*
- (5) The proposal presents a desirable and aesthetically pleasing working environment.*
- (6) The proposal shall have no impact on endangered ecological communities.*

Comment:

The relevant objective of the Clause is:

- *To provide an attractive streetscape and substantial areas for landscaping and screen planting.*

To ensure adequate sight distance is available for vehicles entering and leaving the site.

- To minimised overshadowing of adjoining properties.*
- To protect privacy and amenity of any adjoining land uses.*
- To provide a desirable and aesthetically pleasing working environment.*
- To ensure endangered ecological communities are protected.*

The subject proposal includes encroachments to the front setback control for balconies and the landscaped trellis. These variations will result in negligible overshadowing impacts to adjoining properties compared to that of a fully compliant scheme. In addition, minimal overlooking impacts would occur to the adjoining existing and approved commercial mixed use development at 17-19 Lexington Drive under Development Consent 1083/2020/JP. Refer to shadow diagrams at Attachment 11.

In addition to the unique landscaped trellis feature, the proposal provides for 10m of deep soil landscaping at the frontage to allow for soft landscape treatments. The submitted landscape plans indicate that the existing large *waterhousea* canopy trees will be retained and additional large to medium canopy trees would be planted within this area.

It is considered that despite the variations to the front setbacks, sufficient landscaping has been provided to protect the privacy and amenity of adjoining land uses and the proposal would provide for a unique, desirable and aesthetically pleasing working environment. In this regard, the variation is supported.

b. Loading and Delivery Requirements

The DCP requires that for offices, 1 loading bay is required for 1,860m² Gross Floor Area, 1 for the next 3,720m², 1 for next 3,720m² and 1 for each extra 9,250m². In accordance with this rate, 3 bays are required for office GFA of 16,500m². The proposal provides for one loading bay to service a Heavy Rigid Vehicle.

The Applicant has provided the following justification for the variation:

The loading dock shall be able to accommodate 2 Medium Rigid Vehicles (MRV) or 1 Heavy Rigid Vehicle (HRV) at any one time. The development will also provide 3 smaller service bays to accommodate smaller scale servicing requirements (e.g. small deliveries, maintenance vehicles etc.). We believe this is sufficient to cater for the requirements of the development, on the basis of the following:

- The serviced apartments will require little loading demands once the apartments have been furnished prior to opening. There will be some level of loading demand after opening but this will be very little.*
- The Waste Management Plan has also indicated that 2 MRVs will be adequate in removing waste from a development of this size.*
- Peak loading demands and waste collection for the proposed developments on the site will occur outside of peak hours and will be scheduled such to avoid conflict with other loading vehicles.*
- The food and beverage component is small in comparison to the larger development and will have little loading demand, most of which can be accommodated in the smaller service bays.*

Between the loading dock (which can accommodate 2 x MRV or 1 x HRV at any one time) and 3 smaller service bays, the loading requirements for the development can be appropriately managed. A Loading Dock Management Plan can be prepared in the future to manage operations of the loading dock and service bays. This is typically an item on the Conditions of Consent.

Comment:

The relevant objectives of Clause 2.9 Loading and Delivery Requirements under Part C Section 1 Parking are:

- *To provide suitable access on-site for service vehicles, for the purpose of loading and/or delivery goods.*
- *To ensure that types of loading and delivery areas are suited to the needs of the development*
- *To ensure that adequate numbers of loading and delivery areas are allocated for appropriate types of service vehicles.*
- *To protect neighbourhood amenity and safety in the design and construction and operation of loading and service areas in accordance with Council's ESD objective 7.*

The Applicant has indicated that the peak loading demands will occur outside peak hours and will be managed via a scheduling system. It is considered that the number of loading bays is sufficient for the commercial, mixed use development. To avoid any vehicular conflicts and ensure the safe operation of loading docks condition 105 has been recommended in the consent requiring a Dock Management Plan to be prepared to the satisfaction of Council to promote safe and efficient operation of the proposed loading docks and to avoid approaching trucks having to wait on public roads. The plan must address the following:

- Allocation of loading spaces
- Delivery times
- Controls on duration of stays
- Controls on placement of skips, pallets, etc.
- Procedures for tradesmen access and parking.
- Operating times.
- Truck access routes

The Applicant has also provided swept paths that demonstrate that the loading dock proposed could accommodate one Heavy Rigid Vehicle or two Medium Rigid Vehicles. In this regard, sufficient and suitable on-site access for service vehicles has been provided for the purpose of loading and unloading goods.

Subject to conditions, the variation to the number of loading bays is supported.

c. Site Coverage

The DCP requires that the maximum site coverage for development located in the Norwest Business Park is 50%. The Applicant submits that the proposal results in a site coverage of 78% which does not comply with this control.

The Applicant has provided the following justification for the variation:

A variation to the DCP recommendation of 50% site coverage is sought in order to facilitate the proposed development - which in turn delivers the strategic employment related outcomes, aligns with the assigned floorspace/FSR of 2:1 and generally aligns with the LEP height control of RL 116.

The proposed development also seeks to achieve new ESD benchmarks for the area.

Notwithstanding the numerical non-compliance, the proposed continues to deliver the established DCP objectives, with the following matters being notable:

1. A highly integrated approach to landscape and building design is being delivered, including the landscape trellis on the Western frontage, space for suitable significant vegetation, landscaping on the podium levels and courtyard areas.
2. The development demonstrates appropriate compatibility and integration with the adjoining development, including access arrangements.
3. Sufficient areas are being provided for both parking and building separation, along with relevant services.
4. Stormwater management is proposed in accordance with council's water quality and quantity design objectives.
5. There have been positive design refinements as part of the design excellence process, delivering for example, additional areas of landscape.

DCP objectives:

- To ensure development sites have sufficient area to provide adequate access, parking, landscaping and building separation in accordance with Council's ESD objective. **Achieved.**
- To provide for the orderly development of land through subdivision or the consolidation of lots. **N/A.**
- To provide a satisfactory relationship between buildings, landscaping areas and adjoining developments in accordance with Council's ESD objectives. **Achieved.**
- To ensure that development occurs only where adequate sewer, water, drainage, energy supply and telecommunications are available to the satisfaction of the relevant authorities. **Achieved.**
- To minimise stormwater runoff and provide for on-site groundwater recharge in accordance with Council's ESD objective 3. **Achieved.**

Comment:

The LEP defines site coverage as the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage—

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

The proposal would result in a site coverage of approximately 5,028m² or 49% as defined under the LEP. The driveways and port cochere are not included in this calculation. In this regard, the proposal complies with the control.

d. Car Parking

The DCP requires a minimum of 753 car parking spaces for the proposed mixed use development. The development complies with the controls as detailed below:

Land Use	Gross Floor Area/ Number of units	DCP Requirements	DCP Requirement (minimum)	Proposed Development
Commercial	16,249m ²	1 space per 25m ² GFA	650 spaces	Basement: 170 spaces

Food and Drink Premises	800m ²	1 space per 25m ² GFA within a commercial office building	32 spaces	Ground: 110 spaces Level 1: 93 spaces Level 2: 129 spaces
Serviced Apartments	58 units and 4 staff	1 space per guest room plus 1 space per 2 employees.	60 spaces	Level 3: 127 spaces Level 4: 62 spaces
Indoor Recreational Facility	251m ²	1 space per 25m ² GFA	11 spaces	Level 5: 62 spaces
Total Spaces:			753	753

Table 1: Car Parking

The proposal provides for the minimum parking spaces as required under Council's DCP controls.

6. Issues Raised in Submissions

ISSUE/OBJECTION	COMMENT	OUTCOME
A referral is required to Sydney Metro for concurrence including submission of an engineering impact assessment with numerical analysis.	The proposal has been referred to Sydney Metro as required under Clause 86 of SEPP (Infrastructure) 2007 as a rail corridor traverses the north eastern half of the site. Sydney Metro Northwest has granted concurrence to the development application subject to conditions. Refer Attachment 15.	Issue addressed.
Site Coverage and Landscaping	The proposal complies with the site coverage control in the DCP as defined under LEP 2019. Refer to Section 5 c. of this report. Whilst no minimum landscape area provisions apply to the subject site, the proposal provides for an integrated landscape strategy to the built form including the provision of a landscape trellis', planter boxes and podium communal open space areas. The proposal results in a unique, high quality landscape outcome.	Issue addressed.
Bulk and scale	The development complies with the FSR standard under LEP 2019. Whilst a variation to the	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	height standard is proposed, the exceedance to the height limit only relates to centrally located lift overruns, stairs or acoustic plant screens. The Applicant's Clause 4.6 written submission is well-founded and the exceedance in height will have a negligible impact on the bulk and scale of the development. The front building façade complies with the required 20m DCP front setback however a landscaped trellis design feature encroaches within this setback. The proposal has been amended to ensure the trellis is relocated closer to the building line to enable more landscaping within the frontage and the spandrels of the trellis are spaced further apart to ensure improved permeability of the building façade. The site is part of the Sydney Metro Northwest Urban Corridor, Bella Vista Station Precinct. In December 2017, the Department of Planning, Industry and Environment increased the permitted FSR from 1:1 to 2:1 in the LEP to encourage the "turn-over of existing sites and development of vacant sites for increased employment opportunities". The scale of the development is compliant with the FSR provisions as amended by the Department. It is considered that the bulk and scale of the development is suitable for the site and the desired future character of the Northwest Innovation Precinct.	
Interface with adjoining south eastern development	A restriction as to use exists on title for right of carriageway which burdens the subject lot and benefits the adjoining south eastern site (Lot 7082 DP 1037626, 17- 19 Lexington Drive). The design of the right of carriageway for the development	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	is consistent with the plans approved under 1083/2020/JP for a mixed use development on the benefitting lot. The proposed built form complies with the 10m side setback required under the DCP and the south eastern façade has been amended to include additional landscape elements which provide improvements to the visual amenity and interface with the adjoining development.	
Economic justification for serviced apartments	Service apartments are a permissible landuse within the B7 Business Park. There is no requirement under Council's LEP or DCP to provide economic justification for this land use.	Issue addressed.

EXTERNAL REFERRALS:

SYDNEY METRO

The application was referred to Sydney Metro Northwest as required under Clause 86 of SEPP (Infrastructure) 2007 as a rail corridor traverses the northern portion of the site and the development comprises excavation works in excess of 2m. The proposal has received concurrence from Sydney Metro Northwest on 8 April 2021, subject to conditions. Refer condition 5.

TRANSPORT FOR NSW COMMENTS

The application was referred to the NSW Roads and Maritime Service as the proposal is for a commercial premises that results in a gross floor area over 10,000m² and is therefore categorised as traffic generating development pursuant to Schedule 3 of the SEPP (Infrastructure) 2007.

Objections were raised to the proposal on the grounds that the proposed development would have a detrimental impact on the State road network and requested the Applicant provide SIDRA modelling for a number of nearby intersections as no funding had been allocated for any improvement works. It is considered that this request is not warranted as Council is approaching completion of a full traffic analysis for the entire Norwest Business Park, resulting from the ultimate development potential of the two rail station precincts at Norwest and at Bella Vista. This investigation is chaired by a Project Coordination Group that has membership of Transport for NSW, Department of Planning, Industry and Environment and Council staff. The scope of the station precinct analysis includes recommendations of intersection treatments for the nearby intersections as requested to be modelled by Transport for NSW. Road improvement works and intersection upgrades on Lexington Drive are proposed to be funded under draft Section 7.12 Contributions Plan for the Norwest Innovation Precinct. This is addressed in Section 3b above.

NSW POLICE COMMENTS

The application was referred to the NSW Police. No objections were raised to the proposal.

INTERNAL REFERRALS:

SUBDIVISION ENGINEERING COMMENTS

The application was referred to Council's Subdivision Engineering Section. No objections were raised, subject to conditions.

TRAFFIC MANAGEMENT COMMENTS

The application was referred to Council's Traffic Section. No objections were raised to the proposal. Council's Traffic Engineer noted that Lexington Drive is classified as a major collector road with a road carriageway width of 11.5m. It provides one lane of travel in either direction with kerbside parallel parking on either side of the road. It runs in a northwest to southeast alignment in the vicinity of the site and connects Celebration Drive in the north to Norwest Boulevard to the south. In accordance with the Roads and Traffic Authority Guide to Traffic Generating Developments 2002, the proposed development will generate in total 317 trips in the AM peak and 270 trips in the PM peak. The report submitted with the application includes a SIDRA Analysis assessment to determine the future intersection performance of Lexington Drive/Norwest Boulevard and the performance of Lexington Drive through to Bella Vista Station. The Applicant's Traffic Consultant has identified that the existing intersection of Lexington Drive and Woolworths Way operates at a LoS (Level of Service) "C" in the AM Peak in the northbound direction and a LoS "D" post development which suggests that infrastructure upgrades could improve capacity issues at the intersection. Whilst the upgrade of this intersection was not funded when the State Government rezoned the precinct and has not been included within current S7.11 or S7.12 plans, funding is being considered under the draft Section 7.12 Contributions Plan for the Norwest Innovation Precinct.

The Norwest Blvd/ Lexington Drive intersection is indicated as operating at LOS "F" in both the AM and PM peaks and the operation of this intersection is likely to have an impact on the operation of Lexington Drive/Woolworths Way intersection. Transport for NSW has recently advertised 50% concept plans for the upgrading of Norwest Blvd/Lexington Drive intersection, although there is no fixed date for the upgrade. It is noted that this intersection is also proposed to be funded under the draft Section 7.12 Contributions Plan for the Norwest Innovation Precinct.

The Sidra Analysis Model shows a LoS A for right and left turn movements in and out of site from the shared southern access driveway. Factoring in the cumulative impact of additional trips as a result of the Southern Access driveway being shared with the recently approved DA at 13-19 Lexington Dr, the LoS is still expected to be within acceptable limits.

TREE MANAGEMENT COMMENTS

The application was referred to Council's Landscape Assessment Officer. No objections were raised, subject to conditions.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

The application was referred to Council's Environmental Health Officer. No objections were raised, subject to conditions.

RESOURCE AND RECOVERY COMMENTS

The application was referred to Council's Resource and Recovery Section. No objections were raised, subject to conditions.

FORWARD PLANNING COMMENTS

The application was referred to Council's Forward Planning Team for Section 7.12 and Land and Spatial Information comments. No objections were raised, subject to conditions.

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, SEPP 65, SEPP 55, LEP 2019 and The Hills Development Control Plan and is considered satisfactory.

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

In relation to the Clause 4.6 Variation request, it is considered that the Applicant's request is well founded, and the proposed variations result in a development that is consistent with the relevant objectives, and compliance with the standard is unreasonable and unnecessary in this instance as outlined in this report. It is considered that there are sufficient environmental grounds to justify the contravention to the height standard and the development is in the public interest as it is consistent with the objectives of the standard and B7 Business Park zone objectives.

The proposal has been assessed against the requirements of The Hills DCP 2012 and the variations identified with respect to front setbacks and loading bays have been assessed as satisfactory as the proposal still meet the objectives of the controls.

It is considered that the proposal is consistent with the desired future character of the Bella Vista Precinct, provides for a unique, high quality architectural design and provides appropriate activation of the street frontages and amenity for future occupants of the site and adjoining properties.

One submission was received objecting to the proposed development and has been addressed in the body of the report. The issues raised do not warrant refusal of the application.

Accordingly approval subject to conditions is recommended.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for urban growth which would not result in adverse environmental and social amenity impacts and will ensure a consistent built form is provided with respect to the streetscape and character of the locality.

RECOMMENDATION

The Development Application be approved subject to the reasons listed below and subject to the following conditions.

Clause 4.3 of the LEP prescribes a maximum height of RL116m for the subject site. The proposed development exceeds the maximum building height by 4.15m (12%) to the height

standard. The variation to the development standard can be supported for the following reasons:

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the B7 Business Park zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance and there are sufficient environmental grounds to justify the contravention; and
- The proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

The amendments in red require the following:

- No signage is approved under this consent.
- All balustrades serving balconies of serviced apartments facing commercial office buildings are to be installed with obscured glass at least 1.6m from the finished floor level.
- All utility services in the public domain are to be screened or as required by the relevant service provider.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION/ISSUE	DATE
A0011	Demolition Plan		
A0014	Site Plan	B	24/02/2021
A0099	Basement 01 Plan	A	9/04/2020
A0100	Ground Floor Plan	E	12/03/2021
A0101	Level 01 Plan	E	10/05/2021
A0102	Level 02 Plan	D	10/05/2021
A0103	Level 03 Plan	A	9/04/2020
A0104	Level 04 Plan (Top of Podium)	B	6/11/2020
A0105	Level 05 Plan	A	9/04/2020
A0106	Level 06-09 Plan (Typical Office)	A	9/04/2020
A0110	Level 10 Plan (Serviced Apartments)	A	9/04/2020
A0111	Roof Plan	B	23/09/2020
A0200	North Elevation	C	24/02/2021
A0201	South Elevation	D	10/05/2021
A0202	East Elevation	B	23/09/2020

A0203	West Elevation	B	23/09/2020
A0300	Section 01	B	23/09/2020
A0301	Section 02	B	23/09/2020
A0302	Section 03	C	12/03/2021
A0303	Section 04	B	24/02/2021
A0500	Materials Sample Board	A	9/04/2020
LD DA300	Ground Floor Planting Plan prepared by Scott Carver	D	10/05/2021
LD DA301	Level 2 Planting Plan prepared by Scott Carver	C	10/05/2021
LD DA302	Level 4 Planting Plan prepared by Scott Carver	C	10/05/2021
LD DA303	Level 10 Planting Plan prepared by Scott Carver	C	10/05/2021
LD CD500	Landscape Details prepared by Scott Carver	B	10/05/2021
-	Landscape Design Report prepared by Scott Carver	B	23/02/2021

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. Construction Certificate

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

3. Building Work to be in Accordance with BCA

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

4. External Finishes

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

5. Compliance with Sydney Metro Concurrence requirements

Compliance with Sydney Metro Concurrence requirements in letter dated 8 April 2021, reference SM-21-00062126, attached to this consent.

6. Compliance with Norwest Association Requirements

Compliance with the requirements of Norwest Association Limited as outlined in their letter dated 20 July 2020.

7. Compliance with NSW Police Requirements

Compliance with NSW Police requirements as outlined in their letter dated 15 October 2020, attached to this consent.

8. Endeavour Energy Requirements

i. Network Capacity / Connection

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

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

Advice on the electricity infrastructure required to facilitate the proposed development (including asset relocations) can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached and further details (including the applicable charges) are available from Endeavour Energy's website under 'Our connection services'. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.

Alternatively the applicant should engage a Level 3 Accredited Service Provider (ASP) approved to design distribution network assets, including underground or overhead. The ASP scheme is administered by NSW Trade & Investment and details are available on their website via the following link or telephone 13 77 88:

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

In regards to the padmount substation/s, detailed design should be in accordance with Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Documentary evidence from Endeavour Energy confirming that satisfactory arrangements have been made for the connection of electricity and the design requirements for the substation, prior to the release of the Construction Certificate / commencement of works.

ii. Prudent Avoidance

The electricity network is operational 24/7/365 ie. all day, every day of the year. The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV). In practical terms this means that when designing new transmission and distribution facilities, consideration is given to locating them where exposure to the more sensitive uses is reduced and increasing separation distances. These emissions are generally not an issue but with Council's permitting or encouraging development with higher density, reduced setbacks and increased building heights, new development can impact on existing electricity infrastructure. Where development is proposed in the vicinity of electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the

nearby proposed development. Endeavour Energy believes that likewise Council should also adopt a policy of prudent avoidance by the siting of more sensitive uses away from any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.

Reference is to be made to ENA's 'Electric & Magnetic Fields – What We Know, January 2014' which can also be accessed via the ENA's website at <http://www.ena.asn.au/> and provides the following advice:

Localised EMFs may also be encountered in specific situations such as near substations, underground cables, specialised electrical equipment, or at elevated locations near lines. Note that the strengths of EMFs decrease rapidly with distance from the source.

Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will not exceed the recommended magnetic field public exposure limits.

iii. Vegetation Management

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

In regards to the padmount substation required to facilitate the proposed development, refer to Endeavour Energy's 'Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations'.

iv. Dial Before You Dig

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

v. Public Safety

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

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

vi. Emergency Contact

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

9. Sydney Water Requirements

Requirements for Business Customers for Commercial and Industrial Property Developments.

Trade Wastewater Requirements

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

The permit application should be emailed to Sydney Water's Business Customer Services at businesscustomers@sydneywater.com.au

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:

<http://www.sydneywater.com.au/Plumbing/BackflowPrevention/>

10. Provision of Parking Spaces

The development is required to provide 753 off-street car parking spaces at all times.

11. Separate application for signs

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

12. Separate Development Application – Food and Drink Premises Occupations

A separate Development Application is required for the use and fit out of the approved food and drink premises unless allowed by the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

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

- Hours of operation
- Delivery Details
- Staff Numbers
- Acoustic impacts
- Signage, and
- Parking Provision

13. Irrigation

An automatic watering system to be installed as a minimum to all common areas. and on podium planter boxes. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or Private Certifier prior to issue of the construction certificate.

14. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with remedial work to be carried out in accordance with the Arboricultural Impact Assessment Report prepared by Urban Arbor dated 16 February 2021.

Street Trees numbered 27 – 34 are to be retained and protected. Neighbouring trees numbered 1 – 26 are to be retained and protected in accordance with the Arborist Report recommendations and AS4970 (2009) Protection of Trees on Development Sites.

15. Feature Façade Trellis Access and Maintenance

The access and maintenance of the climbing plants on the high feature trellis fronting Lexington Drive is to be in accordance with the Lexington Drive Green Façade Access Strategy prepared by Junglefy including the following:

- The climbing plants on the trellis are to be maintained by qualified rope technician horticulturists, or by rope technicians under the direct supervision by a qualified horticulturist.
- Eyelets/carabiners or similar are to be provided to the trellis structure, and launch areas from the roof, and Level 4 and 8 as required to allow maintenance technicians to descend the trellis.
- Maintenance of the climbing plants and any maintenance of the trellis structure are to be undertaken a minimum of four (4) times a year.
- The installation of horizontal members between vertical trellis members to create ladder structures to allow the trellis to be climbed.
- Pruning/green waste is to be removed from site and disposed of by the maintenance contractors.

The following additional Council Requirements are as follows:

- The trellis must be constructed to reach a maximum proximity of 500mm from the level 4 and 8 planter boxes. The interface between the trellis and the balcony planter

boxes is to be equivalent with the Upper Levels Planters & Trellis Section on the Approved Landscape Plan.

- Any failed climbers at ground level or podium levels must be replaced for the life of the development to retain the green façade.
- Irrigation is to be provided to all the planter boxes supporting the trellis climbers on podium levels.

16. Planting Requirements

All trees, shrubs, climbers and groundcovers planted as part of the approved landscape plan are to be provided in pot sizes as indicated in Approved Landscape Plan Prepared by Scott Carver revision D dated 10/05/21.

Steel garden edging is to be provided to the Lexington Drive Boundary, and surrounding street trees to be retained in accordance with the approved landscape plan.

All planting on slab and planter boxes must achieve the following minimum soil depths:

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

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

Podium planter boxes facing Lexington Drive to support the *Trachelospermum jasminoides* (Star Jasmine) and *Pandorea jasminoides* 'Lady Di' (Bower Climber) trellis planting are to be a minimum of 1100mm of depth in accordance with the Upper Levels Planters & Trellis Section on the Approved Landscape Plan.

The location of the stormwater OSD must be located outside of the deep soil within the Lexington Drive setback as per the Stormwater Drainage Layout Plan prepared by SCP Revision F dated 10/05/21.

The maintenance of trellis planting is to be in accordance with Lexington Drive Green Façade Access Strategy prepared by Jungleyf.

17. Property Numbering and Cluster Mail Boxes for Integrated Housing, Multi Unit Housing, Commercial Developments and Industrial Developments

The responsibility for property numbering is vested solely in Council.

These numbers, when approved by Council in writing, are to be displayed clearly on all door entrances.

Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lift/lobby entry doors. It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and speed.

Numbering cannot be repeated anywhere throughout the development.

Mail Boxes

Cluster mail boxes are to be located within the site, perpendicular to the street on the public footpath boundary within easy reach from a public road for the postal delivery officer. The number of mail boxes to be provided is to be equal to the number of units plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietor's additional mail box is to be located within the cluster.

Strata Developments

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

It is required that Lot numbers within the proposed strata plan are not duplicated and all run sequentially within the same level, commencing from the lowest level upwards to the highest level within the development.

Please call 9843 0555 or email a copy of the final strata plan before it is registered at Land Registry Services NSW to council@thehills.nsw.gov.au for the approval of final Property and Unit numbering with corresponding Lot Numbers now required to be included within the registered Strata Administration sheet.

Under no circumstances is the Strata Plan to be lodged with Land Registry Services NSW before Council has approved all final addressing.

Completed Final Set of Numbered Architectural Plans

Prior to the issue of a Construction Certificate, Council's Land information section requires a completed final set of numbered architectural plans complying with the NSW Address Policy to approve accurate and concise numbering for this development. Street and unit numbering will then be approved and/or supplied by Council's Land Information Section prior to issue of Construction Certificate. Applicant is to contact Land Information Section of Council.

Mail box positioning must be approved by Australia Post for mail delivery within the foyer or within any buildings or for any variations to standard Mail Box Locations. Written approval confirmation from Australia Post is to be forwarded to the Land Information Section of Council. Plans to be forwarded to Gregory Dimmock at the Seven Hills Delivery Centre – email Gregory.dimmock@auspost.com.au or phone 02 9674 4027.

18. Adherence to Waste Management Plan

All requirements of the Waste Management Plan submitted as part of the Development Application must be implemented except where contrary to other conditions of consent. The information submitted regarding construction and demolition wastes can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

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

19. Management of Construction and/or Demolition Waste

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

property at any time unless a separate application is approved by Council to locate a building waste container in a public place.

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

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

20. Disposal of Surplus Excavated Material

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

21. Construction of Waste Storage Area

The waste storage area must be designed and constructed in accordance with the following requirements. The area must provide minimum storage facility for the number of bins indicated in the Waste Audit and Consultancy Services' Operational Waste Management Plan dated June 2020.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins and associated waste infrastructure as specified in Operational Waste Management Plan.
- The layout of the waste storage area must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage area must be constructed of brickwork.
- The floor of the waste storage area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage area must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors.
- The waste storage area must have a separate staff access door. Suitable staff access doors are single or double swinging doors. The staff access door must have a minimum clear floor width is at least 1.5m and not a roller door.
- All doors of the waste storage area, when fully opened, must be flush with the outside wall(s) and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.

- The waste storage area must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the tenancies.
- The waste storage area must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area, it is not to conflict with the space designated for the placement of bins.
- The waste storage area must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage area must have appropriate signage (NSW EPA approved designs can be found on the NSW EPA website), mounted in a visible location on internal walls and are to be permanently maintained by the Owners Corporation.
- Finishes and colours of the waste storage area are to complement the design of the development.

Example Bin Measurements (mm)

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

22. Access and Loading for Waste Collection

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

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

23. Waste and Recycling Collection Contract

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

24. Section 7.12 Contribution

Pursuant to section 4.17 (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 7.12 Contributions Plan, a contribution of **\$913,100** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 7.12 Contributions Plan.

In accordance with the Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020, the contribution is to be paid before the issue of the first Occupation Certificate in respect of any building work to which this consent relates. However, if no Construction Certificate in respect of the erection of a building to which the consent relates has been issued on or before 25 September 2022, the contribution is to be paid before the issue of the first Construction Certificate after that date for any such building.

You are advised that the maximum percentage of the levy for development under section 7.12 of the Act having a proposed construction cost is within the range specified in the table below;

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 %
More than \$200,000	1%

25. Imported 'Waste Derived' Fill Material

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

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

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

26. Contamination

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

27. Acoustic Requirements

The recommendations of the DA Acoustic Assessment prepared by Acoustic Logic, with document reference 20200315.1/2309A/R1/WY, dated 23 September 2020 and submitted as part of the Development Application are to be implemented as part of this approval.

28. Signage Advice No Dropping of Weights

Signage shall be erected advising patrons of the gym not to drop any free weights within the premises.

29. Speakers within Gym to be Mounted Using Vibration Isolation Mounts

Any music speakers fixed inside the gym premises are to be mounted using vibration isolation mounts. This shall be certified by a suitably qualified acoustic consultant once installed and written verification provided to the Manager - Environment and Health for reference.

30. Road Opening Permit

Should the subdivision/ development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a Construction Certificate issued by Council under this consent then a separate road opening permit must be applied for and the works inspected by Council's Maintenance Services team.

The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction Engineer if it is unclear whether a separate road opening permit is required.

31. Separate Application for Strata Subdivision

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

32. Protection of Public Infrastructure

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

33. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

34. Vehicular Crossing Request

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

35. Minor Engineering Works

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

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

a) Driveway Requirements

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

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

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

Specifically, unless additional driveway crossings are clearly shown on the approved plans, only one driveway crossing is approved/ permitted.

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

b) Disused Layback/ Driveway Removal

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

The proposed Kerb RAMP from the proposed private pedestrian RAMP is not supported and shall be removed/deleted from the civil and architectural drawings. However, the proposed private pedestrian footpath can be connected/match to the footpath on council's verge. The connection/interface to the footpath needs to delineate the public footpath from the private footpath.

c) Driveway/ Kerb Inlet Pit Conversion

The new driveway conflicts with the existing on-grade kerb inlet pit located at the south-eastern side of the driveway. This kerb inlet pit must be replaced with a grated/ butterfly lid pit integrated into the new driveway wedge/wings. A new kerb inlet pit shall be design upstream of this grated/ butterfly lid pit with any associated drainage pipes. The design and construction of these two pits with any associated drainage pipes shall comply with Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works, including public utility relocation, must incur no cost to Council.

Refer to Council's Standard Drawing SD.5A available from Council's website for more detail showing this arrangement.

All these works must be carried out by a civil contractor with the appropriate civil liability insurances for works in the footpath/ public area.

Detailed design and construction approval for these works must be obtained from Council before a Construction Certificate can be issued for the building works.

The driveway relocation and swale reconstruction must be completed before any Occupation Certificate is issued. The scope/ cost of these works are not reasonably left to the eventual lot owner.

d) Concrete Footpath Paving

A 1.5m wide footpath paving, including access ramps at all intersections, must be provided across the street frontage of the development site transitioning into the existing footpath adjacent in accordance with the above documents.

The proposed Kerb RAMP from the proposed pedestrian RAMP is not supported and shall be removed/deleted from the civil and architectural drawings. However, the proposed pedestrian footpath can be connected/match to the footpath on council's verge. The connection to the footpath needs to delineate the public footpath from the private footpath.

No private retaining wall, swale or kerb from the proposed driveway shall be extended over council's land.

e) Footpath Verge Formation

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

f) Site Stormwater Drainage

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

g) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by SCP Engineers and Development Consultants, project S191193, drawing C-03-01, Revision F, dated 10/05/2021. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed. Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent. Where a retaining wall is proposed, it shall be designed to such that it accepts and caters for any surface runoff from the up slope adjoining land in a 'failsafe' manner without affecting any other property. No diversion or concentration of stormwater surface flows will be permitted. The proposed retaining wall including footing and subsoil drain shall be design and constructed fully inside the property boundary.

36. Excavation/ Anchoring Near Boundaries

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

- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or Transport for NSW in the case of a classified road.

- Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment.
- All anchors must be temporary. Once works are complete, all loads must be removed from the anchors.
- A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed.
- The anchors must be located clear of existing and proposed services.

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

37. Erosion & Sediment Control Plan

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

- Allotment boundaries
- Location of the adjoining roads
- Contours
- Existing vegetation
- Existing site drainage
- Critical natural areas
- Location of stockpiles
- Erosion control practices
- Sediment control practices
- Outline of a maintenance program for the erosion and sediment controls

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

38. Adopted Internal Noise Levels

In order to ensure the Adopted Internal Noise Levels are met and complied with as per Table 5.2 contained within Section 5.2 of the DA Acoustic Assessment, prepared by Acoustic Logic, with document reference number 20200315.1/2309A/R1/WY and dated 23 September 2020, the façade constructions are to be reviewed by an appropriately qualified Acoustic Consultant. The exact glazing types and acoustic seals for construction are to be definitively specified in an Acoustic Statement addressed to Council's Manager – Environment and Health, and shall demonstrate that the below L_{Aeq} levels will not be exceeded.

Table 5-2 – Adopted Internal Noise Levels

Space / Activity Type	Required Internal Noise Level
Sleeping Areas	35 dB(A)Leq(10pm-7am)
Living Areas	40 dB(A)Leq(anytime)
General Office Areas	45 dB(A)Leq(when in use)
Meeting Rooms (Small)	45 dB(A)Leq(when in use)
Function Areas	45 dB(A)Leq(when in use)

Gym	45 dB(A)Leq(when in use)
Cafés	50 dB(A)Leq(when in use)

39. Protection of Internal Noise Levels (Residential Serviced Apartments)

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

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

In particular the acoustic statement shall detail whether any supplementary ventilation system is to be installed for Apartments 002, 003, 056 and 057, and certify that the acoustic performance of any acoustic treatments will not be compromised as a consequence. Finally the acoustic statement shall certify that all recommendations to achieve the Adopted Internal Noise Levels for the development contained within the DA Acoustic Assessment, prepared by Acoustic Logic, with document reference number 20200315.1/2309A/R1/WY and dated 23 September 2020, have been included and specified on the construction plans of the development.

40. Gym Construction and Fit-out Recommendations

The proposed fit-out and equipment for the gym space shall be finalised at Construction Certificate stage, and include the recommendations as set out in Section 8.3 of the DA Acoustic Report, prepared by Acoustic Logic, with document reference number 20200315.1/2309A/R1/WY, and dated 23 September 2020. In particular:-

1. Treadmills are to sit on a plywood platform mounted with Embelton NR mounts.
2. Floor isolation for free weight areas shall be constructed as specified in Section 8.3.2 of the DA Acoustic Report as mentioned above.

Written certification that the abovementioned has been finalised and specified on the fit-out and construction plans for the gym, shall be provided by a suitably qualified Acoustic Consultant and submitted to The Manager – Environment and Health for reference.

41. Floor Between Gym and Café Below

Construction plans for the development shall detail that the floor slab between the proposed gym and the café below is to be a minimum of 200mm thick concrete.

42. Detailed Mechanical Plant Selection and Location

All mechanical plant proposed for the building development shall be selected and location definitively shown the construction plans for the building, this includes but is not limited to the cooling towers, condensing units, heat exchangers, fans, discharge risers, toilet exhausts, smoke exhausts, smoke risers, garbage exhaust, stair pressure rises, kitchen risers, tenant exhaust risers, etc.

All acoustic treatment recommendations for mechanical plant that are necessary to ensure external noise emissions from the proposed building meet the criteria established in the DA Acoustic Report, prepared by Acoustic Logic, with reference document number 20200315.1/2309A/R1/WY, and dated 23 September 2020, shall also be clearly specified on the construction plans of the development.

43. Statement of Compliance Mechanical Plant

A Statement of Compliance prepared by a suitably qualified Acoustic Consultant shall be submitted to Council's Manager – Environment and Health certifying that the acoustic treatment recommendations for all of the mechanical plant have been incorporated into the design and construction of the proposed building, and therefore the expected noise emissions generated by the development shall not exceed 5 dB(A) above the background noise levels, when measured at any boundary adjoining.

44. Café/Food Premises Acoustic Recommendations

Construction plans of the proposed café/ food premises are to be reviewed by a suitably qualified Acoustic Consultant and certified that the acoustic treatment recommendations (or similar newly revised recommendations) that are provided within Section 9.3 of the DA Acoustic Assessment, prepared by Acoustic Logic, with reference document number 20200315.1/2309A/R1/WY, and dated 23 September 2020 have been specified on the plans with the appropriate level of required detail for construction. In particular:-

9.3.1 Music Noise and Speaker Treatment

Speakers are to be isolated with Embelton NRD mounts or equivalent. Music is to be played at a maximum of 75dB(A) sound pressure level within the café/ F&B area.

9.3.2 Soffit Between Café and Function Room/ Meeting Room/ Gym

Soffit slab is to be minimum 200mm thick concrete.

9.3.3 Inter-tenancy Wall Between Cafés

To minimise the loss of amenity to people utilising the bounding cafés, a minimum Rw 50 tenancy wall shall be built. This will require 2x13mm Fyrchek on one side, 92mm steel stud with 75mm thick 11kg/m³ and glasswool insulation in the cavity and 2x13mm Fyrchek on the other side. Further detail can be found in the abovementioned DA Acoustic Report - Appendix Two – Acoustic Details.

45. Carpark Floor Surface

The construction plans of the development shall detail that the surface of the carpark floor finish will be covered with a surface coating that does not promote squealing of car tyres. Additionally the carpark floor surface shall be smooth and even, to minimise the potential for noise to be generated from car wheels impacting upon the concrete floor surface, and or floor grates.

46. Drainage and Access Floor Grates

Floor grates for drainage and access within the carpark shall be mechanically fixed in place so as to finish flush with the carpark floor and shall assist in minimising noise generated by car tyres in car movement thoroughfares.

47. Security Bond Requirements

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

- Be in favour of The Hills Shire Council;
- Be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking);
- Have no expiry date;
- Reference the development application, condition and matter to which it relates;
- Be equal to the amount required to be paid in accordance with the relevant condition;
- Be itemised, if a single security bond is used for multiple items.

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

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

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

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

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

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

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

An SWMP is required for this development.

49. Onsite Stormwater Detention – Hawkesbury River Catchment Area (Rural)

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the rural portion of the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters to ensure the pre-development and post development discharge rates are the same for all storms up to and including the 1 in 100 year design storm event and/or shall not cause impact on the existing council's drainage system for all storms up to and including the 1 in 100 year design storm event.

The stormwater concept plan prepared by SCP Engineers and Development Consultants, project number: S191193, drawing numbers: C-05-01, C-05-21, C-05-62, Revision F, dated 10/05/2021 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and the following necessary changes:

- a) The Roof water shall be connected to the proposed Rainwater tank.
- b) The drainage pipes within the Drains model shall be constant with the concept stormwater plans (i.e some pipes are 303mm dia and others are 156mm dia)
- c) The OSD calculation and Drains model shall be revised for the Construction certificate.

Water sensitive urban design elements, consisting of OceanGuard filter baskets and stormfilters, are to be located generally in accordance with the plans and information submitted with the application.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling.

Not: the current MUSIC model shows the reduction in the annual average load of total phosphorous is less than 65% which shall be revised for the Construction certificate.

The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

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

All model parameters and data outputs are to be provided.

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

- Design/ construction plans prepared by a hydraulic engineer.
- A completed OSD Drainage Design Summary Sheet.
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes.
- A completed OSD Detailed Design Checklist.
- A maintenance schedule.

50. Stormwater Pump/ Basement Car Park Requirements

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

51. Works in Existing Easement

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

52. Works on Adjoining Land

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

53. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$244,776.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side (186m) multiplied by the width of the road (14m).

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

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

54. Security Bond – External Works

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

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

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

55. Engineering Works

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

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

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

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

The concept engineering plan prepared by SCP Engineers and Development Consultants, project number: S191193, drawing number: C-03-01, Revision F, dated 10/05/2021 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Footpath Verge Formation

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

b) Concrete Footpath

A 1.5m wide footpath paving, including access ramps at all intersections, must be provided across the street frontage of the development site transitioning into the existing footpath adjacent in accordance with the above documents.

The proposed Kerb RAMP from the proposed pedestrian RAMP is not supported and shall be removed/deleted from the civil and architectural drawings. However, the proposed pedestrian footpath can be connected/match to the footpath on council's verge. The connection to the footpath needs to delineate the public footpath from the private footpath.

No private retaining wall, swale or kerb from the proposed driveway shall be extended over council's land.

c) Service Conduits

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

d) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by SCP Engineers and Development Consultants, project S191193, drawing C-03-01, Revision F, dated 10/05/2021. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed. Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent. Where a retaining wall is proposed, it shall be designed to such that it accepts and caters for any surface runoff from the up slope adjoining land in a 'failsafe' manner without affecting any other property. No diversion or concentration of stormwater surface flows will be permitted. The proposed retaining wall including footing and subsoil drain shall be design and constructed fully inside the property boundary.

e) Stormwater Drainage Discharge

The proposed development shall be graded, collected and drained by pits and pipes to Council's underground drainage system fronting the development site.

Where the proposed driveway/vehicular crossing conflicts with the existing stormwater kerb inlet pit, the kerb inlet pit must be replaced with a grated/ butterfly lid pit integrated into the new driveway wedge/wings. A new kerb inlet pit shall be design upstream of this grated/ butterfly lid pit with any associated drainage pipes. The design and construction of these two pits with any associated drainage pipes shall comply with Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works, including public utility relocation, must incur no cost to Council.

56. Works On Right Of Carriageway

Any proposed works within the existing right of carriageway (A) 6.65m wide & variable (VIDE DP1037626) shall not adverse impact the existing or the future development (i.e. 1083/2020/JP) on the beneficiary lot 7082 within DP1037626. Owner consent from lot 7082 within DP1037626 shall be obtained to consent/agreeing to the proposed works within the existing right of carriageway (A) 6.65m wide & variable (VIDE DP1037626). Owners consent shall be submitted to the Private Certifier prior to the issue of any construction certificate.

PRIOR TO WORK COMMENCING ON THE SITE

57. Notice of Requirements

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

58. Erection of Signage

In accordance with the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

- The name, address and telephone number of the Principal Certifier (Council);
- The name and telephone number (including after hours) of the person responsible for carrying out the works;

- That unauthorised entry to the work site is prohibited.

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

59. Contractors Details

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

60. Management of Building Sites

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

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

61. Consultation with Service Authorities

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

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

62. Approved Temporary Closet

An approved temporary closet connected to the sewers of Sydney Water, or alternatively an approved chemical closet is to be provided on the land, prior to building operations being commenced.

63. Stabilised Access Point

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

64. Engagement of a Project Arborist

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

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

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

65. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. The location of fencing shall be in accordance with Appendix 1B: Proposed Site Plan in the Arboricultural Impact Assessment prepared by Urban Arbor with the exception of the street trees on the council nature strip.

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

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

Tree protection fencing for the street trees is not to extend over the pedestrian path. Where the provision of tree protection fencing for street trees is impractical due to the proximity to the existing public pedestrian path, trunk protection shall be erected around nominated trees to avoid accidental damage. The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8m metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with galvanised hoop strap.

The tree protection fencing must be certified by the Project Arborist to be in accordance with the Arborist Report and this condition. Tree protection fencing is only to be removed/moved under direct supervision of the Project Arborist.

66. Tree Protection Signage

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

67. Mulching within Tree Protection Zone

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

68. Trenching within Tree Protection Zone

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

No stormwater services such as piping, pits, or swales are to be installed within the tree protection zones of neighbouring trees to be retained and protected. Stormwater piping must be located outside of the northern setback between the boundary and the approved driveway to minimise impacts on trees numbered 19-26.

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

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

69. Erosion and Sedimentation Controls

Erosion and sedimentation controls shall be in place prior to the commencement of site works and maintained throughout construction activities, until the site is landscaped and/or

suitably revegetated. These requirements shall be in accordance with *Managing Urban Stormwater – Soils and Construction (Blue Book)* produced by the NSW Department of Housing.

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

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

70. Site Water Management Plan

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

71. Notification of Asbestos Removal

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

72. Traffic Control Plan

A Traffic Control Plan is required to be prepared and approved. The person preparing and approving the plan must have the relevant accreditation to do so. A copy of the approved plan must be submitted to Council before being implemented. Where amendments to the plan are made, they must be submitted to Council before being implemented.

A plan that includes full (detour) or partial (temporary traffic signals) width road closure requires separate specific approval from Council. Sufficient time should be allowed for this to occur.

73. Erosion and Sediment Control/ Soil and Water Management

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

74. Property Condition Report – Private Assets

A property condition report must be prepared and submitted by a structural engineer recording the condition of any dwelling or ancillary structures on Lot 7082 within DP1037626 (known as 17-19 Lexington Drive BELLA VISTA), and Lot 7075 within DP1016973 (known as 1-3 Meridian Place BELLA VISTA) within the likely zone of influence from any excavation, dewatering or construction induced vibration.

75. Separate OSD Detailed Design Approval

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

76. Property Condition Report – Public Assets

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

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

77. Waste Management Details Required

Prior to the commencement of works, the location of waste disposal and recycling for all construction and demolition waste materials (bricks, concrete, timber and so on) must be submitted to and approved by the Principal Certifying Authority. Alternatively, details of an appropriately licensed skip bin hire company or site clean company can be provided where the company is engaged to undertake all works during construction of the development (collection, transportation and disposal).

78. Sydney Water Building Plan Approval

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water [Tap in™](#) online self-service replaces our Quick Check Agents as of 30 November 2015.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](#) online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

DURING CONSTRUCTION

79. Survey Certificate

A survey certificate signed and dated (including contact details) from a registered land surveyor may be requested by the Principal Certifying Authority at footings and/or formwork stage. The certificate shall indicate the location of the building/structure in relation to all boundaries, and shall confirm the floor/coping level prior to any work proceeding on the building/structure.

80. Hours of Work

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

Monday to Saturday - 7.00am to 6.00pm;

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

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

81. Compliance with Critical Stage Inspections and Other Inspections Nominated by the Principal Certifier

Section 6.6(2)(b) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as “Critical Stage Inspections” to be carried out for building work. Prior to permitting commencement of the work, your Principal Certifier is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

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

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

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

82. Protection of Existing Vegetation

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

83. Project Arborist

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

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

84. Rock Breaking Noise

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

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

85. Construction Noise

The emission of noise from the construction of the development shall comply with the *Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)*.

86. Contamination

Ground conditions are to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council's Manager- Environment and Health is to be notified and a site contamination investigation is to be carried out in accordance with *State Environmental Planning Policy 55 – Remediation of Land*.

The report is to be submitted to Council's Manager – Environment and Health for review prior to works recommencing on site.

87. Stockpiles

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

88. Mechanical ventilation in Food Premises

Exhaust hoods are to be of a stainless steel construction with an internal 50mm x 50mm gutter and unscrewable drainage plug at one corner. They are to have removable grease filters for cleaning.

Documentation shall be submitted to the certifying authority that the ventilation system has been installed and is operating in accordance with:

- i. *AS1668.1:2015 – The use of ventilation and air conditioning in buildings – Fire and smoke control in buildings*; and
- ii. *AS1668.2:2012 – The use of ventilation and air-conditioning in buildings PART 2: mechanical ventilation in buildings*.

89. Dust Control

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

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

90. Construction and Fit-out of Food Premises

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

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

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

91. Odour Control

To ensure that adequate provision is made for the treatment of odours, the mechanical exhaust system shall be fitted with sufficient control equipment to prevent the emission of all offensive odours from the premises.

92. Weight Machines - Gym

Weight machines shall be vibration isolated by Embelton Springs detailed below:

- Big machines shall be isolated by Embelton NXL-96.
- Small machines shall be isolated by Embelton NXS-17
- OR Floor of machine areas shall be covered by minimum 30mm Olympact A1 Matting or equivalent.

93. Standard of Works

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

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

94. Landscaping Prior to Issue of any Occupation Certificate

Landscaping of the site shall be carried out prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plan and additional technical specifications outlined in the Lexington Drive Green Façade Access Strategy for the trellis feature. Certification is to be provided by an Accredited Landscape Architect or designer.

All landscaping is to be maintained at all times in accordance the conditions of this consent, with THDCP Part C, Section 3 – Landscaping, the approved landscape plan, and technical specifications.

95. Food shop registration requirements

Prior to the issue of any Occupation Certificate, the food business shall be registered with The Hills Shire Council. To register with Council please complete and submit the 'registration of food business' form which is available on Council's website.

96. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled DA Acoustic Assessment prepared by Acoustic Logic dated 23 September 2020, or any recommendations that may supersede these in the Construction Certificate stage of planning and design. Certification is to be provided.

97. Food Premises Final Inspection

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

98. Wall between Gym and Meeting Room

Construction plans for the development shall detail an Rw 50 tenancy wall to be between the gym and the meeting room. This will require 2x13mm Fyrchek on one side, 92mm steel stud with 75mm thick 11kg/m³ and glasswool insulation in the cavity and 2x13mm Fyrchek on the other side, which shall be detailed on the construction plans for the gym. For reference, further detail can be found in the DA Acoustic Report, prepared by Acoustic Logic, with document reference number 20200315.1/2309A/R1/WY, dated 23 September 2020, Appendix Two – Acoustic Details.

99. Section 73 Compliance Certificate

A Section 73 Compliance Certificate issued under the Sydney Water Act 1994 must be obtained from Sydney Water confirming satisfactory arrangements have been made for the

provision of water and sewer services. Application must be made through an authorised Water Servicing Coordinator. The certificate must refer to this development consent and all of the lots created.

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

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

100. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent.

101. Property Condition Report – Public Assets

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

102. Pump System Certification

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

103. Stormwater Management Certification

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

- Works as executed plans prepared on a copy of the approved plans;
- For Onsite Stormwater Detention (OSD) systems, a certificate of hydraulic compliance (Form B.11) from a hydraulic engineer verifying that the constructed OSD system will function hydraulically;
- For OSD systems, a certificate of structural adequacy from a structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime;
- Records of inspections; and
- An approved operations and maintenance plan.

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

104. Creation of Restrictions/ Positive Covenants

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

a) Restriction – Bedroom Numbers

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

b) Restriction/ Positive Covenant – Onsite Stormwater Detention

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

c) Restriction/ Positive Covenant – Water Sensitive Urban Design

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

d) Positive Covenant – Stormwater Pump

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

105. Safe Operation of Loading Docks

Prior to the issue of any Occupation Certificate, a Dock Management Plan must be prepared to the satisfaction of Council to promote safe and efficient operation of the proposed loading docks and to avoid approaching trucks having to wait on public roads. The plan must address the following:

- Allocation of loading spaces
- Delivery times
- Controls on duration of stays
- Controls on placement of skips, pallets, etc.
- Procedures for tradesmen access and parking.
- Operating times.
- Truck access routes

THE USE OF THE SITE

106. Hours of Operation

The hours of operation being restricted to the following: -

Commercial Offices

Monday to Saturday 7am – 6pm

Serviced Apartments

24 hours a day 7 days a week

Recreation Facility (Indoor)

Monday to Sunday 7am - 11pm

The hours of operation of all food and drink premises is required to be addressed under a separate application or as required under SEPP (Exempt and Complying Development Codes) 2008.

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

107. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the use of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area, which must include provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. The waste storage area must be screened from view from any adjoining residential property or public place. The waste storage area must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

108. Waste and Recycling Collection

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

109. Grease Trap (Food Premises)

Sydney Water shall be contacted with regards to grease trap requirements.

110. Lighting

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

111. Final Acoustic Report

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

This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the activities does not give rise to "offensive noise" as defined under the *Protection of the Environment Operation Act 1997*.

112. Hours of operation for waste collection, delivery / dispatch of goods

Delivery of goods shall be restricted to the following times;

Monday to Saturday – 7.00am to 10pm

Sunday and public holidays – 8.00am – 10pm

The loading bays are to be kept clear for that purpose at all times.

113. Offensive Noise - Acoustic Report

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

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

114. Noise to Surrounding Area

There shall be no amplified music or speakers external to the building.

115. Operation of Regulated Water Cooling/Warm Water Systems

Regulated systems must be operated in accordance with *AS/NZS 3666:2011 Air handling and water systems of buildings – Microbial Control – Operation and Maintenance*.

116. Gym – Free Weights

Free weights are limited to a maximum weight of 40kg as per the recommendations of the DA Acoustic Assessment, prepared by Acoustic Logic, with document reference number 20200315.1/2309A/R1/WY and dated 23 September 2020.

117. Open Food or Open Drinks in Gym Not Permitted

Open food and open drinks such as protein balls, protein shakes, smoothies, frappes or similar are not permitted to be prepared or sold at the gym premises unless an appropriate

food preparation area has been approved on the fit-out and construction plans of the proposed gym by the appropriate regulatory authority and constructed in accordance with *Australian Standards AS 4674-2004 – Design, construction and fit-out of food premises* and the provisions of the Food Standards Code (Australia).

118. Only Rubber Coated Weights Permitted

Only rubber coated weights shall be used within the premises.

119. Combined Internal Noise Level Limit Gym

The combined L_{Aeq} noise levels from the internal sound system, and any wall mounted televisions, shall not exceed an internal sound pressure level of 75 dB(A) within the gym premises.

120. Pin Loaded Weights Not Permitted within the Gym

Pin loaded weights are not permitted for use within the gym premises.

121. Noise Limiter or Speaker Management System Required for Gym

Install a noise limiter or a speaker management system within the gym premises to limit the lower frequencies of noise, particularly the 63, 125 and 250 Hz octave bands, either by equalization or preferably by a speaker management system so as to limit the likelihood of transmission of noise to other tenancies. Written verification of the installation of the abovementioned equipment shall be provided by a suitably qualified acoustic consultant to The Manager – Environment and Health for reference.

ATTACHMENTS

1. Locality Plan
2. Aerial Map
3. LEP 2019 Zoning Map
4. LEP 2019 Height of Buildings Map
5. LEP 2019 FSR Map
6. Site Plan
7. Floor Plans
8. Elevations
9. Sections
10. Landscape Plan
11. Shadow Diagrams
12. Perspectives
13. Clause 4.6 Written Submission
14. Design Excellence Panel
15. Sydney Metro Northwest Concurrence
16. Transport for NSW submissions

ATTACHMENT 1 – LOCALITY PLAN



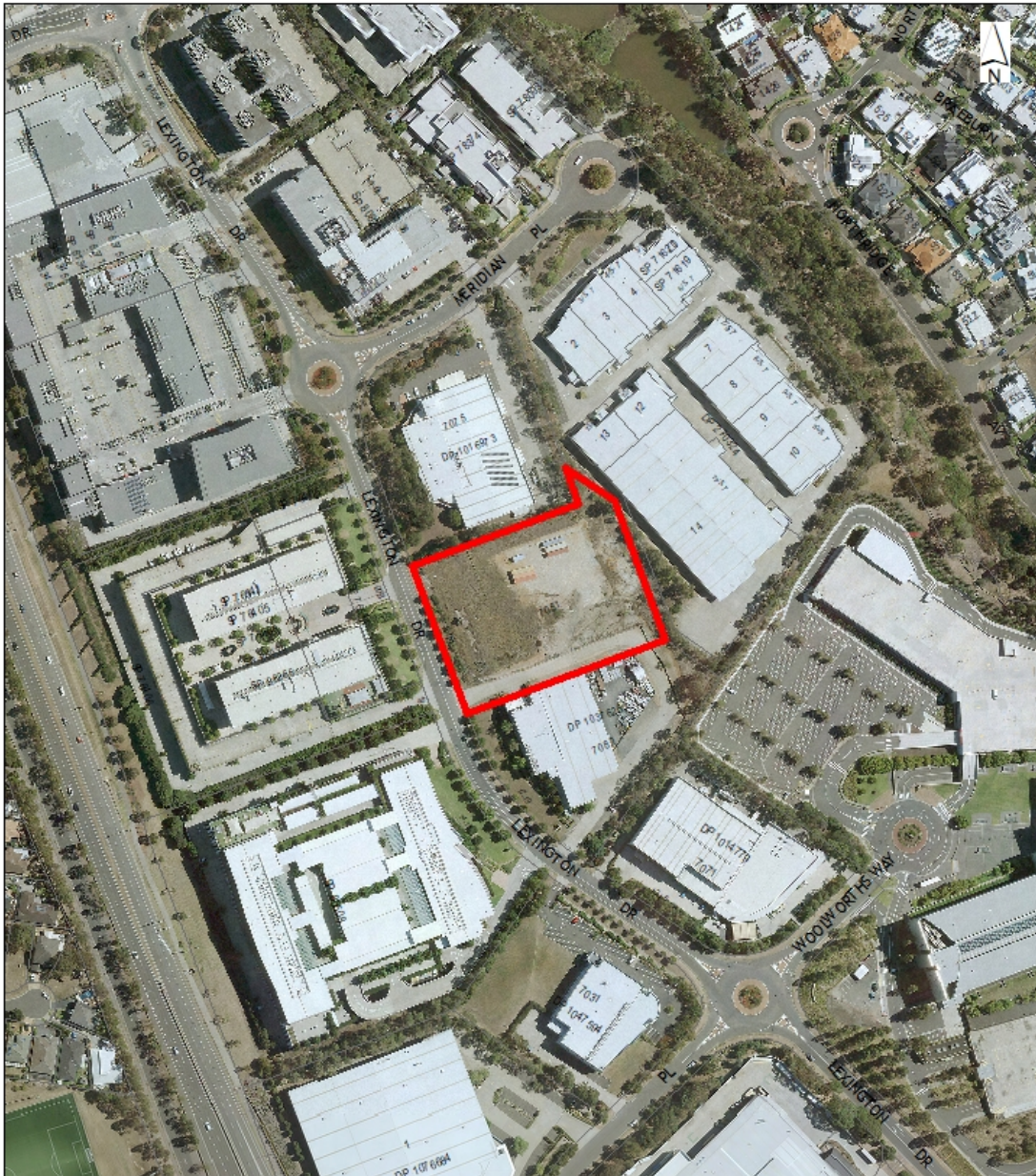
- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSION RECEIVED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

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ATTACHMENT 2 – AERIAL MAP



SUBJECT SITE

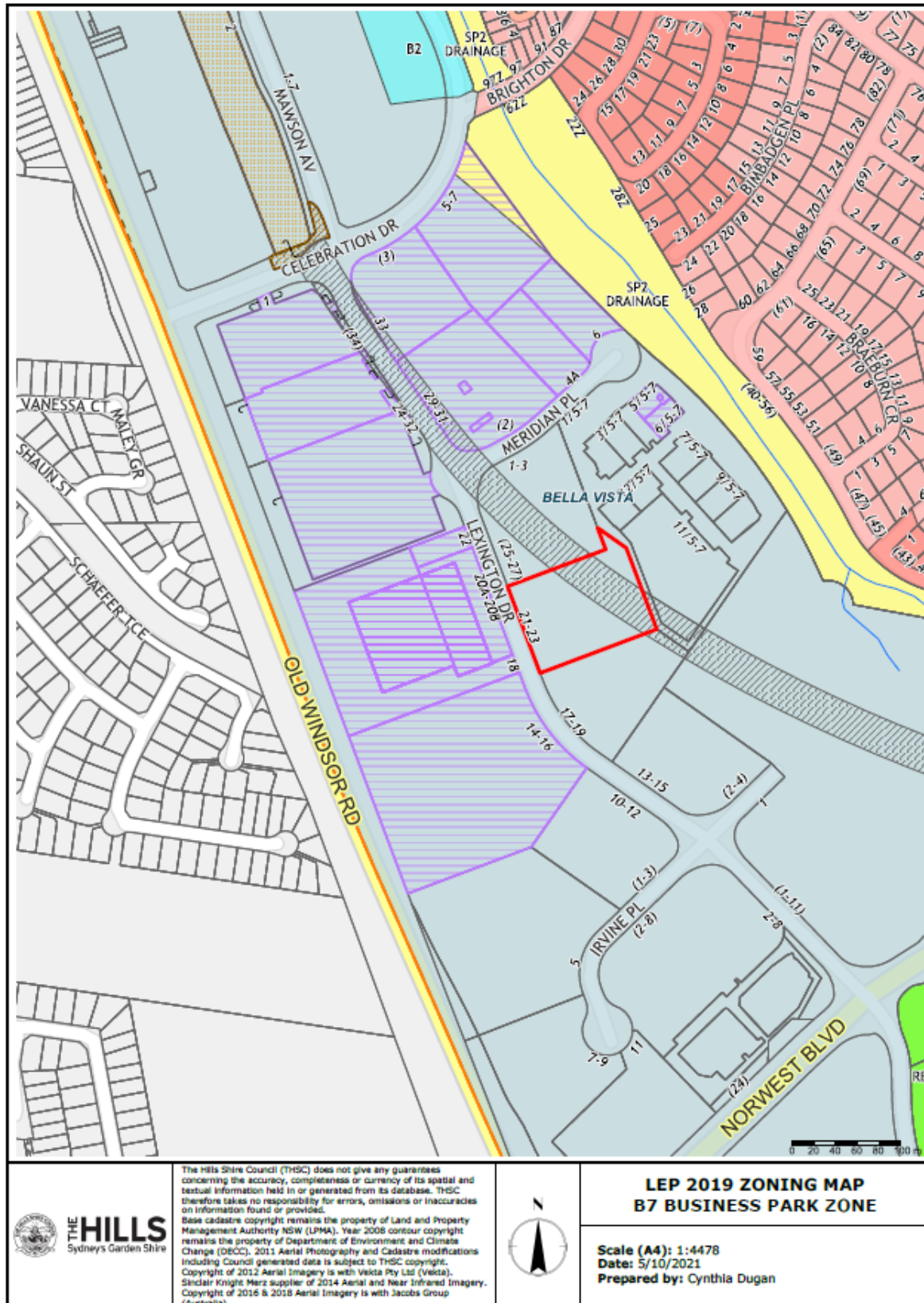
THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

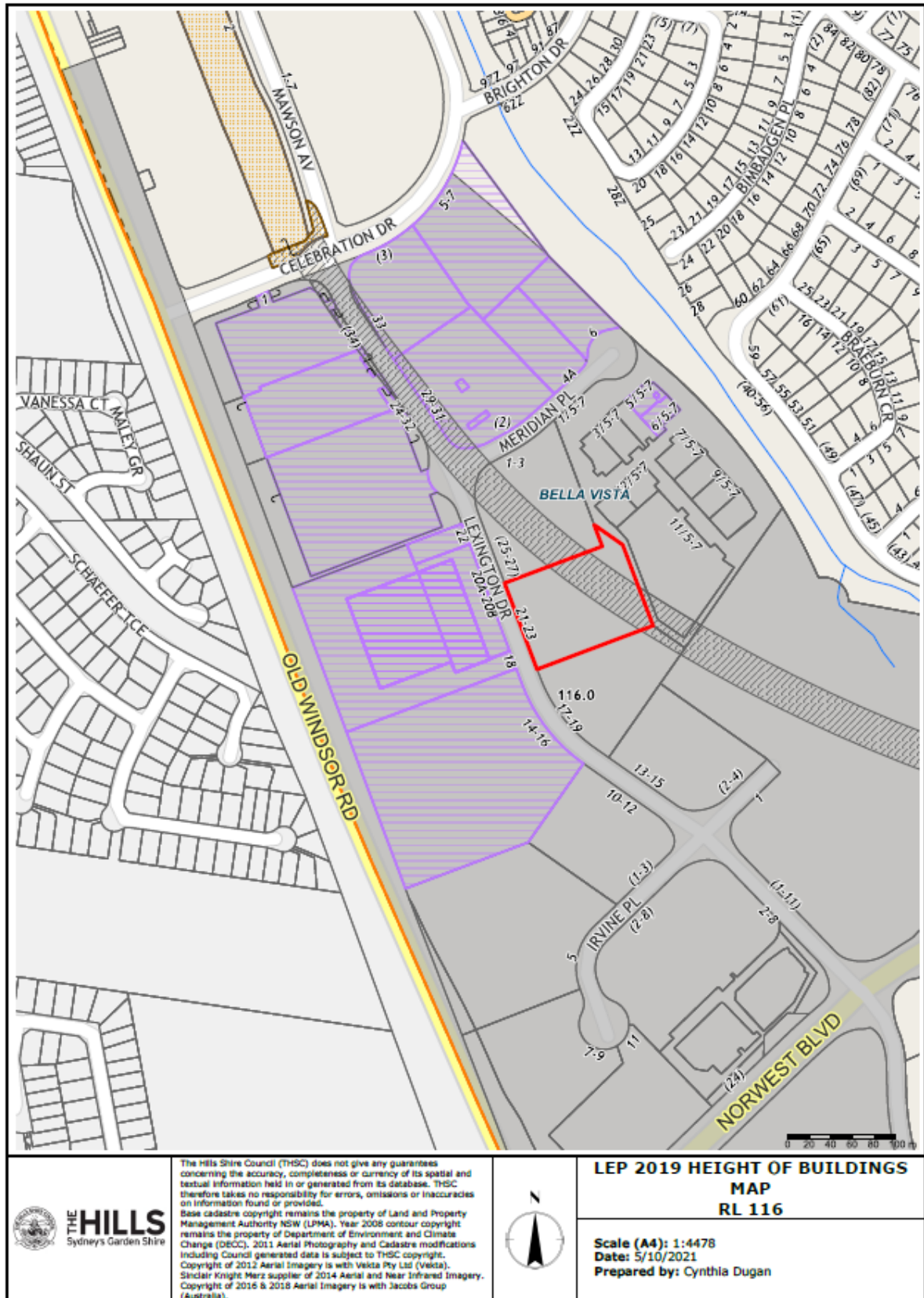
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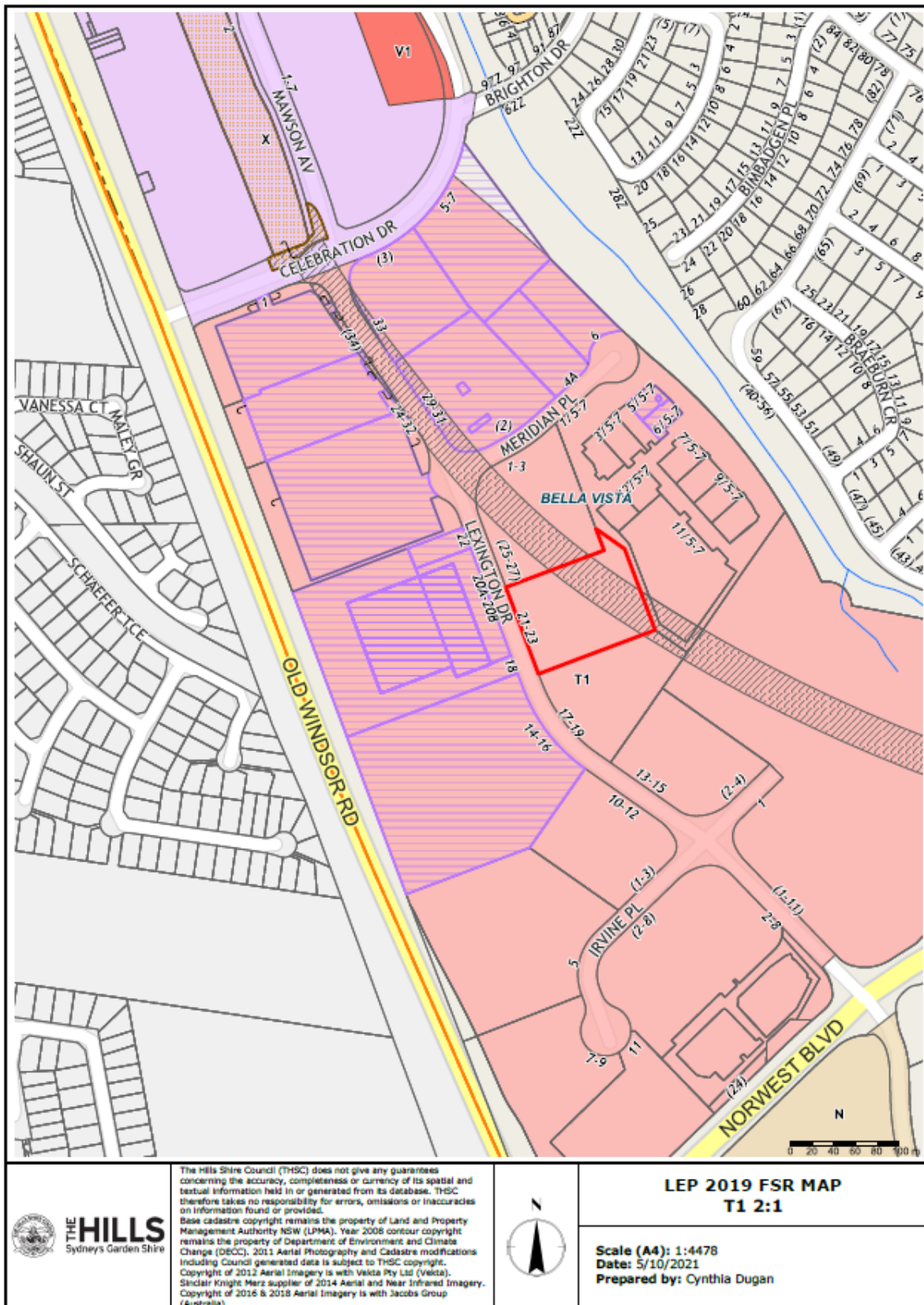
ATTACHMENT 3 – LEP 2019 ZONING MAP



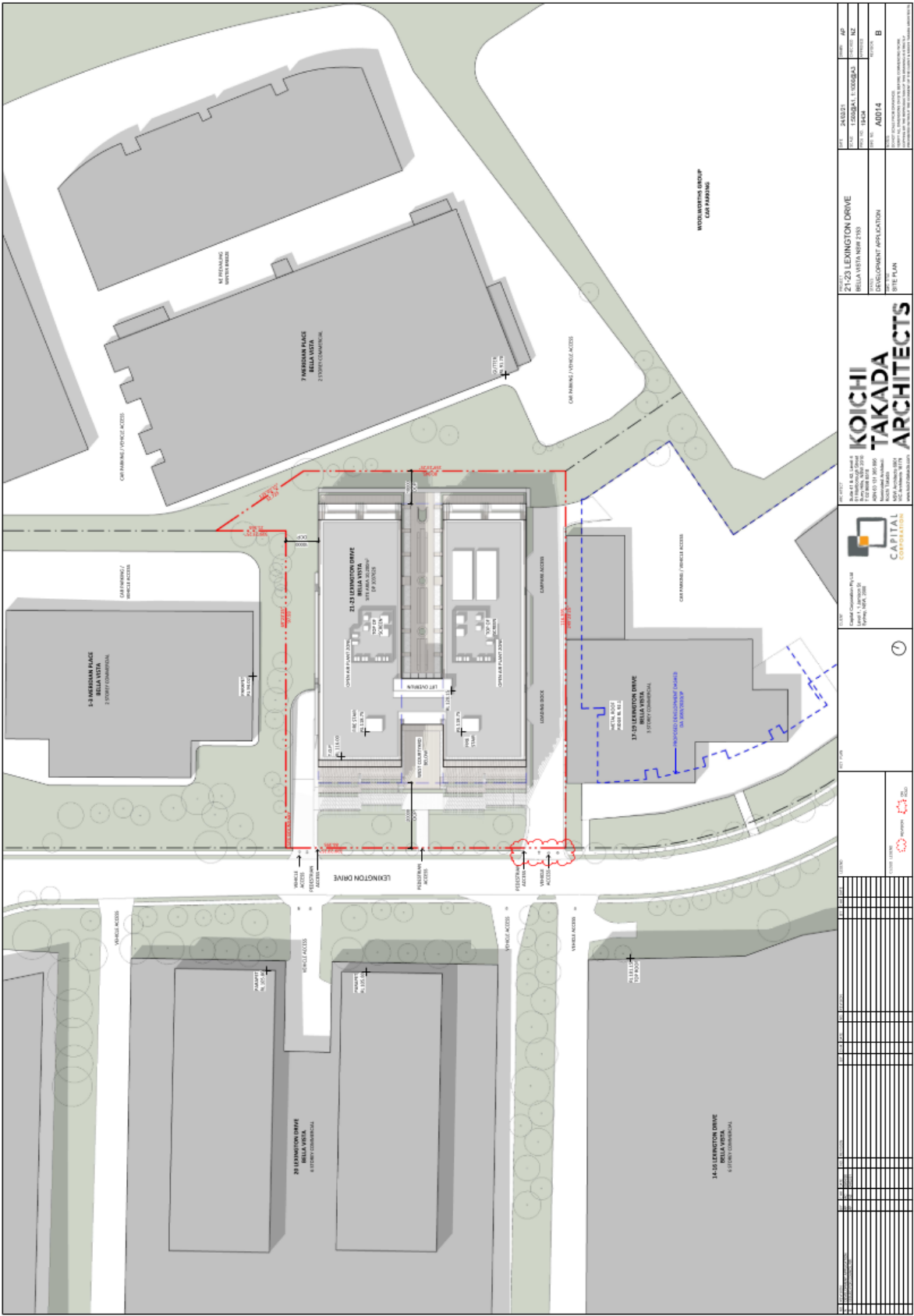
ATTACHMENT 4 – LEP 2019 HEIGHT OF BUILDINGS MAP



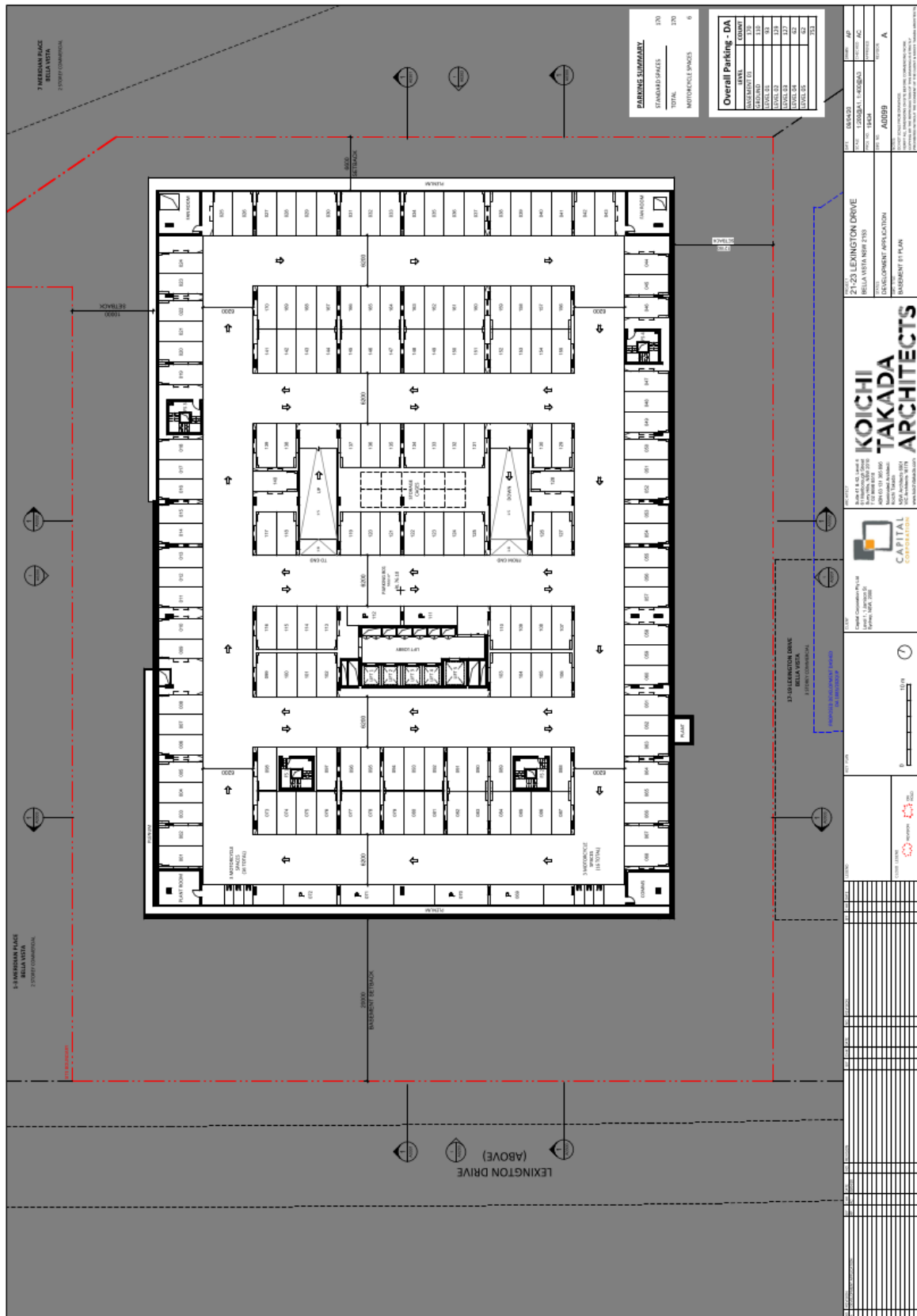
ATTACHMENT 5 – LEP 2019 FSR MAP

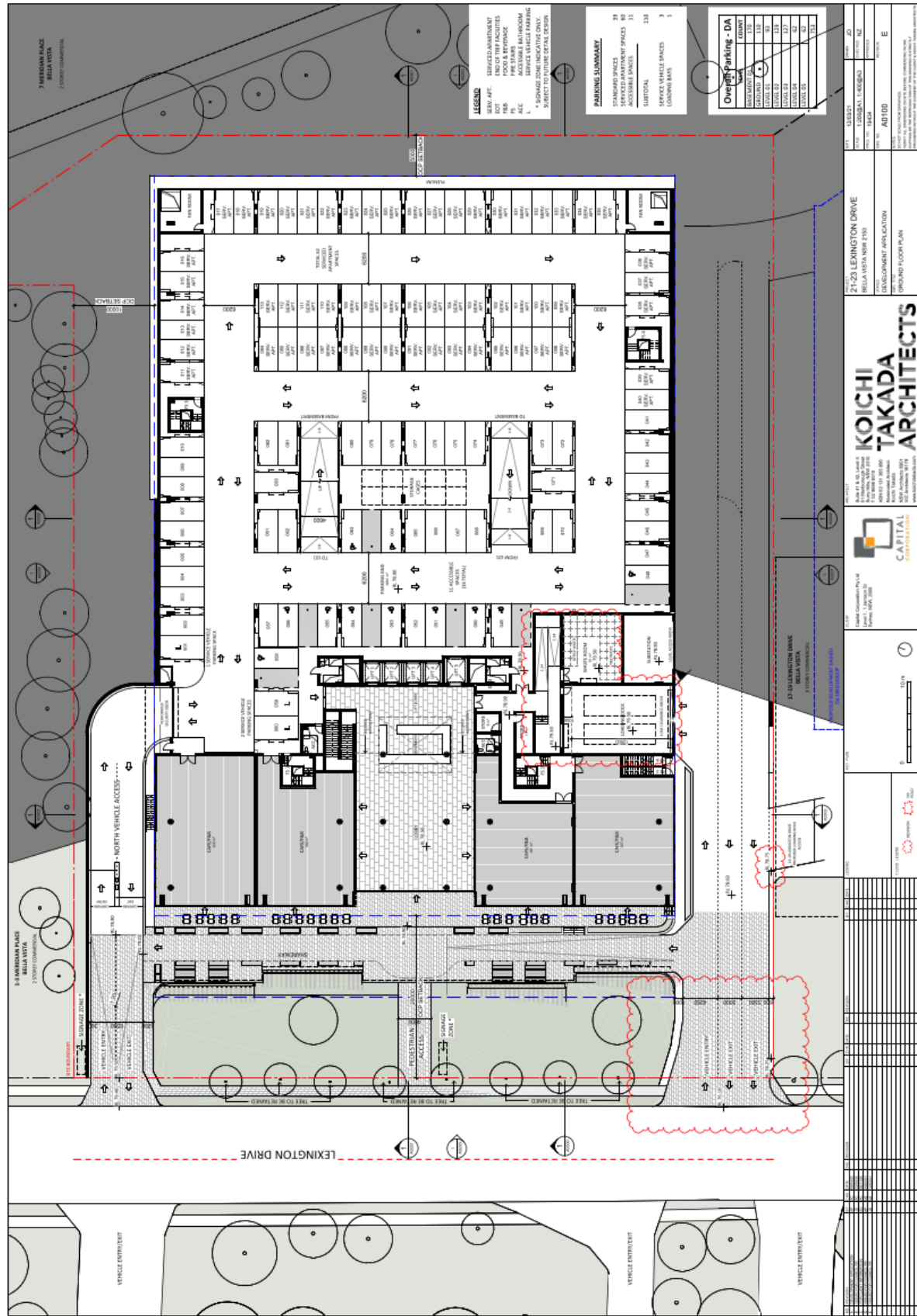


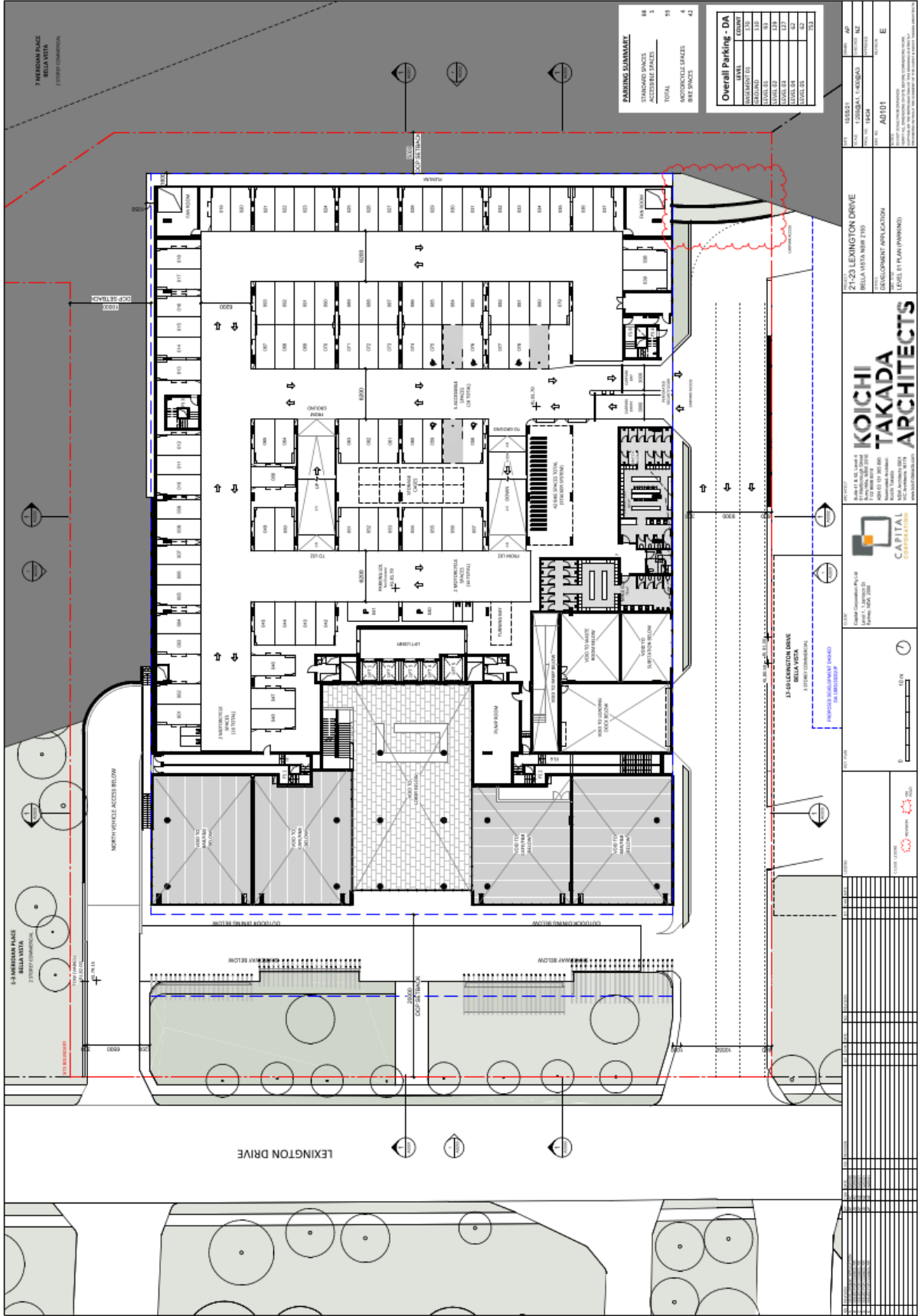
ATTACHMENT 6 – SITE PLAN



ATTACHMENT 7 – FLOOR PLANS







Overall Parking - 0A	
LEVEL	COUNT
LEVEL 01	132
LEVEL 02	132
LEVEL 03	132
LEVEL 04	132
LEVEL 05	132
LEVEL 06	132
LEVEL 07	132
LEVEL 08	132
LEVEL 09	132
LEVEL 10	132
LEVEL 11	132
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LEVEL 91	132
LEVEL 92	132
LEVEL 93	132
LEVEL 94	132
LEVEL 95	132
LEVEL 96	132
LEVEL 97	132
LEVEL 98	132
LEVEL 99	132
LEVEL 100	132

27-29 LEXINGTON DRIVE
BELLA VISTA NEAR 230
LEVEL 01 (PARKING)

KOICHI TAKADA ARCHITECTS

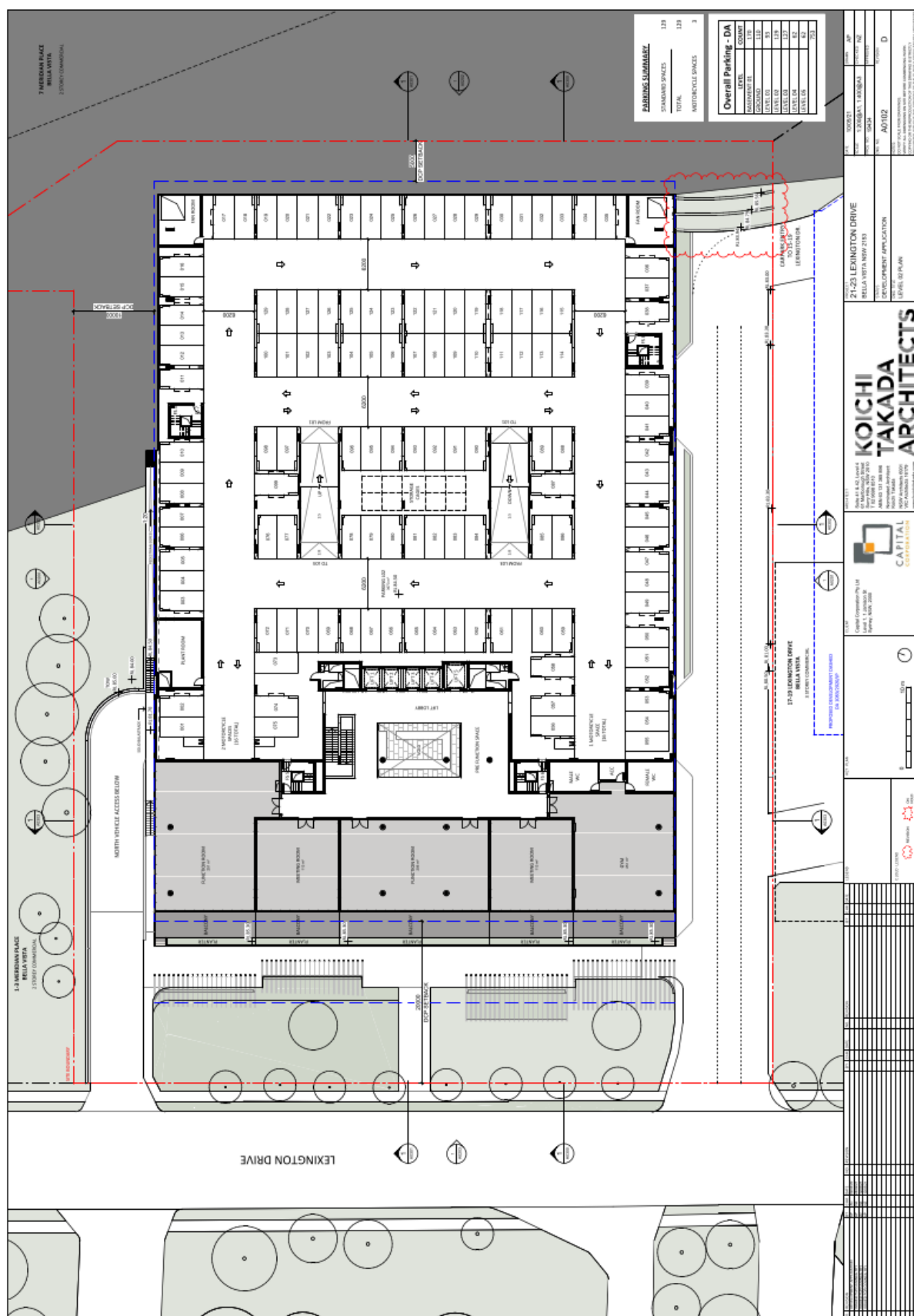
Architects & Engineers
1000 10th Avenue, Suite 1000
New York, NY 10019
Tel: 212 691 1000
Fax: 212 691 1001
www.koichi-takada.com

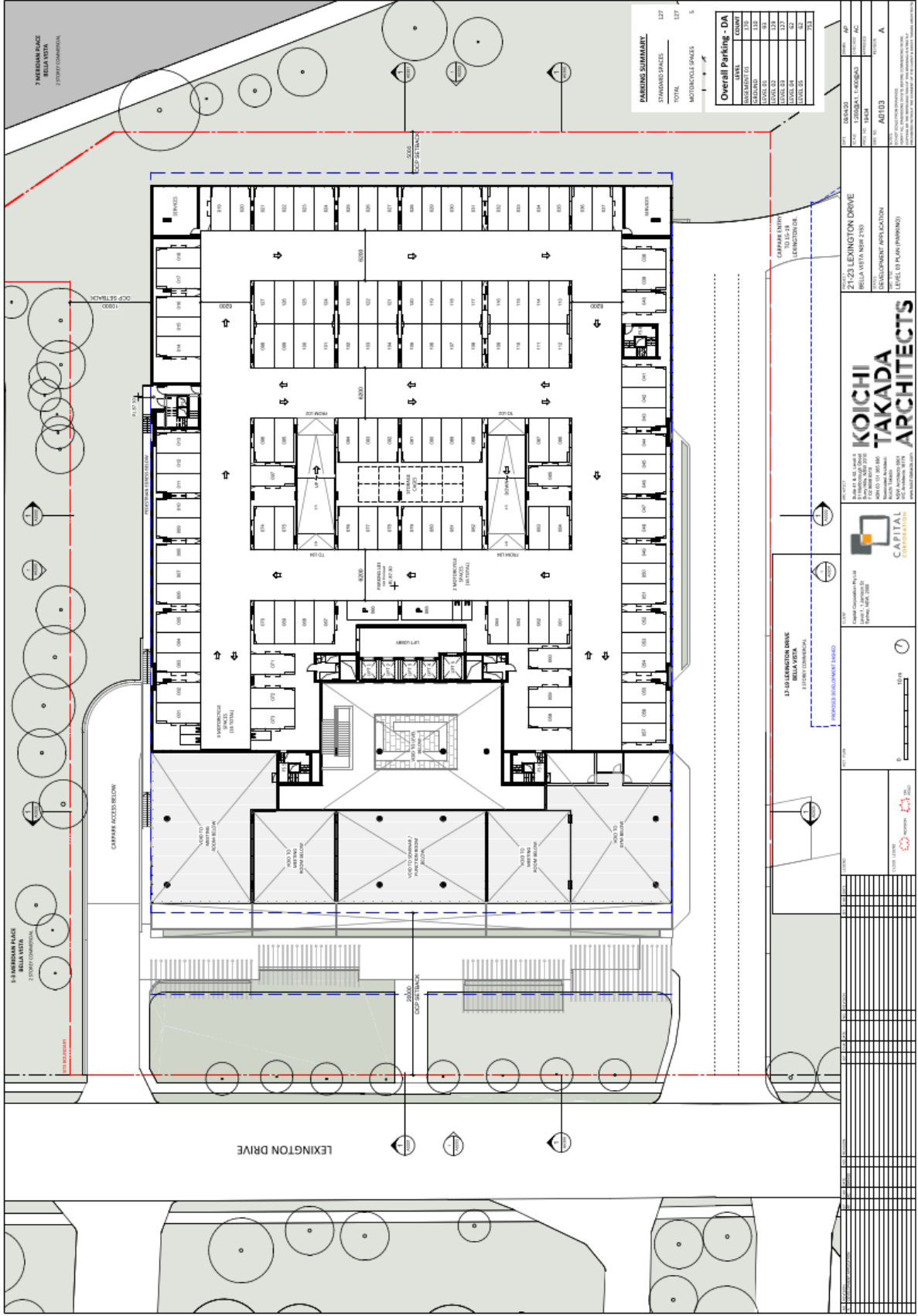
CAPITAL CONSTRUCTION

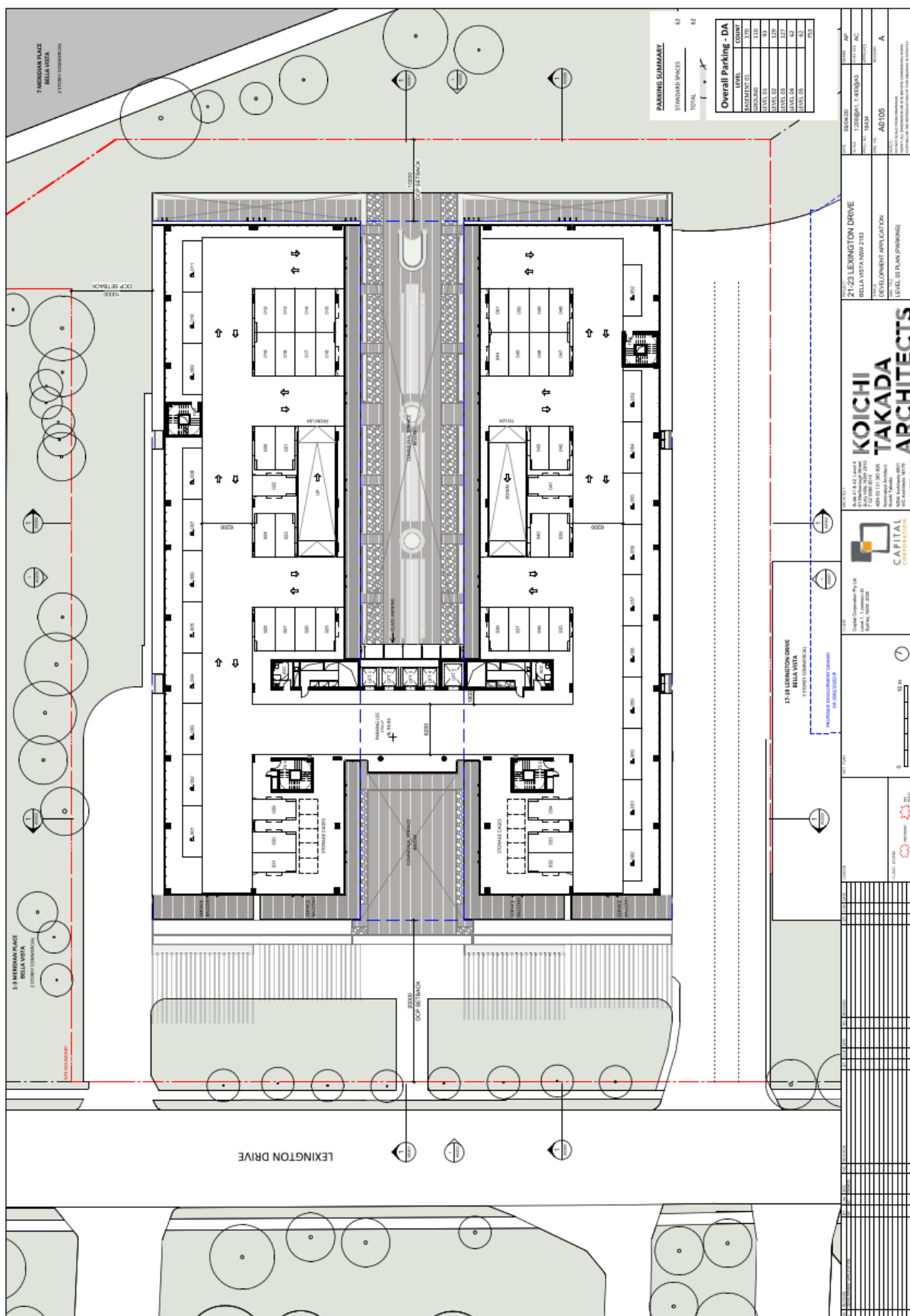
General Contractor
1000 10th Avenue, Suite 1000
New York, NY 10019
Tel: 212 691 1000
Fax: 212 691 1001
www.capitalconstruction.com

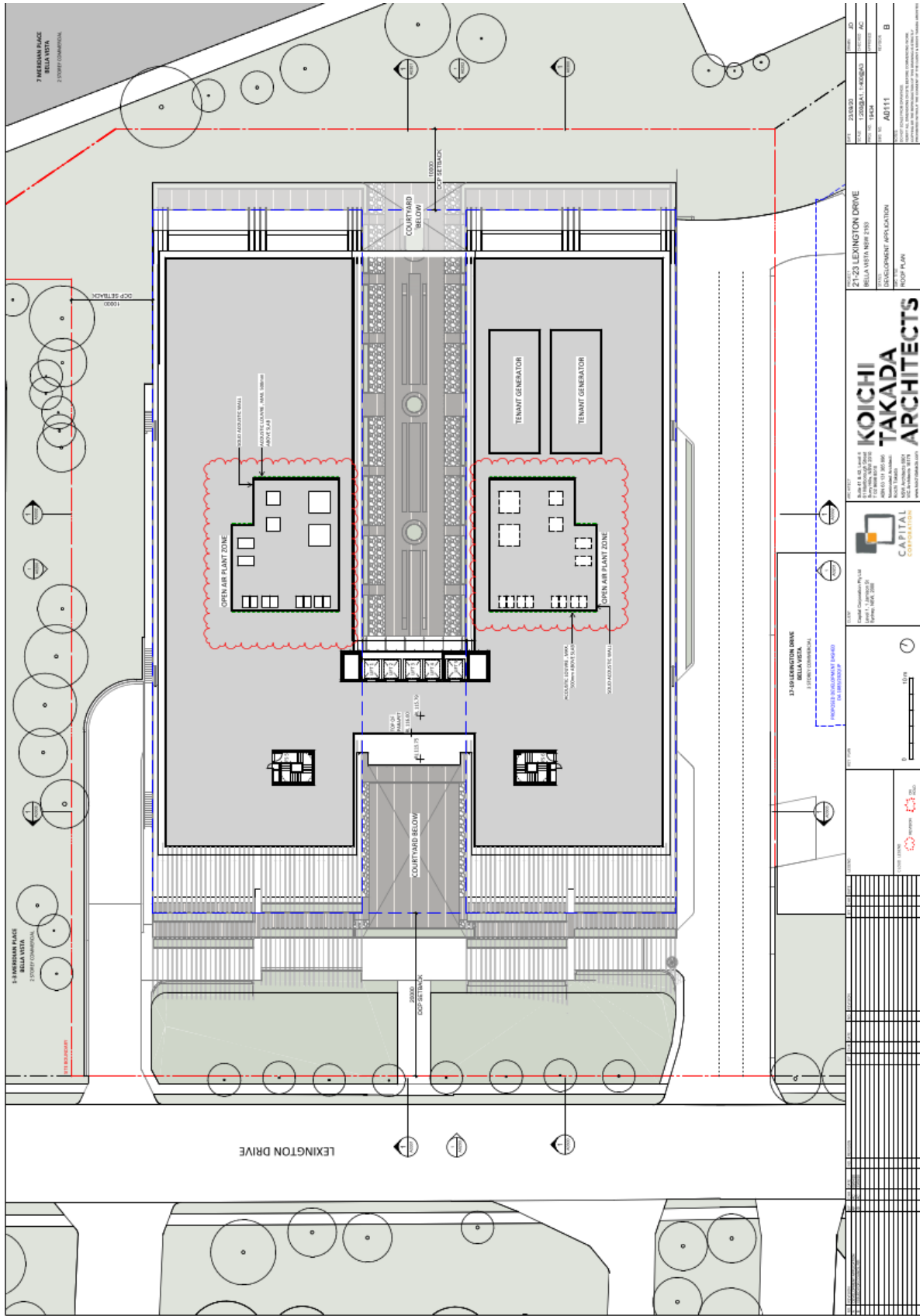
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PROJECT: 27-29 LEXINGTON DRIVE
SHEET: 01/01
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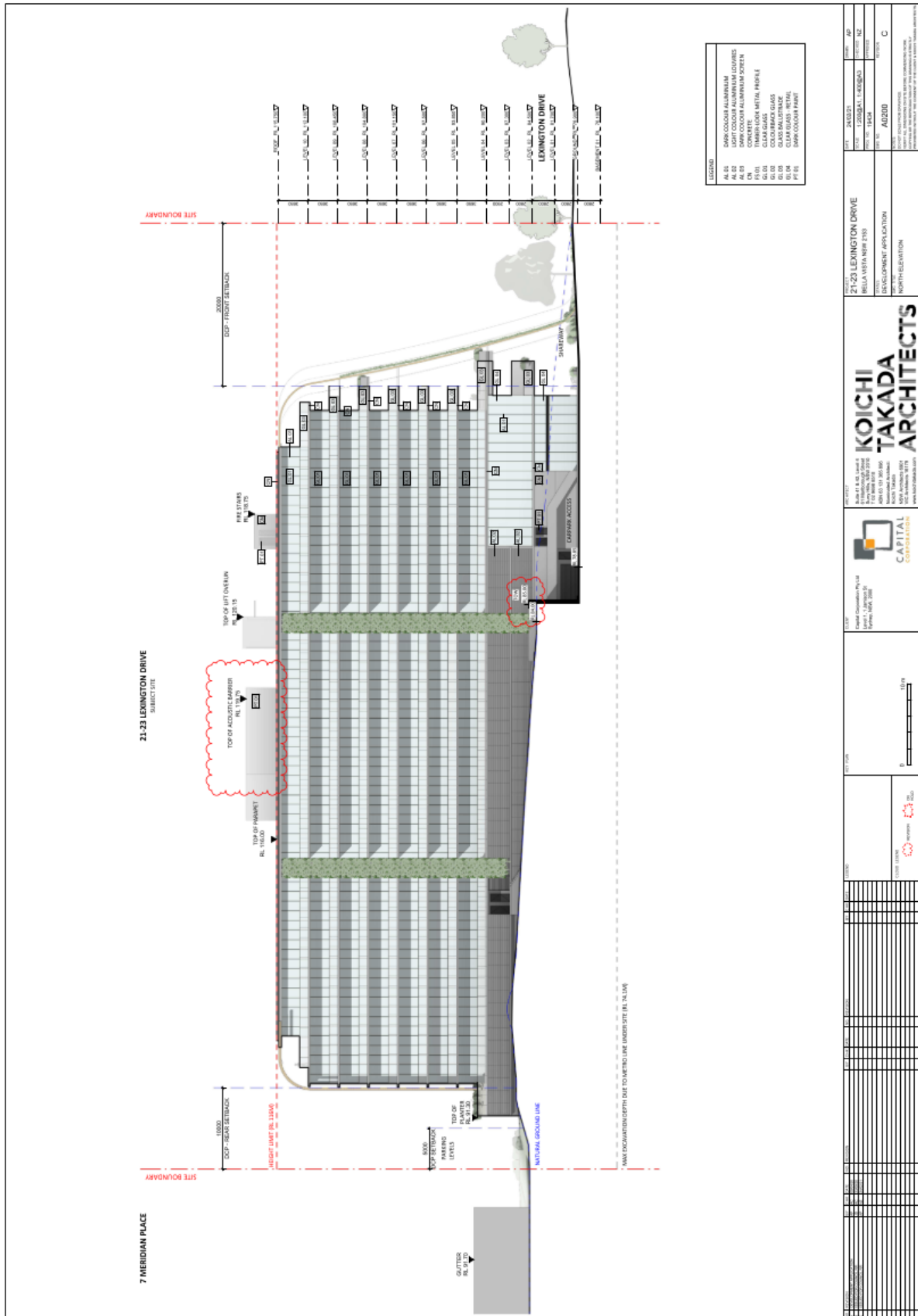


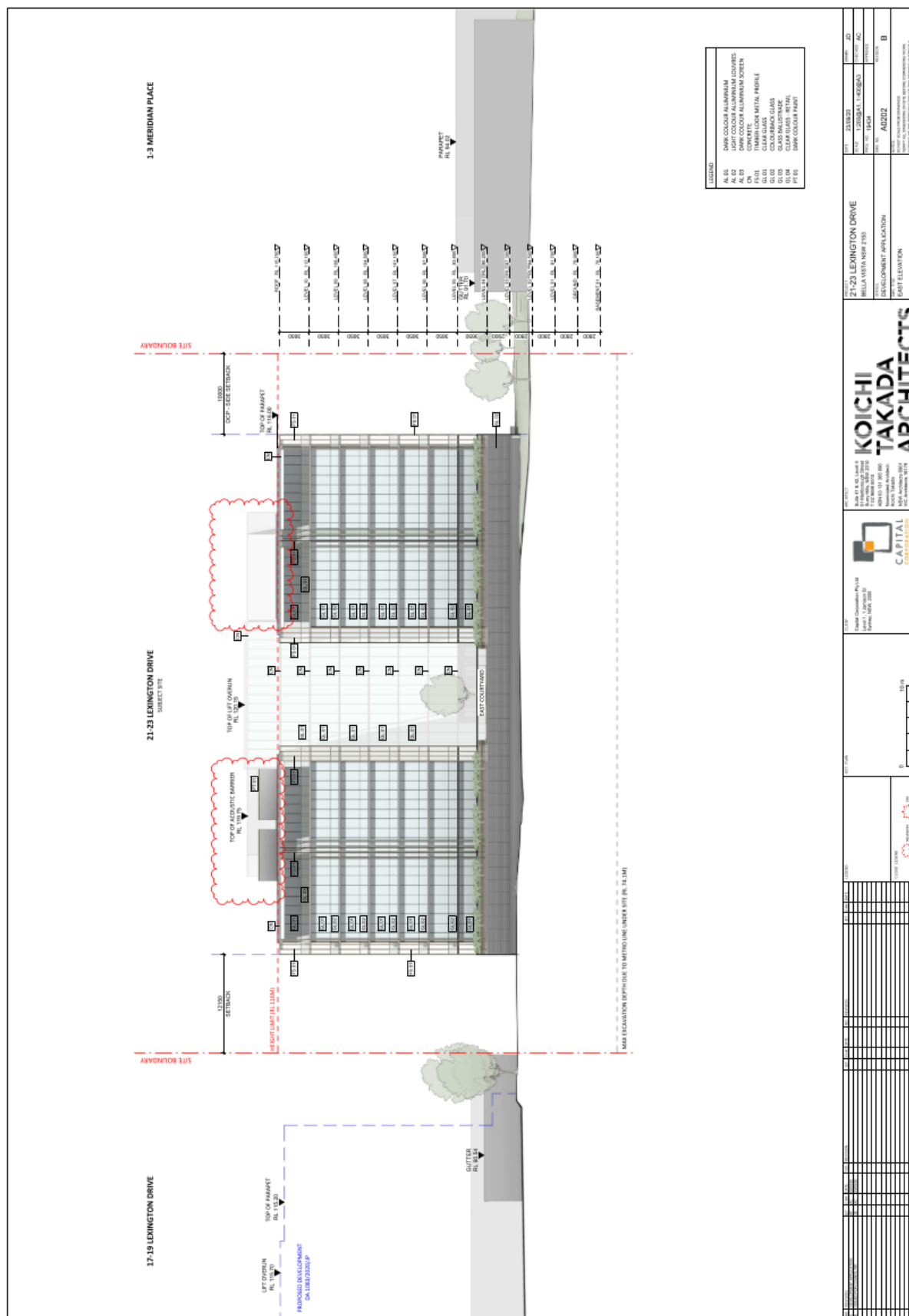


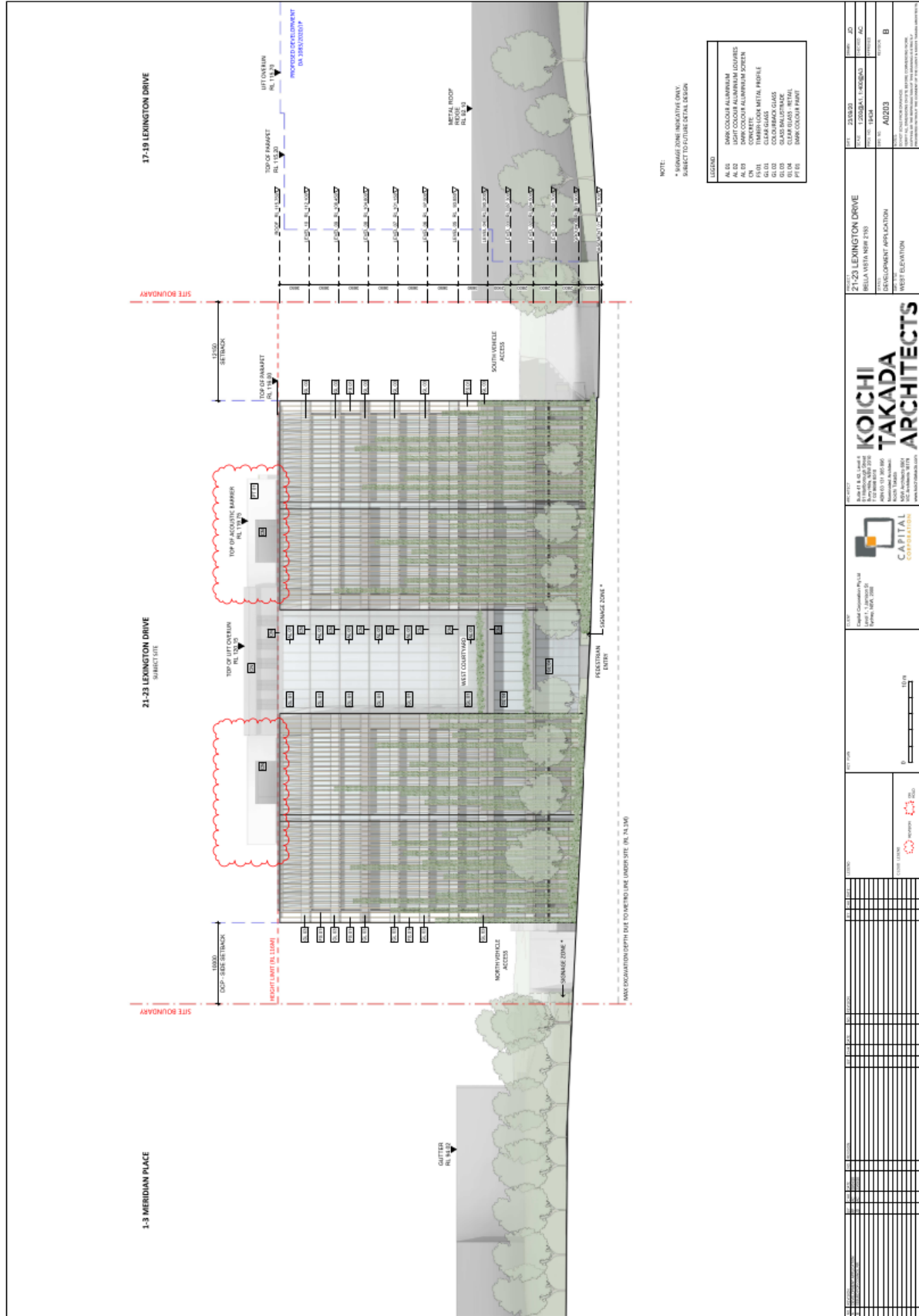




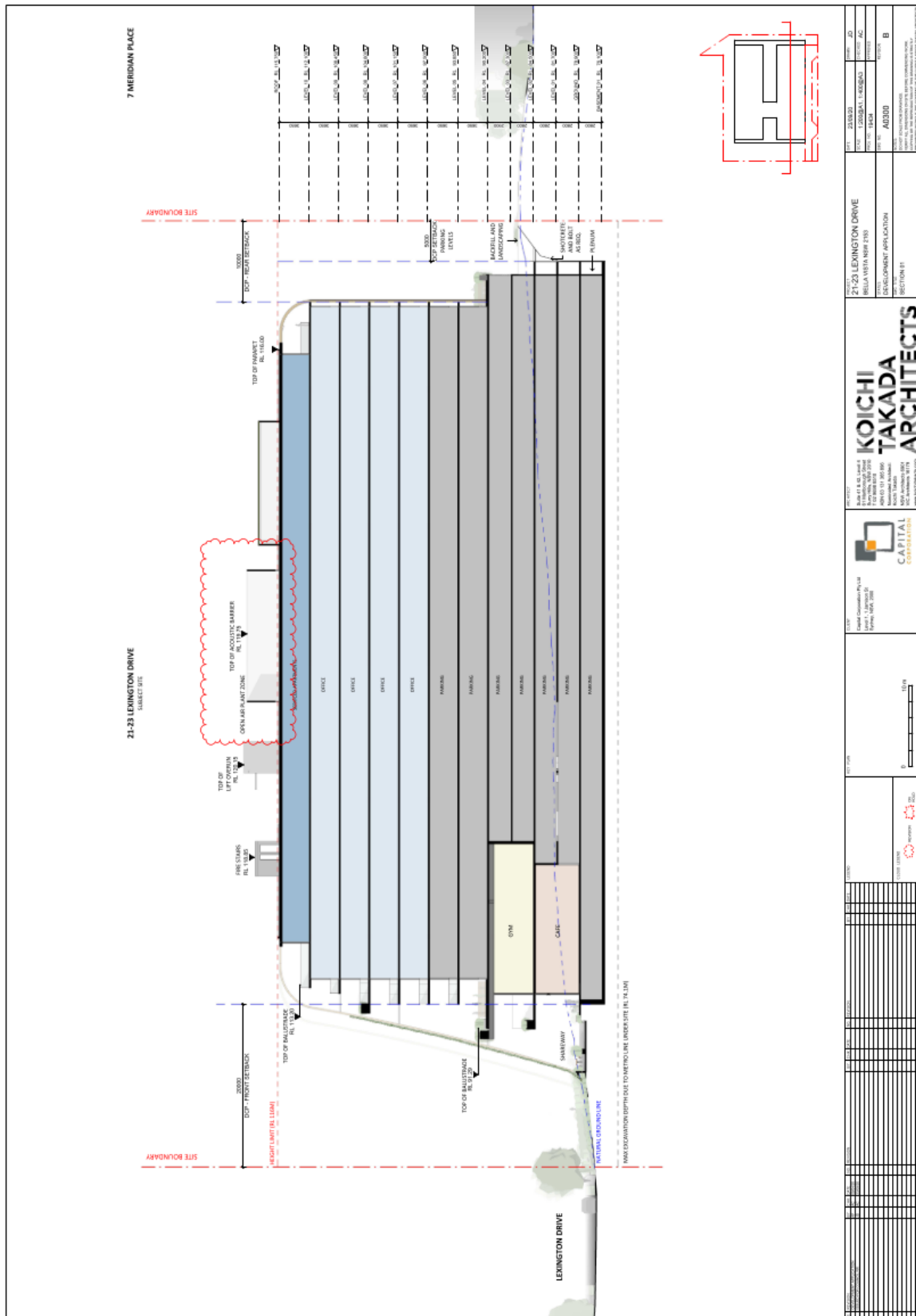
ATTACHMENT 8 – ELEVATIONS

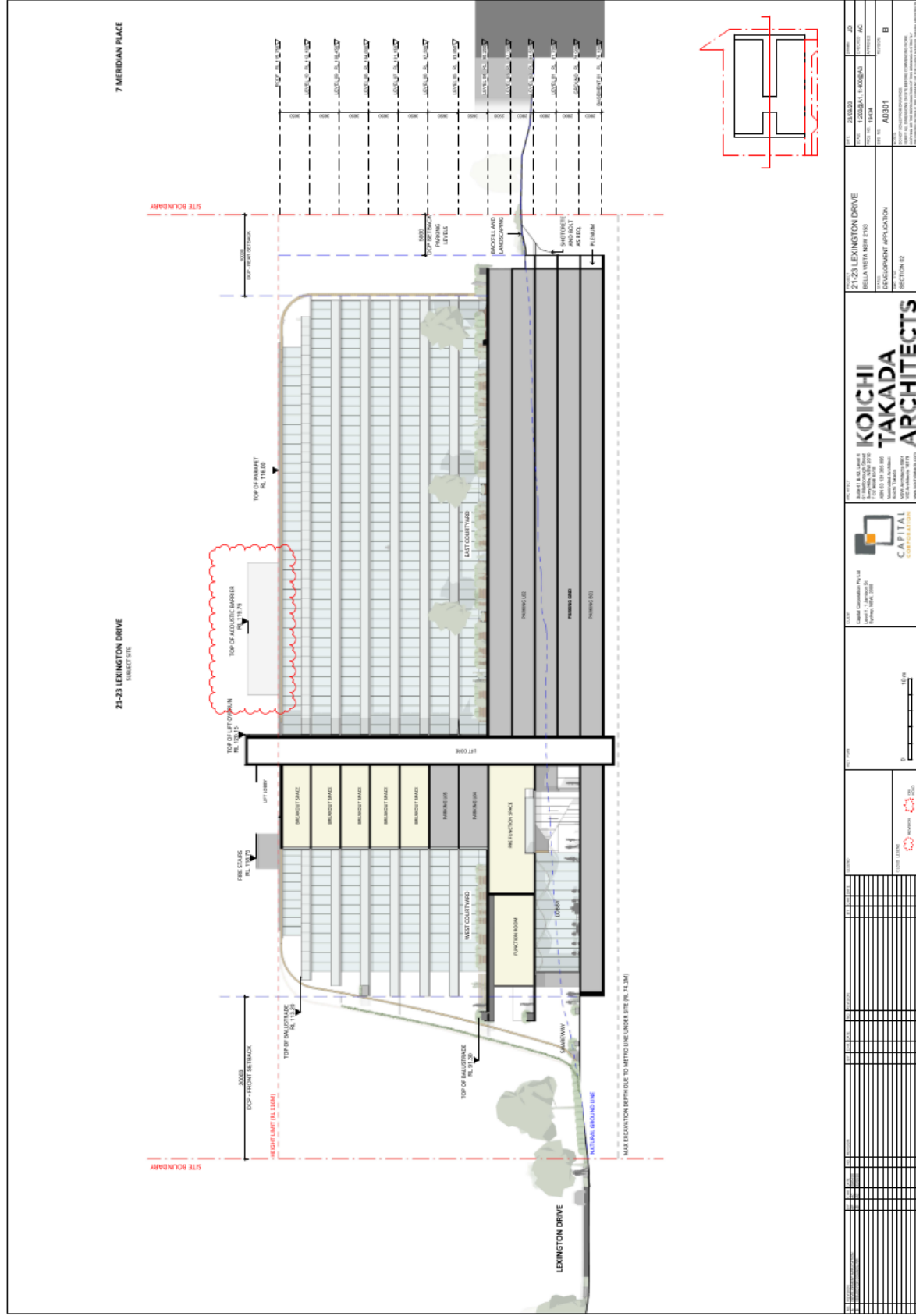


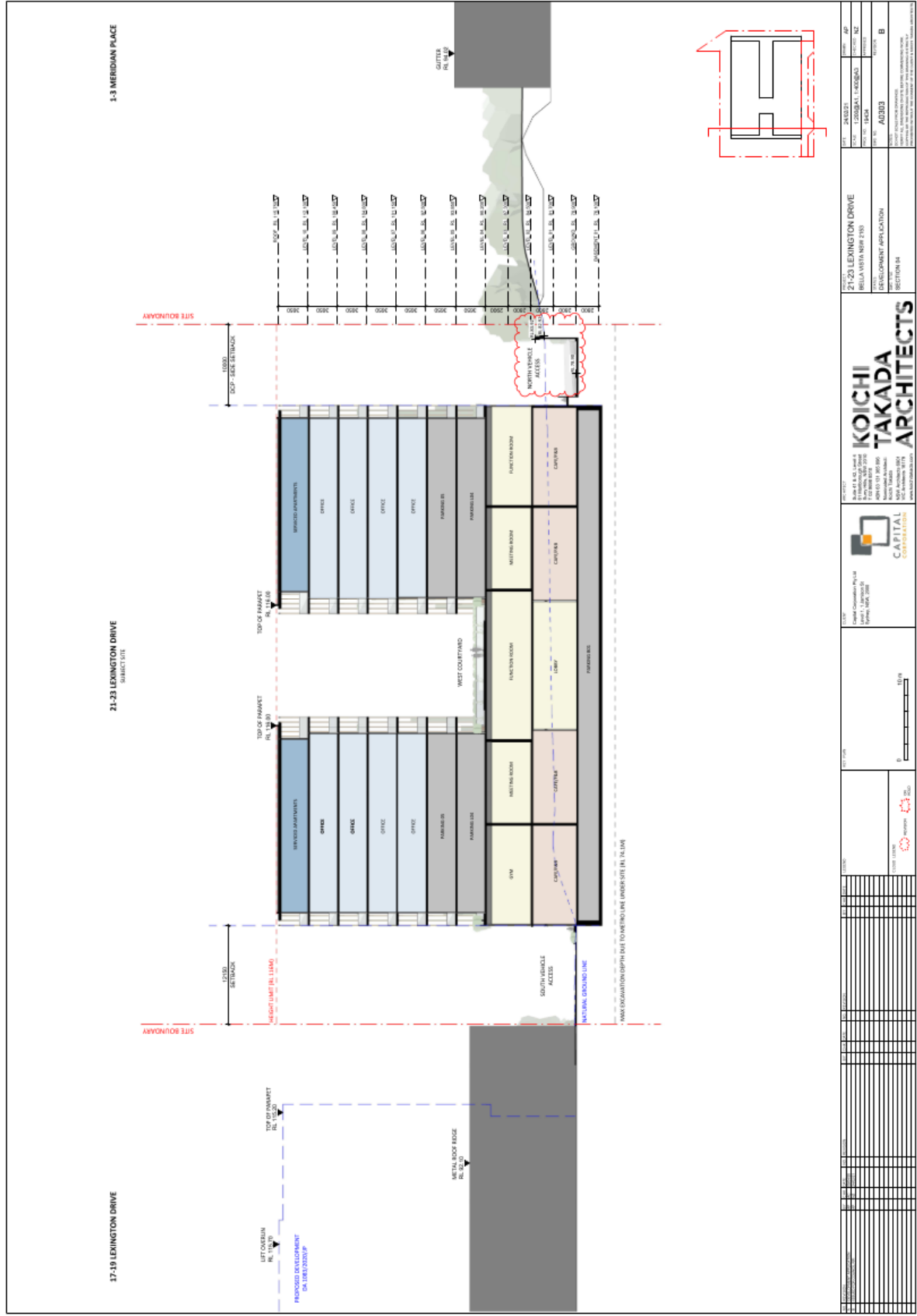
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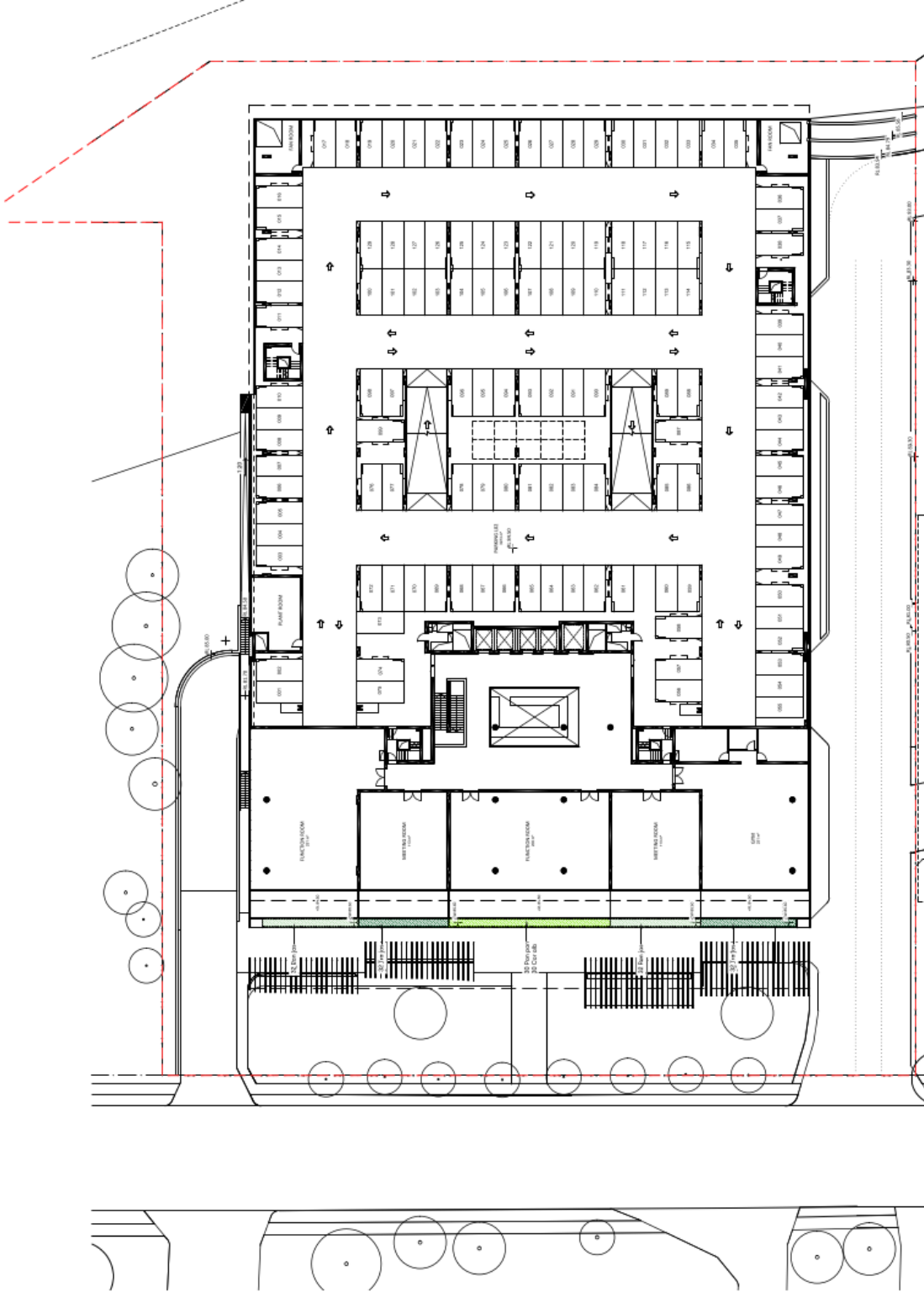


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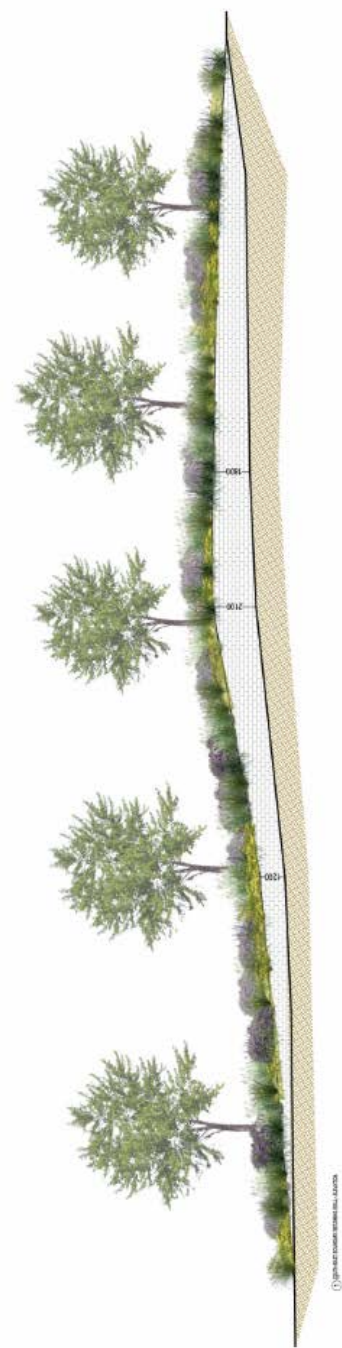


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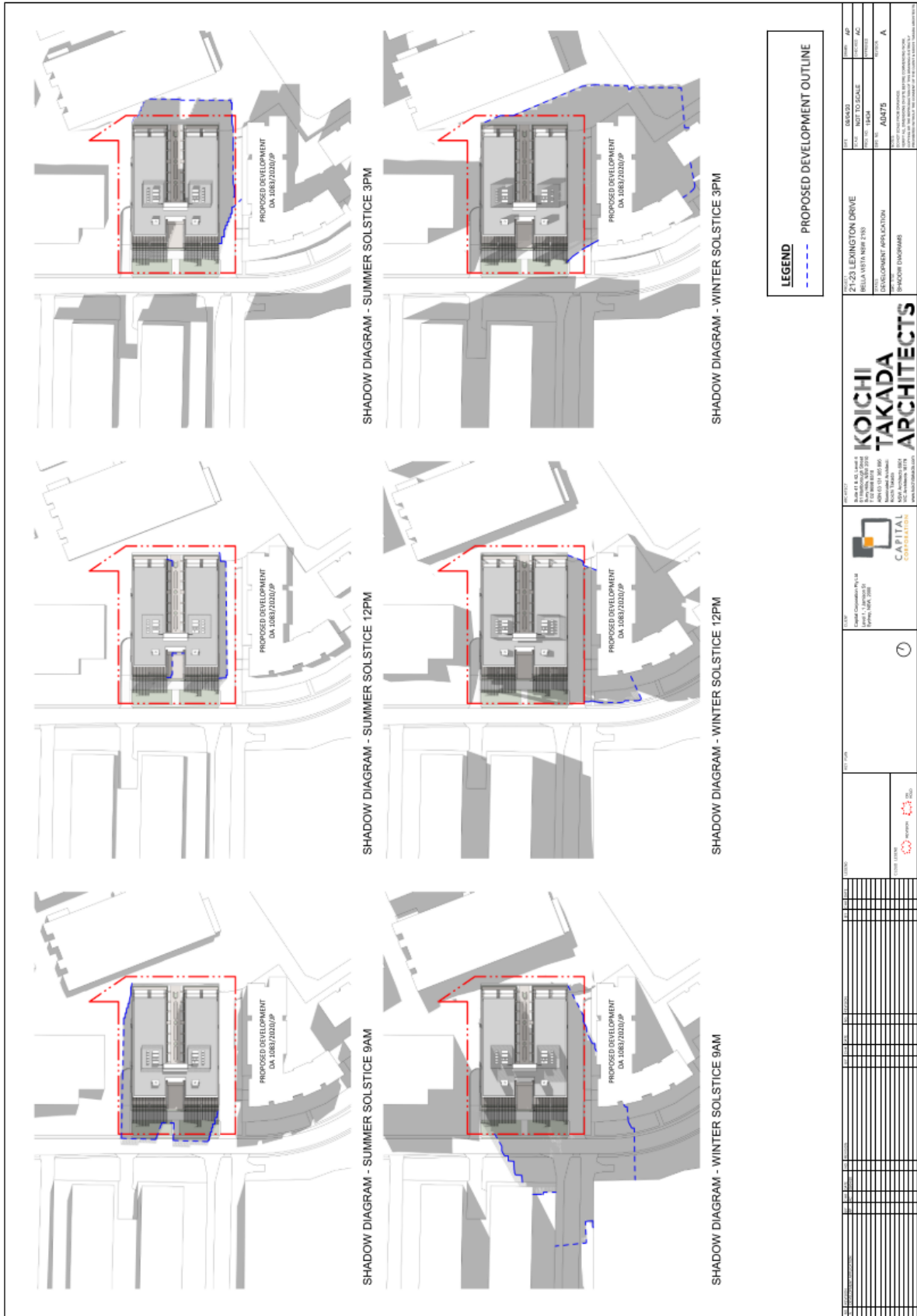

[Detail] DEVELOPMENT APPLICATION	
[Name - Address]	85A TUDOR CITY
[File #]	20190184-LD-DAR02-DWG
[Project #]	10 May 2021
History	
[Revised Description]	[Date]
A DA	05/10/2021
B DA	23/02/2021
C DA	10/05/2021



FORM	DEVELOPMENT APPLICATION
Form 1 (name)	20180184-LD-DA501 (DMS)
Form 1 (date)	10 May 2021
Form 1 (author)	10 May 2021
Form 1 (date)	10 May 2021



ATTACHMENT 11 – SHADOW DIAGRAMS



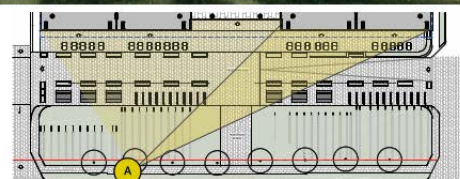
ATTACHMENT 12 – PERSPECTIVES





VIEW A1

From the footpath on Lexington Drive, a passer by can see clearly between the battens of the trellis. With an 800mm spacing between the battens, a central cable allows the living greenery to grow up the trellis, create a green veil over the facade.



21-23 LEXINGTON DRIVE, BELLA VISTA

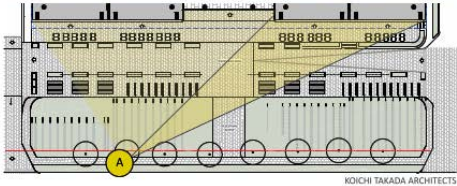
5.3 PEDESTRIAN VIEW - A2



VIEW A2

A pedestrian walking south from the metro station, will have an unobscured line of sight to the corner retail and main entry lobby. The outdoor dining is also in view, inviting visitors into the main lobby.

41



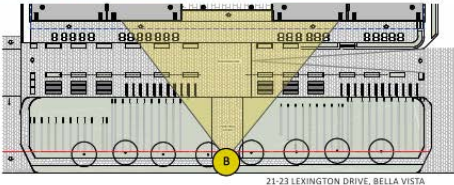
5.3 PEDESTRIAN VIEW - B1



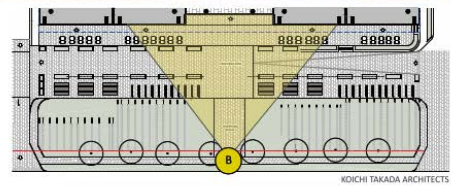
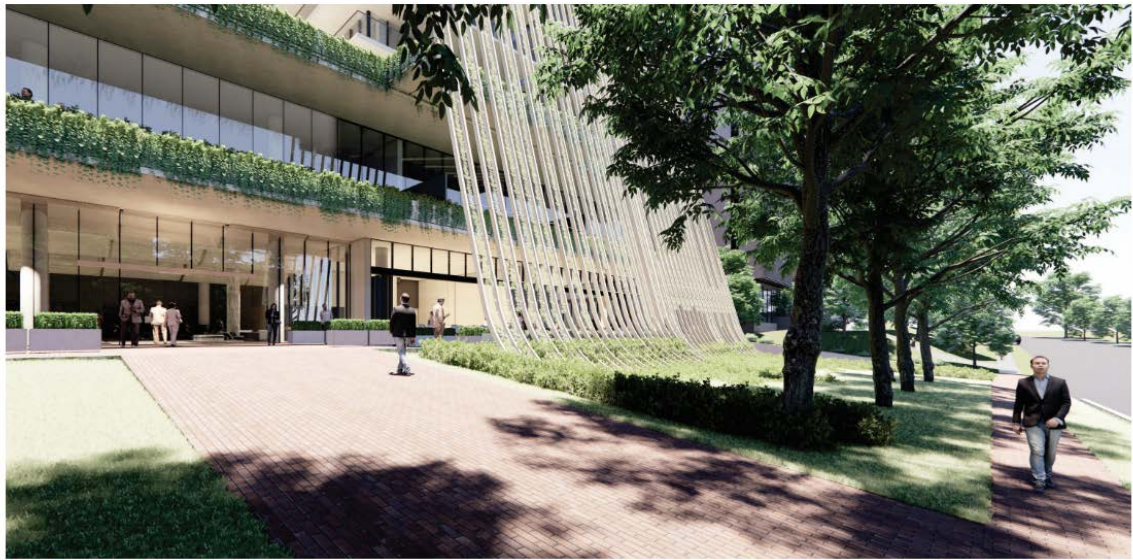
VIEW B1

From the footpath on Lexington Drive, a passer by can see clearly between the battens of the trellis. With an 800mm spacing between the battens, a central cable allows the living greenery to grow up the trellis, create a green veil over the facade.

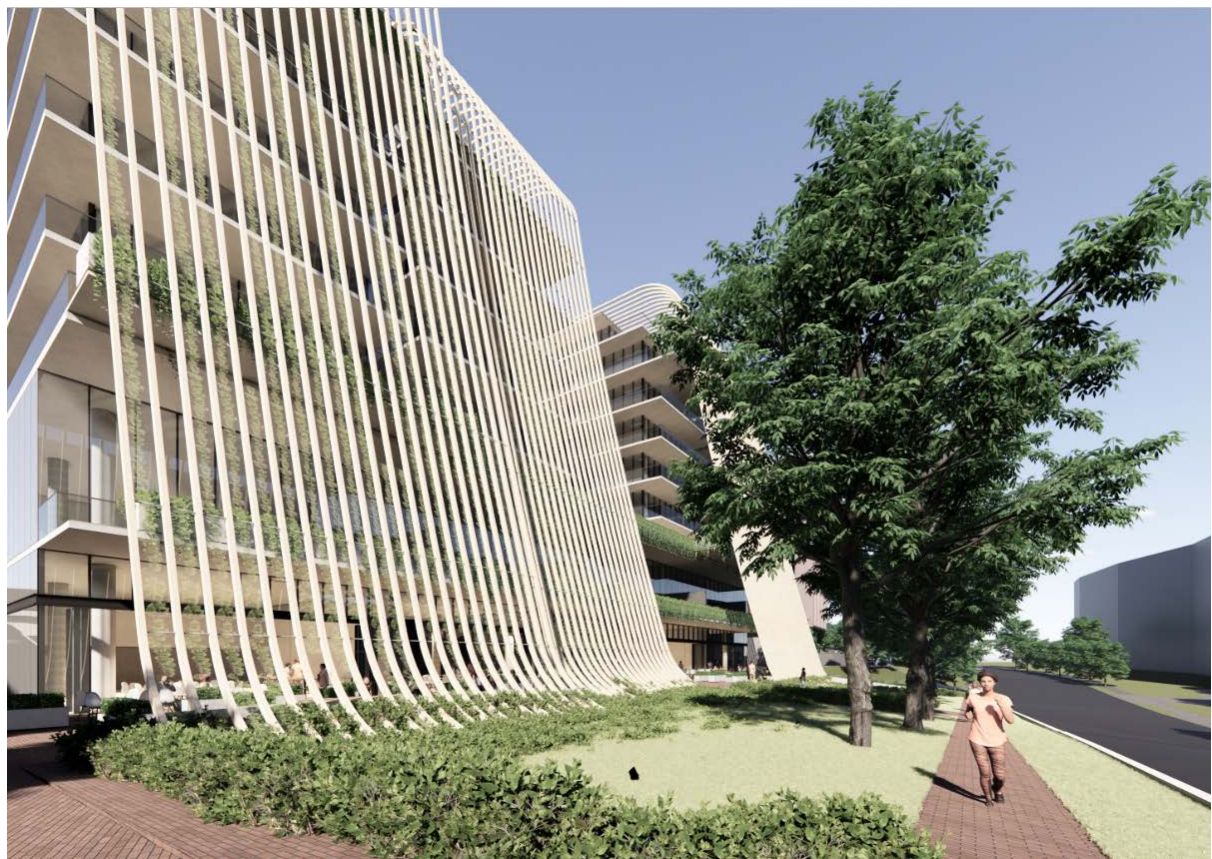
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5.3 PEDESTRIAN VIEW - B2



43



LEVEL 9 - PLANTER

LEVEL 4 - PLANTER

HEIGHT OF EXISTING STREET TREES

DEEP SOIL PLANTING (GF)



PLANTING - AFTER 1 YEAR



PLANTING - AFTER 5 YEARS



PLANTING - AFTER 10 YEARS

The URBIS logo consists of the word "URBIS" in a bold, white, sans-serif font. To the right of the text is a white square frame that is open on the left side, with a horizontal line extending from the right side of the frame across the page.

CLAUSE 4.6 VARIATION HEIGHT OF BUILDING

21-23 Lexington Drive, Bella Vista

Prepared for
CAPITAL PROJECTS CORPORATION
July 2020

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Associate Director	Simon Wilkes
Consultant	Andrew Hobbs
Project Code	SA7041 – updated July 2020

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1. INTRODUCTION

This Clause 4.6 variation request has been prepared by Urbis Pty Ltd (Urbis) on behalf of Capital Corporation (the applicant) for a development application comprises a commercial development at 21-23 Lexington Drive, Bella Vista.

This variation is in support to a Development Application submitted to The Hills Shire Council (Council) for a proposed a maximum height of plant/lift-overrun to RL 120.15m

This variation request demonstrates that:

- Compliance with the existing development standard is unreasonable in the circumstances of the subject site which would unnecessarily limit the development potential of the subject site,
- Compliance would also prevent development on the site that achieves the maximum permissible FSR which would be a hindrance to the development and growth of the Norwest Business Park;
- There are sufficient environmental planning grounds to justify contravening the development standard; and
- Notwithstanding the variation to the development standard, the proposed development is in the public interest.

2. ASSESSMENT FRAMEWORK

2.1. CLAUSE 4.6 OF THE HILLS SHIRE COUNCIL LEP

Clause 4.6 of The Hills Shire Council LEP (Clause 4.6) includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of Clause 4.6 are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a development application that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, Clause 4.6 requires that a consent authority consider a written request from the applicant, which demonstrates that:

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

Furthermore, the consent authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone, and the concurrence of the Secretary has been obtained.

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

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

[Note: Concurrence is assumed pursuant to *Planning Circular No. PS 18-003 Variations to Development Standards* dated 21 February 2018].

This document forms a Clause 4.6 written request to justify the contravention of the Building Height development standard in Clause 4.3. The assessment of the proposed variation has been undertaken in accordance with the requirements of The Hills Shire Council Clause 4.6 Exceptions to Development Standards.

2.2. NSW LAND AND ENVIRONMENT COURT: CASE LAW

Several key New South Wales Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached.

The correct approach to preparing and dealing with a request under Clause 4.6 is neatly summarised by Preston CJ in *Initial Action Pty Ltd v. Woollahra Municipal Council* [2018] NSW LEC 118:

- [13] The permissive power in cl. 4.6(2) to grant development consent for a development that contravenes the development standard is, however, subject to conditions. Clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.*

- [14] The first precondition, in cl. 4.6(4)(a), is that the consent authority, or the Court on appeal exercising the functions of the consent authority, must form two positive opinions of satisfaction under cl.4.6(4)(a)(i) and (ii). Each opinion of satisfaction of the consent authority, or the Court on appeal, as to the matters in cl.4.6(4)(a) is a jurisdictional fact of a special kind: see *Woolworths Ltd v. Pallas Newco Pty Ltd* (2004) 61 NSWLR 707; [2004] NSWCA 442 at [25]. The formation of the opinions of satisfaction as to the matters in cl.4.6(4)(a) enlivens the power of the consent authority to grant development consent for development that contravenes the development standard: see *Corporation of the City of Enfield v. Development Assessment Commission* (2000) 199 CLR 135; [2000] HCA 5 at [28]; *Winten Property Group Limited v. North Sydney Council* (2001) 130 LGERA 79; [2001] NSWLEC 46 at [19], [29], [44]-[45]; and *Wehbe v. Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 at [36].
- [15] The first opinion of satisfaction, in cl.4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl. 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl. 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.
- [16] As to the first matter required by cl. 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe v. Pittwater Council* at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl. 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.
- [17] The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: *Wehbe v. Pittwater Council* at [42] and [43].
- [18] A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: *Wehbe v. Pittwater Council* at [45].
- [19] A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: *Wehbe v. Pittwater Council* [46].
- [20] A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: *Wehbe v. Pittwater Council* at [47].
- [21] A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: *Wehbe v. Pittwater Council* at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in *Wehbe v. Pittwater Council* at [49]-[51]. The power under cl. 4.6 to dispense with compliance with the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EP&A Act.
- [22] These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of

the ways. It may be sufficient to establish only one way, although if more way are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

- [23] As to the second matter required by cl. 4.6(3)(b), the grounds relied on by the applicant in the written request under cl. 4.6 must be "environmental planning ground" by their nature: see *Four2Five Pty Ltd v. Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s.1.3 of the EP&A Act.
- [24] The environmental planning ground relied on in the written request under cl. 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl. 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning ground advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v. Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v. Ashfield Council* [2015] NSWLEC 90 at [31].
- [25] The consent authority, or the Court on appeal, must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by cl. 4.6(3)(a) and (b). As I observed in *Randwick City Council v. Micaul Holdings Pty Ltd* at [39], the consent authority, or the Court on appeal, does not have to directly form the opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated by cl. 4.6(3)(a) and (b). The applicant bears the onus to demonstrate that the matters in cl. 4.6(3)(a) and (b) have been adequately addressed in the applicant's written request in order to enable the consent authority, or the Court on appeal, to form the requisite opinion of satisfaction: see *Wehbe v. Pittwater Council* at [38].
- [26] The second opinion of satisfaction, in cl. 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives of development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under cl. 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in cl. 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in cl 4.6(4)(a)(ii).
- [27] The matter in cl. 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl. 4.6(4)(a)(ii).
- [28] The second precondition in cl. 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and Environment) has been obtained (cl. 4.6(4)(b)). Under cl 64 of the

Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl. 4.6, subject to the conditions in the table in the notice.

- [29] *On appeal, the Court has the power under cl. 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in cl. 4.6(4)(b), by reason of s 39(6) of the Court Act. Nevertheless, the Court should still consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: Fast Buck\$ v. Byron Shire Council (1999) 103 LGERA 94 at 100; Wehbe v. Pittwater Council at [41].*

The relevance of the case law is set out in Section 6.3 of this submission.

3. SITE AND LOCALITY

3.1. SITE ANALYSIS

The site is known as 21-23 Lexington Drive, Bella Vista, and is legally described as Lot 7081 in DP 1037626. The site is currently vacant and has an area of 10,200 m² (refer to **Figure 1** below). The site incorporates the below-ground location of the rail corridor.

Figure 1 - Aerial Image, Subject Site



Source: Nearmap

3.2. SURROUNDING CONTEXT

The subject site is located within the locality of Bella Vista, within the Hills Shire Local Government Area (LGA) and forming part of the North Business Park – an identified 'Specialised Employment Centre'. It is the main remaining vacant site in the immediate area.

The site is located approximately 450m from the recently completed Bella Vista Station on the Norwest Metro Network, providing a high-level of accessibility to and from the site – with ease of connections to locations such as Macquarie Park, Chatswood and the Sydney Central Business District. A progressive transformation of the area is accordingly expected.

Nearby sites are progressively being advanced for future development generally up to the RL116m height plane. Most recently, an application for development consent has been lodged in respect of 13-19 Lexington Drive to a comparable height of 115.7m. Development surrounding the Bella Vista Station is planned to building heights around 68m. The site itself centrally located within the B7 Business Park, in excess of 200m from residential developments to both the west and east.

Figure 2 - Subject Site and Surrounds



Picture 1 View of the site looking north east from Lexington Drive

Source: Urbis



Picture 2 View of the site from the bus stop located on Lexington Drive directly opposite of the site

Source: Urbis



Picture 3 Main pedestrian walkway in front of the site

Source: Urbis



Picture 4 Pedestrian and vehicle entry/exit points located directly opposite of the site

Source: Urbis



Picture 5 Entry points to 16 and 18 Lexington Dr. looking south east of the site

Source: Urbis



Picture 6 The Bella Vista Hotel, approximately 200m south of the site

Source: Urbis

4. PROPOSED DEVELOPMENT

4.1. DEVELOPMENT OVERVIEW

The proposed development is for a commercial building. The proposed development is detailed in the Architectural drawings and accompanying reports, and comprises the following

- A commercial development at 21-23 Lexington Drive, consisting of one (1) basement level of car parking and 11 ground and above levels with a total floor space of 20,400 m² (FSR of 2:1). A summary breakdown of the development includes:
- Office floorspace on the ground floor and levels 1-3 and 6-9 totalling 16,500m²
- Food and beverage space on the ground floor, totalling 800m²
- Fifty-eight (58) services apartments on level 10, totalling 3,100m²
- Two driveway accessways to Lexington (the Southern driveway shared with adjoining site)
- Vehicle carparking of 757 spaces (inclusive of 3 spaces for service vehicles + 1 loading bay)
- Motorcycle parking of 16 spaces
- Bicycle parking of 42 spaces.
- End of trip facilities
- Landscaping
- Earthworks
- Services.

Figure 3 - Proposed Development



Source: KTA Architects

5. EXTENT OF CONTRAVENTION

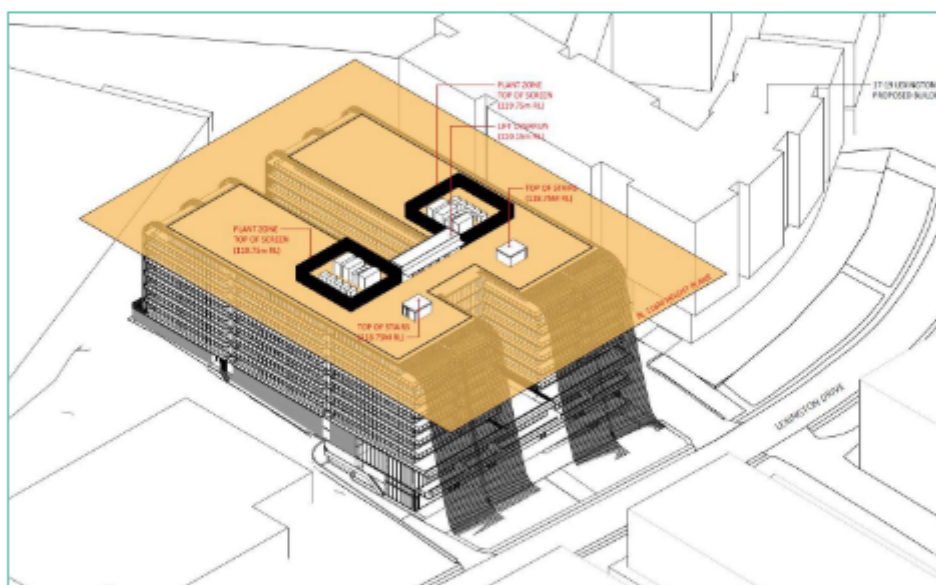
5.1. VARIATION TO HILLS SHIRE LEP 2019 – HEIGHT OF BUILDING STANDARD

The maximum height of building is established under Clause 4.3 of the Hills Shire Council LEP 2019. The extent to which the various building elements exceed the RL116m height standard is identified in the table below:

Table 1 Variation to standard

Building Element	Maximum height	Departure from standard
Plant Zone - Top of Screen	119.75m RL	3.75m
Lift over-run	120.15m RL	4.15m
Top of stairs	118.75m RL	2.75m

Figure 4 - Height Plane Diagram – RL 116m.



Source: KTA Architects

5.2. LOCATION OF DEVELOPMENT FOR HEIGHT EXCEEDANCE

The relative locations on the development where height exceedances are proposed are set well away from the respective building facades, as illustrated in figures 5-8 following.

Figure 5 – Roof plan

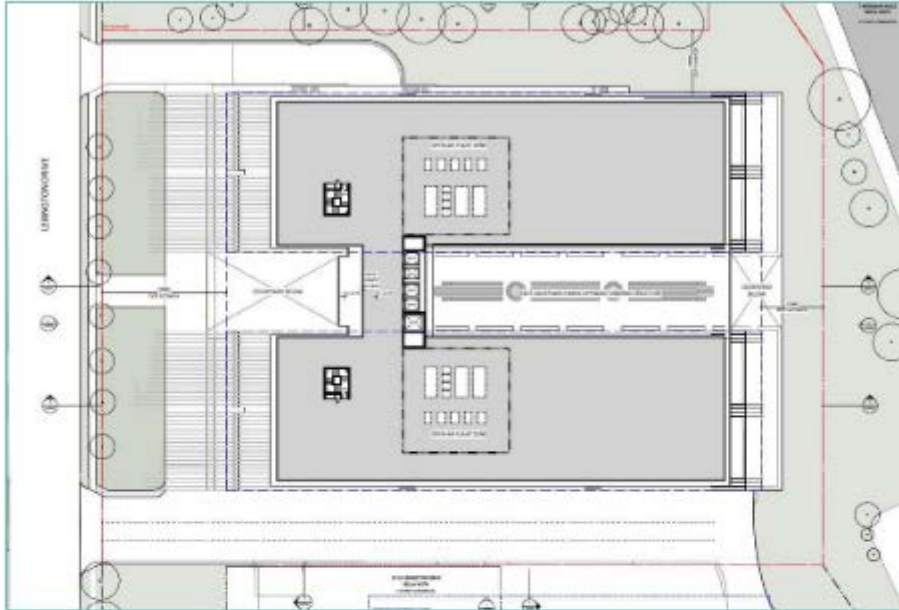


Figure 6– Northern Elevation

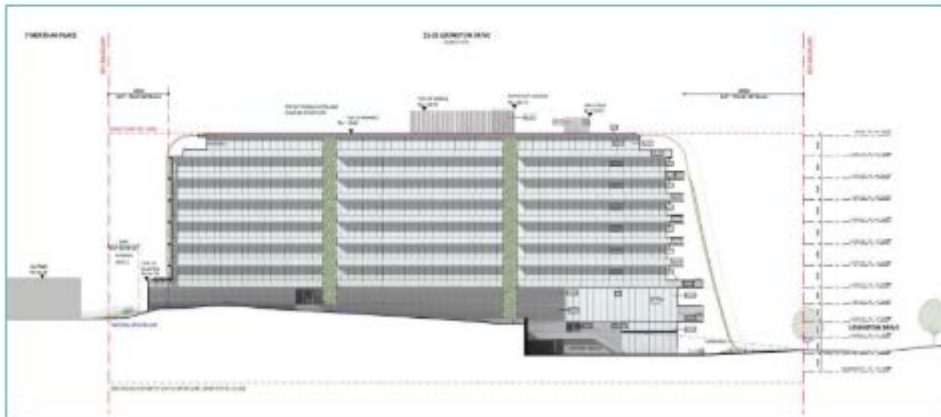


Figure 7– Southern Elevation



Figure 8 - Western Elevation



6. CLAUSE 4.6 VARIATION REQUEST: HEIGHT OF BUILDING

The following sections of the report provide an assessment of the request to vary the development standard relating to Height of Building in accordance with Clause 4.6 of the Hills Shire LEP 2019.

6.1. CLAUSE 4.3: HEIGHT OF BUILDING

The Height of Building development standard under the LEP is RL 116m. The objectives of the development standard as per subclause 4.3 of the LEP are as follows:

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

6.2. KEY QUESTIONS

Is the Planning Control a Development Standard?

The Height of Building control prescribed under Clause 4.3 of the Hills LEP 2019 is a development standard capable of being varied under Clause 4.6 of the LEP

Is the Development Standard Excluded from the Operation of Clause 4.6?

The development standard is not excluded from the operation of Clause 4.6 as it is not listed within Clause 4.6(6) or Clause 4.6(8) of the LEP.

What is the Underlying Object or Purpose of the Standard?

The objectives of the standard are clearly established within the Hills LEP 2019 as set out in Section 6.1 of this report.

6.3. CONSIDERATIONS

6.3.1. Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

The common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are listed within the 'five-part test' outlined in *Wehbe v. Pittwater Council [2007] NSWLEC 927*. These tests are outlined in Section 2.2 of this report (paragraphs [17]-[21]).

An applicant does not need to establish all of the tests or 'ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way. The development is justified against x of the Wehbe tests as set out below.

Test 1: The objectives of the development standard are achieved notwithstanding non-compliance with standard

The proposed development achieves the objectives of the development standard as outlined within Table 2.

Table 2 Assessment of Achievement of Objectives of Development Standard

Development Standard Objective	Achievement of Objective
(a) to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,	• The proposed development is generally consistent with the RL116m, with exceedances for plant, stair and lift-runs only. • The locations of the exceedances are setback from the building facades and therefore some be barely discernible (if visible at all) from surrounding properties and streets
(b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas.	• Due to the location (setback from building facades) and scale of exceedance (max 4.15m), there are no shadow impacts on adjoining properties – even at 21 June 2020, as illustrated in Figures 9-11. • There is no adverse visual impact arising from the proposed development exceedance. From Bella Vista Farm, it has been confirmed that the proposed development shall not be visible. This is illustrated in Figure 12. • There are no adjoining open spaces that would have any privacy impacts arising from the proposed development and specifically from the minor height exceedance.

In summary, the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Figure 9 - Shadow impacts – 9am, 21 June (shadows from height exceedances contained on-site)



Figure 10 - Shadow impacts – 12 noon, 21 June (shadows from height exceedances contained on-site)

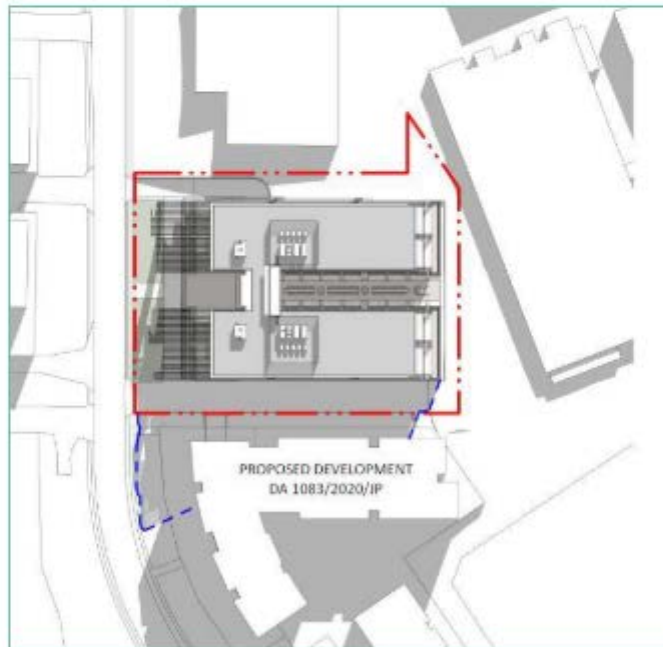


Figure 11 - Shadow impacts – 3pm, 21 June (shadows from height exceedances contained on-site)

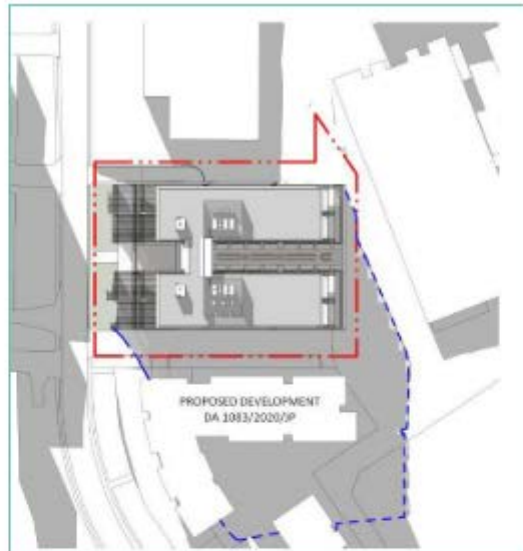


Figure 12 - View from Bella Vista Farm, in the general direction of proposed development (no impact)



Source: Urbis, December 2019.

Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

Not relied upon.

Test 3: The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable

Not relied upon.

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

Not relied upon. It is acknowledged that the height plane of RL116m has generally been maintained in the local area. Across the Norwest Business Park, plant and lift over-runs beyond the roof height are commonplace, being generally located setback from the building façade.

It may also be noted that the Height of Building Standard for Bella Vista Station Precinct, approximately 400m to the north, has been updated to enable various heights up to 68m.

Test 5: The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary

Not relied upon.

6.3.2. Clause 4.6(3)(b) – Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

There are sufficient environmental planning grounds to justify the proposed variations to the development standard, including the following:

- The desired future character of the locality, and the contemplated built form, are still achieved.
- Amenity is not compromised for the surrounding sites.
- The objectives of the height standard, and the zone objectives are achieved; and
- The elements of the buildings which exceed the height control are generally limited to minor rooftop elements which do not increase the supply and will not result in an increase scale of the development that might otherwise result in adverse outcomes for the capacity of infrastructure and services.

In conclusion, there are sufficient environmental planning grounds to justify contravening the development standard.

6.3.3. Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?

Our assessment of the consistency with the objectives underpinning the standard is provided at Table 2, Section 6.3.1 above. In addition, the objectives the B7 Business Park zone are considered in the table below.

Table 3 - Assessment of Compliance with Land Use Zone Objectives

Objective	Consistency with Objective
To provide a range of office and light industrial uses.	The proposed development seeks to deliver a total of 16,000m ² of office floorspace, in addition to other complementary land uses.
To encourage employment opportunities.	The proposed development will provide significant employment opportunities both during the construction and on-going operational phases of the development. For the office component alone, the proposed development will accommodate in the order of 1,300 on-going jobs. It is noted that The Hills Shire has a target of 50,600 additional jobs by 2036. As noted in The Hills LSPS, Norwest is forecast to deliver 23,900 jobs by 2036. The proposed development will provide a significant contribution toward the achievement of these targets. The proposed development accords with the assigned FSR of 2:1 for the area. Any reduction in building height would result in a corresponding loss of floorspace and in turn employment opportunities.
To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.	In addition to the office floorspace, the proposed development incorporates serviced apartments, meetings rooms, gymnasium and food/beverage premises. All uses are complementary in nature to the office uses and permissible with consent in the B7 business park zone.
To make provision for high technology industries that use and develop advanced technologies, products and processes	The Norwest Business Park is identified as a 'Specialised Employment Centre', being well established and well regarded – support by a highly skilled, professional local workforce. The proposed development provides new aligned business/employment opportunities.

The proposal is considered to be in the public interest as the development is consistent with the objectives of the development standard, and the land use objectives of the zone.

6.3.4. Clause 4.6(5)(a) – Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The proposed non-compliance with the development standard will not raise any matter of significant for State or regional environmental planning. It has been demonstrated that the proposed variation is appropriate based on the specific circumstances of the case and would be unlikely to result in an unacceptable precedent for the assessment of other development proposals.

6.3.5. Clause 4.6(5)(b) – Is There a Public Benefit of Maintaining the Planning Control Standard?

The proposed development achieves the objectives of the development standard and the land use zoning objectives despite non-compliance.

It has been demonstrated that the proposed variation arises from the existing building's exceedance of the height of building standard and will not result in an adverse environmental impact on the neighbourhood amenity or streetscape. Overall, it is considered that the construction of the proposed development will result in a superior outcome for the site and the surrounding land. As such, there would be no public benefit in maintaining the development standard in this case.

6.3.6. Clause 4.6(5)(c) - Are there any other matter required to be taken into consideration by the Secretary before granting concurrence?

Concurrence can be assumed. Nevertheless, there are no known additional matters that need to be considered within the assessment of the Clause 4.6 Request and prior to granting concurrence, should it be required.

7. CONCLUSION

The majority of the development accords with the Height of Building Standard of 116m RL as prescribed under Clause 4.3 of the LEP. Strict compliance is not however achieved - with minor exceedances to 120.15m RL in limited locations atop of the development form accommodating for shade structures, plant, lift over-runs and stairs.

The proposed development has been demonstrated to accordance with the both the objectives of the zone and achieve the objectives of the relevant development standard. Resulting from the proposed exceedances, there are:

- No resulting shadow impacts,
- No resulting visual impacts, and
- No resulting privacy impacts

To avoid any breach of the height control would cause a loss of building levels and/or unworkable floor plates, the consequences which would be a reduction of commercial floorspace – with associated business/employment opportunity. Importantly, such adverse outcomes from strict compliance with the height standard would not be counterbalanced by achieving any improved environmental outcomes, as the part of the buildings which exceed the height standard have been shown to have no increase in negative impacts on amenity to adjacent sites as currently approved.

Therefore it is reasonable to conclude that inferior design outcomes would result from the strict compliance with the height standard, or conversely in the terms of the Clause 4.6(1)(b), a better outcome will be achieved for this development by allowing flexibility in the application the height standard in this particular scheme.

DISCLAIMER

This report is dated 7 July 2020 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Capital Corporation (**Instructing Party**) for the purpose of Clause 4.6 Variation (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.



ATTACHMENT 14 – DESIGN EXCELLENCE PANEL MINUTES



MEETING MINUTES DESIGN EXCELLENCE PANEL

Date:	14/10/20	Time:	12.15pm
Location of Meeting:	Meeting held via video / teleconference		
Panel Members:	Chairperson – Nicholas Carlton, Manager Forward Planning, THSC Panel Member – Tony Caro, Independent Design Expert Panel Member – David Reynolds, Group Manager THSC		
Councillors:	None Present		
Council Staff:	Cameron McKenzie, Paul Osborne, Jennifer Lai, Cynthia Dugan, Marika Hahn		
Guests:	Andrew Cheung – Project Manager, Koichi Takada architects Georgia Wilson - Koichi Takada architects Simon Wilkes – Urbis - Planner Emily McLaughlin – Capital Corporation Sam Petinsky – Capital Corporation Nicole Wilson – Landscape Architect, Scott Carver Esther Dickens – Landscape Architect, Scott Carver		

BUSINESS ITEM AND MEETING MINUTES

1. Welcome and Opening

The Hills Shire Council is committed to achieving design excellence in the built form environment and ensuring new high-density buildings are of a high quality design.

The Hills Shire Design Excellence Panel (The Panel), is an advisory Panel that provides an opportunity for applicants to receive expert design feedback on their developments and to provide comments to assist The Hills Shire Council in its consideration for development application.

The Panel provides recommendations on the following:

- any development which contains a building with a height of 25 metres or more; or
- any strategic planning matters for which design excellence is relevant.

The role of the Panel is to evaluate and critique design aspects of proposed development and provide recommendations on whether development exhibits "Design Excellence". The Design Excellence Panel (DEP), is an Independent Panel, not a SEPP 65 Panel and the absence of comment with reference to matters pertaining to SEPP 65 does not mean that matters assessed under SEPP 65 have been satisfactorily addressed.

2. Declaration of interest

"Nil"

3. Confirmation of previous minutes

Confirmed by email

4. Presentations

Item 4.2	12.15pm – 1.15pm	
DA Number	DA 172/2021/JP	
Property Address	21-23 Lexington Drive, Bella Vista	
Proposal		Mixed use development over structured car parking comprising commercial uses and serviced apartments.
Applicant representative address to the Panel	Georgia Wilson - Koichi Takada Architects Andrew Cheung - Koichi Takada Architects Esther Dickens – Scott Carver	

BACKGROUND

On 03/04/20 the pre-DA for the subject site (99/2020/PRE) was presented to the Design Excellence Panel. This is the first Panel meeting for this Development Application. All Panel members have previously undertaken a site visit.

DOCUMENTATION

The Panel reviewed the following drawings provided by Council for the 03/04/20 meeting:

Architectural Presentation, April 2020, Rev 15, by Koichi Takada Architects

The Panel reviewed the following drawings provided by the applicant for the 14/10/20 meeting:

Architectural Design Report, 29 May 2020, by Koichi Takada Architects

Architectural Plans, dated 09/04/20, Rev A, by Koichi Takada Architects

Landscape Design Report, dated 26 June 202, by Scott Carver

Statement of Environmental Effects, July 2020, by Urbis

Wind Assessment, dated April 21 2020, by Windtech

The applicant provided a presentation at the meeting outlining changes made by the applicant in response to the Panel's comments from the meeting of 03/04/20. This was not previously made available nor reviewed by the Panel.

PANEL COMMENTS

The Panel thanks the applicant for the presentation. For clarity, the following minutes are based on the Panel's previous comments (*repeated below in grey italics*). New comments do not necessarily supersede previous advice and as such should be read in conjunction with the previous DEP report/minutes.

Response to Context

1. *The applicant presented an extensive analysis of the existing context, noting that the recently opened NW metro stations are within walking distance. The Panel commented that the Principles of Transit Orientated Development (TOD) should be important influences upon the design approach to this project, and recommends study of contemporary local and overseas TOD and new workplace precedents to inform the evolving design response. It was identified that current character and form of existing development within the locality may not be the best guide with respect to future character within a TOD precinct such as Bella Vista.*

Comment: This comment remains relevant.

Site planning

2. *All required setbacks should be complied with, to provide for required deep soil area, mature landscape and public domain opportunities. The DCP objectives set out clear design principles for this aspect of site planning.*

Comment: This comment remains relevant.

3. *The Panel strongly recommends that a more sustainable movement strategy is applied to this project, placing emphasis on movement of pedestrians and cyclists and giving car-based transport less prominence. The 2 wide driveways and Porte Cochere dominate the site frontage and front setback area and are not desirable outcomes in this transforming urban precinct.*

Comment: This comment remains relevant. The Panel notes the *Porte Cochere* design has improved in its pedestrian character and safety, however continues to question whether this is warranted given the proximity of the development to the metro station.

4. *The Panel acknowledges the applicant's intention to amend the proposal to reduce parking rates and remove two upper parking levels shown on the submitted drawings. However, in the version of the proposal considered by the Panel, both side setbacks currently comprise hard surfaces for vehicular access, thereby limiting opportunity for substantial deep soil and high canopy tree planting.*

Comment: This comment remains relevant. The Panel reiterates preference for a single driveway access to the basement parking in order to further reduce the dominance vehicle entry/exit points along the frontage of the site and provide additional space for deep soil landscaping.

5. *The Panel recommends that the applicant consider revising the vehicular access strategy and that an improved design outcome could be achieved by deleting the porte-cochere, limiting access to car-parking to one side setback only and reducing the length of hard paved areas as far as practicable.*

Comment: This comment remains relevant. The location of dining and meeting places subject to exhaust and noise should be considered further.

6. *The Panel notes that an easement exists to the benefit of the adjacent owner which constrains the site development and setback on one side of the development. The cumulative traffic flows generated by both developments has been identified by the applicant's traffic engineers as causing peak traffic flow issues (however it is noted that these may be somewhat alleviated pending the Council's consideration of the merits of reduced parking provision on this site).*

Comment: This comment remains relevant. The Panel notes that other commercial developments in the area in close proximity to the metro station are seeking lower parking rates to reduce reliance on private vehicular transport.

7. *Car parking levels appear to be located above ground to clear the Metro tunnel alignment below the rear half of the site. However, this results in a very large, blank podium at the sides and rear of the building. A superior urban design outcome may be possible if the car-park floorplate was limited to the forward portion of the site, enabling it to be substantially below ground.*

Comment: This comment remains relevant.

8. *The response to heritage requirements for preservation of views to Bella Vista Farm should be further discussed with the assessing officer.*

9. **Comment:** This comment remains relevant. All finalised heights including rooftop services provision elements and screening are to be confirmed with Council's DA planner and referred to EES (formerly OEH) if above specified height planes.

Bulk, Scale and Massing

10. *FSR is a control used primarily to regulate density, bulk and scale. The extent of above ground parking, in conjunction with the applicable height limit, is creating inevitable pressure on the building envelope and resulting in a challenging bulk and scale, beyond what the primary controls envisaged or would otherwise enable. The Panel considers that the opportunity to relocate more parking areas underground (outside the zone of influence of the metro tunnel) should be carefully investigated. This would reduce the overall height and bulk of the building envelope.*

Comment: This comment remains relevant. The Panel remains concerned with the homogeneity, bulk and scale presented by the development resulting from the extent of above ground parking. A reduction in the extent of above-ground parking (potentially by way of a reduced rate and/or increased basement parking) would potentially resolve this design issue. It is noted that the applicant intends to seek approval for a reduction in parking rates through a separate planning proposal, however any proposal to retain these parking levels and convert the space to additional GFA would negate the potential benefits and improvements to the proposed building envelope.

11. *The proposed site coverage should be confirmed with council planning staff.*

Comment: This comment remains relevant. The Panel is concerned that a large portion of the site appears to be covered in hard paving and confirmation should be provided to the assessing officer that the DCP site coverage control of 50% is satisfied.

Public Domain

12. *The advent of Metro and accompanying future development will mean that the streets will become more active with pedestrians and cyclists. A high quality and lively public domain together with welcoming, quality architecture will be a critical element in achieving the desired future character of the Precinct. As noted, the Panel considers that the two vehicular crossovers and site-wide porte-cochere negatively impact upon the streetscape and impede unencumbered pedestrian access to and through the site.*

Comment: This comment remains relevant. As noted, the Panel remains unconvinced of the need for a Porte Cochere. The Panel also recommends an independent assessment of the viability of proposed retail spaces at this location may be useful.

13. *The Panel considers that while the proposed landscape screening element provides a level of visual interest, it also encroaches upon and encloses the front setback area, precluding the opportunity for a generously landscaped setback with a tall, continuous tree canopy. This is not in keeping with the objectives of the DCP and would set an undesirable precedent for the Business Park or isolating and disconnecting front setback areas from the public domain.*

Comment: This comment remains relevant. The Panel supports the relocation of the screening element closer to the building setback line, however the drawings appear to indicate that a substantial portion of the front setback (not dimensioned) is still covered by the screening device. The proposed plantings comprise shrubbery and the large trees depicted are existing, and unlikely to grow taller as the renderings illustrate. The opportunity to create a generously landscaped setback with a tall, continuous tree canopy has yet to be demonstrated. The Panel does not consider any encroachments into the 10m landscaped frontage setback zone appropriate, or reflective of design excellence. There is also concern that the superficial nature of the screen means that it could be removed from the

design for a variety of reasons, and it would be preferable that its architectural intention was more integrated into the building fabric to avoid this possibility.

Sustainability and Environmental Amenity

14. *The Panel acknowledges that development incorporating well integrated living green elements is highly desirable, particularly in the context of the LGA's garden character and rapidly warming climate. The Panel accepts that the provided documentation is conceptual, but is concerned about the longer term costs associated with the technical delivery and maintenance of substantial areas of "green facades" over large façade areas in the commercial precinct.*

Comment: This comment remains relevant. The Panel accepts the explanation provided by the landscape architect that the green screening is viable, however it is recommended that if the application is approved, consent conditions should be included which note that any alternative artificial substitute would be unacceptable, should the green planting component of the screen element fail.

15. *The Panel is supportive in principle of the strategy however, on the proviso that these concerns are addressed in the DA, and that the façade screen is re-configured to:*

- *provide high visual access into an active, welcoming street frontage for the development;*
- *remove the Porte Cochere;*
- *comply with the front setback control;*
- *enable a generous landscape environment within the front setback zone, with species selected to provide a continuous mature tree canopy.*

Comment: This comment remains relevant. More detailed comments are provided throughout this report with respect to these individual matters.

Internal layout

16. *The Panel commented that the proposed 1.5m wide continuous balconies were unlikely to be used by tenants, and should be adjusted to balance solar protection with useable outdoor areas designed for furnishing and protected from sun and winds.*

Comment: This comment remains relevant.

17. *The Panel queried the proposed strata office layout and strategy, noting that this could restrict flexibility in future layouts and a more efficient return on investment.*

Comment: This comment remains relevant (this matter was not discussed at the meeting).

18. *The Panel queried the useability of the western courtyard and how it would be protected from direct sun, wind and rain.*

Comment: This comment remains relevant.

19. *The Panel raised concern with the interface presented to the eastern terrace, where car parking is proposed to either side of the terrace to a height of 6m. No detail has been provided as to whether the interface is solid, open or comprises ventilation screens. The Panel recommends that the interface be designed so as to provide a pleasant environment for workers using the terrace. For example, through the provision of planting treatments. More detail is to be provided at the DA stage as to how this has been resolved.*

Comment: This comment remains relevant. Access, active interfaces and utility of the courtyard remains a concern. The applicant advised that glazed screening is to be provided to the car parking interface. It is noted that the designs appear to be predicated on the above-ground carparking levels being substituted with office space, in the future. However, this outcome would be the subject of a separate planning proposal process and reliant on planning decisions yet to be made by the Council and State Government with respect to the planning framework applicable to the site. The current design should adequately resolve this issue on the basis of these levels being used as carparking, as it cannot rely on the outcomes of a planning proposal, which is yet to be determined.

The applicant also advised that the roofing to the terrace had been deleted. Consideration should be given to how the space could be used during inclement weather.

Architecture and Aesthetics

20. *As already noted, the Panel considers that the proposed screen element presents a barrier to the street, isolates the development from the public domain, and is inconsistent with the urban design principles of Transit Orientated Development.*

Comment: This comment remains relevant. The Panel supports the amendments to the spacing of the vertical screening elements and the widened pedestrian entry, although earlier comments in this Report should also be considered in relation to integration of the screening and preservation of the front setback deep soil zone.

21. *The Panel commented that the rear (eastern) elevation presents a more appropriate urban configuration as it offers a more engaging connection with the public domain. The eastern courtyard is considered to hold good potential if its environmental challenges can be met, and would benefit from the introduction of some high canopy trees in deep soil. This is also recommended for the western courtyard terrace.*

Comment: This comment remains relevant. All proposed plantings should be clearly documented to aid the Landscape Officer.

22. **New Comment:** Any provision for OSD tanks should not be located in the remnant deep soil landscaped setback areas and should be clearly notated on all future DA documentation. Locations such as under driveways or in the car parking basement should be considered.

23. **New Comment:** Utility services typically required by commercial buildings should to be considered by the design team at this stage and be suitably screened and integrated into the building fabric. This should be clearly demonstrated in the DA documentation.

PANEL CONCLUSION

The Panel thanks the applicant for presenting the proposal and for the opportunity to provide input into the design of the scheme at an early stage in its evolution. Based on the information presented to the Panel, the current design does not yet exhibit design excellence, however the Panel appreciates that the applicant has sought its input at this point in the process.

It is recommended the applicant respond to the advice from this Panel meeting and incorporate into revised concepts as design development progresses.

The Panel will be required to review the development once submitted as a Development Application. However, should the applicant wish to present revised concepts for further comment prior to the lodgement of a DA, the Panel would welcome this opportunity.

The Panel notes incremental improvement in comparison to the pre-DA drawings. However, the proposal still presents as a development within a car-dominated precinct, rather than a transit-orientated and pedestrian-activated precinct. The Panel is of the view that the current proposal does not yet exhibit design excellence across all facets and consideration should be given to reducing the site area dedicated to hard paving and vehicle access, as well as the overall bulk and scale of the development through a reduction in the extent of above-ground car parking. These changes would greatly benefit the overall urban design integration of the development into its future context. The Panel has considered the proposal based on the material submitted and in the context of the current planning controls. Should the applicant subsequently seek to increase the permitted GFA on the site through a separate planning proposal (potentially in line with a reduction in car parking), it would be appropriate to holistically consider appropriate built form outcomes, at that higher FSR, as part of that strategic planning process.

ATTACHMENT 15 – SYDNEY METRO CONCURRENCE



SM-21-00062126

8 April 2021

Cynthia Dugan
Council Assessing Officer
The Hills Shire Council

By Email: cdugan@thehills.nsw.gov.au

Dear Cynthia,

**State Environmental Planning Policy (Infrastructure) 2007
Development Application - DA172/2021/JP
21-23 Lexington Drive, Bella Vista 2153**

Sydney Metro refers to Development Application DA172/2021/JP (DA) submitted by Capital Projects Corporation Pty Ltd (Applicant) that has been referred to Sydney Metro via the NSW Planning Portal on 17 August 2020 in accordance with clause 86 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP).

Transport for NSW (TfNSW) has delegated its rail authority functions in relation to the Sydney Metro - City & Southwest and Metro North West Line rail corridors to Sydney Metro. Therefore, Sydney Metro is the relevant rail authority for the Metro North West Line rail corridor for the purpose of the ISEPP.

Assessment requirements under the ISEPP

Sydney Metro has reviewed the DA documents that were uploaded onto the NSW Planning Portal on 31 July 2020, 3 November 2020, 22 March 2021 and 30 March 2021.

Sydney Metro has assessed the development proposed by the DA in accordance with the requirements of clause 86(4) of the ISEPP.

In this regard, Sydney Metro has taken into account:

- (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
 - (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
 - (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

Concurrence granted subject to conditions

Sydney Metro has taken the above matters into consideration and has decided to grant its

concurrence to the development proposed in the DA, subject to the consent authority imposing the conditions at **Attachment A**.

Should the consent authority determine not to impose the conditions provided in Attachment A in the form provided, then concurrence from Sydney Metro has not been granted to the DA.

The consent authority is also advised that Sydney Metro's concurrence is not to be amended, replaced or superseded by any concurrence which may be issued by any other authority, without further agreement from Sydney Metro.

Next steps

If, at any point, the DA is amended prior to the consent authority's determination, please ensure that the amended DA and any new or amended supporting documents are provided to Sydney Metro for further assessment. Any amendments to the DA may alter the impacts of the proposed development on the Metro North West Line rail corridor assessed by Sydney Metro, so Sydney Metro may need to amend (or refuse) its concurrence.

Sydney Metro would be grateful if a copy of the Notice of Determination and any conditions of consent for the DA are forwarded to Sydney Metro should the consent authority determine to grant consent to the DA.

In the event that the proposed development is the subject of a Land and Environment Court appeal, the consent authority's attention is also drawn to Section 8.12 of the *Environmental Planning and Assessment Act 1979* which requires the consent authority to give notice of that appeal to a concurrence authority.

Please contact Peter Bourke, Senior Manager Corridor Protection or Lauren Manias on email sydneymetrocorridorprotection@transportnsw.gov.au should you have any further enquiries on this matter.

Yours sincerely



Stephen Scott

Deputy Executive Director

Northwest Operations

21-23 Lexington Drive, Bella Vista (DA172/2021/JP)

Attachment A

1 Prior to issue of a Construction Certificate

Engineering

- 1.1 All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings, measures and recommendations detailed in the following documents:

- (a) Architectural Plans Full Set Revision A prepared by Koichi Takada Architects dated 9 April 2020.
- (b) Updated Architectural Plans – Issued for Council RFI prepared by Koichi Takada Architects:
 - (i) Dwg no. A0100 Revision E dated 12 March 2021.
 - (ii) Dwg no. A0101 Revision D dated 12 March 2021.
 - (iii) Dwg no. A0102 Revision C dated 12 March 2021.
 - (iv) Dwg no. A0104 Revision B dated 6 November 2020.
 - (v) Dwg no. A0111 Revision B dated 23 September 2020.
 - (vi) Dwg no. A0200 Revision C dated 24 February 2021.
 - (vii) Dwg no. A0201 Revision C dated 24 February 2021.
 - (viii) Dwg no. A0202 Revision B dated 23 September 2020.
 - (ix) Dwg no. A0203 Revision B dated 23 September 2020.
 - (x) Dwg no. A0300 Revision B dated 23 September 2020.
 - (xi) Dwg no. A0301 Revision B dated 23 September 2020.
 - (xii) Dwg no. A0302 Revision C dated 12 March 2021.
 - (xiii) Dwg no. A0303 Revision B dated 24 February 2021.
- (c) Geotechnical Investigation Report [Ref. GS5722/1A] Revision 2 prepared by Aargus Pty Ltd dated 19 March 2021.
- (d) Engineering Impact Assessment [Ref. GS8057-1D] prepared by Aargus Pty Ltd dated 25 March 2021.
- (e) Geotechnical Monitoring Plan [Ref. GS8057-2C] Revision 2 prepared by Aargus Pty Ltd dated 26 March 2021.
- (f) Surveyor Advice Letter [Ref. 27149] prepared by ChadwickChenge Consulting Surveyors dated 29 March 2021.

subject to any amendments to those documents required by Sydney Metro in accordance with this consent.

The Certifier must not issue a Construction Certificate for the development until the Certifier has confirmed which documents (including the versions of those documents) apply to the development and the Certifier has confirmed in writing to Sydney Metro that the construction drawings and specifications comply with those documents. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Prior to the commencement of works, the Certifier must provide written verification to Sydney Metro that this condition has been complied with.

- 1.2 The Certifier must not issue a Construction Certificate for the development unless the Applicant has submitted to Sydney Metro and Sydney Metro has provided written approval of the following items:

- (a) Numerical modelling is to be revisited following the final structure design (foundation layout and loads).
- (b) An Independent Verification is to be undertaken per Clause 7.6 of the Sydney Metro Underground Corridor Protection Guidelines (available from sydneymetro.info).
- (c) The Geotechnical Monitoring Plan is to be revised for surface monitoring.

Prior to the commencement of works, the Certifier must provide written verification to Sydney Metro that this condition has been complied with.

Rail Corridor:

- 1.2 All structures must be designed, constructed and maintained so as to allow for the future operation and demolition of any part of the development without damaging or otherwise interfering with the Metro North West Line rail corridor or rail operations. Where any part of the development is to be retained because its demolition would damage or otherwise interfere with the Metro North West Line rail corridor or rail operations, that part of the development must have a minimum design life of 100 years.

Survey and services

- 1.3 Prior to the issue of a Construction Certificate:
- (a) the Applicant must provide Sydney Metro with an accurate survey of the development and its location relative to the rail corridor boundary and any rail infrastructure. The survey is to be undertaken by a registered surveyor, to the satisfaction of Sydney Metro; and
 - (b) a registered surveyor shall peg-out the common property boundary between the development site and the rail corridor and any Sydney Metro easements to ensure that there is no encroachment by the development. A copy of the survey report indicating the location of pegs must be provided to Sydney Metro prior to the commencement of works.
- 1.4 Prior to the issue of a Construction Certificate, the Applicant must undertake a services search to establish the existence and location of any rail services and provide the results of the search to Sydney Metro. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the development site, the Applicant must discuss with Sydney Metro whether the services are to be relocated or incorporated within the development site.

Noise & Vibration

- 1.5 The development must:
- (a) *comply with State Environmental Planning Policy (Infrastructure) 2007 and the NSW Department of Planning & Environment's document titled "Development Near Rail Corridors and Busy Roads - Interim Guideline" (2008) and the Sydney Metro Underground Corridor Protection Guidelines (available from www.sydneymetro.info);*
 - (b) *be designed, constructed and maintained so as to avoid damage or other interference which may occur as a result of air-borne noise, ground-borne*

noise and vibration effects that may emanate from the rail corridor during rail construction and operations; and

(c) not have any noise or vibration impacts on the rail corridor or rail infrastructure.

- 1.6 The Applicant must incorporate as part of the development all the measures recommended in the Acoustic Assessment Report [Ref. 20200315.1/2309A/R1/WY] Revision 1 prepared by Acoustic Logic dated 23 September 2020. A copy of the acoustic assessment report is to be provided to the Certifier and Council prior to a Construction Certificate being issued by the Certifier. The Certifier must ensure that the recommendations of the acoustic assessment report are incorporated in the construction drawings and documentation prior to issuing a Construction Certificate for the development.

Electrolysis

- 1.7 Prior to the issue of a Construction Certificate, the Applicant is to engage an electrolysis expert to prepare a report on the electrolysis risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the electrolysis report to control that risk. A copy of the electrolysis report is to be provided to the Certifier with the application for a Construction Certificate. Prior to issuing a Construction Certificate for the development, the Certifier must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation.

Construction

- 1.8 No work is permitted within the rail corridor, or any easements which benefit Sydney Metro, at any time, unless the prior approval of, or an Agreement with, Sydney Metro has been obtained by the Applicant. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 1.9 No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed in the rail corridor, Sydney Metro property or easements. The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.
- 1.10 Prior to the issuing of a Construction Certificate, the following information must be submitted to Sydney Metro for review and endorsement:
- (a) Machinery to be used during excavation/construction; and
 - (b) Demolition, excavation and construction methodology and staging.
- (c) The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.
- 1.11 If required by Sydney Metro, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements for the

proposed works are to be submitted to Sydney Metro for review and endorsement regarding impacts on the rail corridor. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

- 1.12 If required by Sydney Metro, a tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Metro for review and endorsement prior to the issuing of a Construction Certificate. Refer to Condition 1.2 (c).

The Certifier must not issue a Construction Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.

- 1.13 Prior to the issuing of a Construction Certificate, the Applicant must submit to Sydney Metro a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Metro requirements. If required by Sydney Metro, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Metro requirements. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from the Sydney Metro that this condition has been satisfied.

- 1.14 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Metro's Corridor Protection Team to determine the need for public liability insurance cover and the level of insurance required. If insurance cover is deemed necessary, the Applicant must obtain insurance for the sum determined by Sydney Metro and such insurance shall not contain any exclusion in relation to works on or near the rail corridor or rail infrastructure and must be maintained for the period specified by Sydney Metro. Prior to issuing a Construction Certificate for the development, the Certifier must witness written proof of any insurance required by Sydney Metro in accordance with this condition, including the written advice of Sydney Metro to the Applicant regarding the level of insurance required.

Reason: construction of the proposed development presents a risk of potential damage to the Metro North West Line rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

- 1.15 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant must contact the Sydney Metro Corridor Protection Team to determine the need for the lodgement of a bond or bank guarantee for the duration of the works and the sum of any required bond or bank guarantee. Prior to issuing a Construction Certificate for the development, the Certifier must witness written confirmation from Sydney Metro that the Applicant has lodged any bond or bank guarantee required by this condition.

Reason: construction of the proposed development presents a risk of potential damage to the Metro North West Line rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

- 1.16 Prior to the issue of a Construction Certificate, the Applicant must prepare and provide to Sydney Metro for review and endorsement a hydrologic assessment report demonstrating that any dewatering during construction will not have any

adverse settlement impacts on the rail corridor. The Certifier must not issue a Construction Certificate until this report has been endorsed by Sydney Metro in writing.

Drainage

- 1.17 The Applicant must ensure that all drainage from the development is adequately disposed of and managed and must ensure that no drainage is discharged into the railway corridor unless prior written approval has been obtained from Sydney Metro. The Certifier must not to issue a Construction Certificate or Occupation Certificate for the development unless this condition has been satisfied.

Documentation

- 1.18 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Construction Certificate.

2 During construction

Supervision

- 2.1 Unless advised by Sydney Metro in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects and who holds current professional indemnity insurance.

Consultation

- 2.2 The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Metro in writing), who:
- (a) *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Metro;*
 - (b) *acts as the authorised representative of the Applicant; and*
 - (c) *is available (or has a delegate notified in writing to Sydney Metro that is available) on a 7 day a week basis to liaise with the representative of Sydney Metro as notified to the Applicant.*
- 2.3 Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Metro in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Metro in relation to the works.
- 2.4 Where a condition of consent requires consultation with Sydney Metro, the Applicant shall forward all requests and/or documentation to the relevant Sydney Metro interface team.

Drainage

- 2.5 The Applicant must ensure that all existing and future drainage works on the development site will be directed into the appropriate local council or approved drainage system.

- 2.6 The Applicant must ensure that during works no water collects on or near the railway corridor. Should water be allowed to pond adjacent to rail infrastructure facilities and service is interrupted, the Applicant shall be liable for any Sydney Metro expenditure involved with restoring or maintaining alternative services.

Inspections

- 2.7 If required by Sydney Metro, the Applicant must give Sydney Metro written notice at least 5 business days before any of the following events occur within 25 metres of the rail corridor:
- (a) *site investigations;*
 - (b) *foundation, pile and anchor set out;*
 - (c) *set out of any other structures below ground surface level or structures which will transfer any load or bearing;*
 - (d) *foundation, pile and anchor excavation;*
 - (e) *other excavation;*
 - (f) *surveying of foundation, pile and anchor excavation and surveying of as-built excavations;*
 - (g) *other concreting; or*
 - (h) *any other event that Sydney Metro has notified to the Applicant in writing so that Sydney Metro may inspect the carrying out or completion of those works on the development site.*
- 2.8 If required by Sydney Metro, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Metro, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey(s) will establish the extent of any existing damage and enable any deterioration during construction to be observed and rectified at the Applicant's cost. The submission of a detailed dilapidation report by the Applicant for review and approval by Sydney Metro will be required within 10 days following the undertaking of any joint inspection, unless otherwise notified by Sydney Metro in writing.

3 Prior to the issue of an Occupation Certificate

Noise and Vibration

- 3.1 Prior to the issue of an Occupation Certificate, an acoustic assessment report must be prepared and submitted to the Certifying Authority, Council and Sydney Metro certifying that the completed development meets the requirements of:
- (a) State Environmental Planning Policy (Infrastructure) 2007;
 - (b) the Department of Planning, Infrastructure and Environment's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines"; and
 - (c) any other noise and vibration requirements imposed by this consent.

The acoustic report must demonstrate testing of external and internal noise levels for the completed development and ensure that external noise levels are representative of the typical maximum levels that may occur at the development and internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.

Documentation

- 3.2 Prior to the issue of an Occupation Certificate, the Applicant is to submit as-built drawings to Sydney Metro and Council. The as-built drawings are to be endorsed by a registered surveyor confirming that there has been no encroachment into the rail corridor or Sydney Metro easements, unless agreed to by Sydney Metro in writing. The Certifier must not issue an Occupation Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 3.3 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Occupation Certificate.

Inspections

- 3.4 If required by Sydney Metro, prior to the issue of an Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey will establish the extent of any existing damage and enable any deterioration during operation of the development to be observed. The Certifier is not to issue an Occupation Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

4 General

Inspections

- 4.1 At any time during the construction of the development, Sydney Metro and persons authorised by those entities may give reasonable notice to the Applicant or the Applicant's principal contractor that Sydney Metro or persons authorised by that entity seek to:
 - (a) inspect the development site and all works and structures that may impact on the rail corridor, including at specified "hold points" in the construction of the development; and
 - (b) attend on-site meetings with the Applicant and its contractors, to enable Sydney Metro to determine whether the development has been or is being constructed and maintained in accordance with all approved plans and this development consent.

Other

- 4.2 Any conditions or other requirements imposed by Sydney Metro part of its approval/endorsement of any documents provided by the Applicant to Sydney Metro in accordance with these conditions of consent must also be complied with

by the Applicant when implementing any approved/endorsed documents, plans, reports during the construction and operation of the development (as applicable).

- 4.3 Where a condition of consent requires Sydney Metro endorsement or approval, the Certifier must not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates by the Certifier dealing with specific works and compliance conditions can only occur subject to written confirmation from Sydney Metro

ATTACHMENT 16 – TRANSPORT FOR NSW SUBMISSIONS



172/2021/JP - Additional information - PROPOSED MIXED-USE DEVELOPMENT AT
21-23 LEXINGTON DRIVE BELLA

To ☐ Cynthia Dugan; ☐ council@thehills.nsw.gov.au

Cc ☒ Pahee Rathen

Hi Cynthia,

TfNSW has reviewed the submitted additional information by Stantec and reiterates the previous requirements in its letter dated 8 September 2020 as comments under State Environmental Planning Policy (Infrastructure) 2007 for Council's consideration in the determination of the application.

Council as the consent authority for this development, is to determine if the concerns raised by TfNSW are satisfactorily addressed by the proponent. Should Council determine that additional information is required to address the concerns, TfNSW will be happy to review any additional information provided.

Kind regards

Zhaleh Alamouti
Land Use Planner
Planning and Programs
Greater Sydney
Transport for NSW
transport.nsw.gov.au

T 02 8849 2331
Level 5, 27 Argyle Street Parramatta NSW 2150



Transport
for NSW

8 September 2020

TfNSW Reference: SYD20/00956/01 (A33945348)
Council Reference: 172/2021/JP

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

Attention: Cynthia Dugan

Dear Sir/Madam,

PROPOSED MIXED-USE DEVELOPMENT AT 21-23 LEXINGTON DRIVE BELLA VISTA

Reference is made to Council's correspondence dated 17 August 2020, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007*.

TfNSW has reviewed the submitted application and does not support the proposed development in its current form and provides the following comments to Council:

1. TfNSW requests the following intersections to be assessed and included in the traffic report in addition to the intersections modelled:
 - Old Windsor Road/Norwest Boulevard
 - Old Windsor Road/Celebration Drive
 - Lexington Drive/ Celebration Drive

All intersections should be modelled in SIDRA for both existing and future year 2036 scenarios.

2. It is noted from the traffic report that the intersection of Lexington Drive/Norwest Boulevard would operate at level of service 'F' in both AM and PM peak hours after the completion of the development. The report concludes that intersection upgrades are expected in the next few years by Council and TfNSW.

As there is no funding allocated for intersections upgrades at this stage, TfNSW

Transport for NSW

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requests that the proponent should assess the cumulative impact of the development on nearby intersections and investigate the need/associated funding for upgrading or road improvement works (if required). The proponent should demonstrate that their development does not reduce the performance of these intersections or undertake works to restore existing levels of intersection performance.

TfNSW requests the abovementioned information for further assessment prior to the determination of the application. Upon receipt of the information, TfNSW will further review and provide response accordingly.

If you have any further questions, Ms Zhaleh Alamouti would be pleased to take your call on 8849 2331 or please email development.sydney@rms.nsw.gov.au. I hope this has been of assistance.

Yours sincerely



Pahee Rathan
Senior Land Use Assessment Coordinator