

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-134
DA Number	DA 270/2021/JP
LGA	The Hills Shire Council
Proposed Development	Staged Construction of Four Residential Flat Buildings containing 330 units and Retail Floor Space.
Street Address	Lot 5 DP 30916 Commercial Road, Rouse Hill
Applicant	Universal Property Group Pty Ltd T/As The Bathla Group
Consultants	John M Daly & Assoc. Pty Ltd – Surveyor Calibre Professional Services Pty Ltd – Town Planner Kannfinch Group Pty Ltd – Architect Orion Consulting – Civil Engineers Varga Traffic Planning Pty Ltd – Traffic & Parking Assessment Report Conzept Landscape Architects – Landscape Plans Redgum Horticultural – Arborist Report Ergon Consulting – Access Report Pulse Acoustic Consultancy – Acoustic Report ACE Structural Services Pty Ltd – Structural Engineers Report SLR Consulting – Qualitative Wind Assessment, Natural Ventilation Assessment & Solar Access Report Ochre Environmental Management – Dust Management Plan Cumberland Ecology – Flora and Fauna Assessment Geotesta Pty Ltd – Contamination Site Investigation Report Auswide Consulting – Waste Management Plan Mosman Certifiers – BCA Report Dominic Steele Consulting Archaeology – Aboriginal Heritage Impact Assessment Ecoinnovate – BASIX Certificate Tom Lander – Quantities Surveyor
Date of DA lodgement	26 August 2020
Number of Submissions	1 st Notification: One 2 nd Notification: Six (including one further submission and one in support of the proposal)
Recommendation	Deferred commencement approval, subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	CIV exceeding \$30 million (\$77,234,108)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • SEPP (Planning Systems) 2021 – <i>Formerly SEPP (State and Regional Development) 2011</i> • SEPP (Resilience and Hazards) 2021 – <i>Formerly SEPP 55 – Remediation of Land</i> • SEPP (Transport and Infrastructure) 2021 – <i>Formerly SEPP (Infrastructure) 2007</i> • SEPP (Biodiversity and Conservation) 2021 – <i>Formerly Sydney Regional Environmental Plan 20 – Hawkesbury – Nepean River No. 2 1997</i> • SEPP 65 – Design Quality of Residential Apartment Development • SEPP (BASIX) 2004

	<ul style="list-style-type: none"> • SEPP (Industry and Employment) 2021 – <i>Formerly SEPP 64 – Advertising Signage</i> • The Hills Local Environmental Plan 2019 • The Hills Development Control Plan 2012 <ul style="list-style-type: none"> • Part D Section 5 Kellyville Rouse Hill Release Area • Part B Section 5 Residential Flat Building • Part C Section 1 Parking • Part C Section 2 - Signage • Part C Section 3 Landscaping • Any relevant planning agreement that has been entered into under section 7.4 • Voluntary Planning Agreement
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Plans • Design Excellence Panel Report
Report prepared by	Amanda Hawkins – Senior Town Planner
Report date	23 August 2022 (Electronic Determination)

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? No

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

Conditions

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

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

EXECUTIVE SUMMARY

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

- The proposal seeks consent for the staged construction of four residential flat buildings containing 330 units with basement parking and 152m² of shop space within building A.
- A site specific planning proposal for the site has been finalised by the Department of Planning and Environment and site specific development controls have been adopted by Council.
- Council entered into a Voluntary Planning Agreement with Norlex Holdings Pty Ltd on 25 July 2017 which related to the construction and dedication of a new road through the site (extension of Green Hills Drive), turfing and dedication of land for a new pocket park (passive open space), and payment of monetary contributions to Council by the Developer.
- The proposal complies with all provisions of The Hills LEP 2019. The development comprises a Floor Space Ratio (FSR) of 2.3:1 with a proposed gross floor area of 31,167.28m² over the remaining site area (after the area reserved for road acquisition is removed) of 13,551.53m². This complies with the maximum incentive FSR standard of 2.3:1 under Clause 7.11 of the LEP. The proposal comprises a maximum height of 39.8m for Building A, 40m for Building B, 22.4m for Building C and 10.4m for Building D which complies with the maximum building heights permitted for the site under the LEP.
- The proposal has been reviewed by Council's Design Excellence Panel (DEP). Amended plans and a further urban design report, landscape and public domain plan and a detailed response to all matters raised by the Design Excellence Panel has been provided by the Applicant with respect to Clause 7.7 of the LEP.
- The proposal has been assessed under the provisions of SEPP No 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide and satisfies the provisions of the SEPP.
- The proposal has been assessed under the provisions of The Hills DCP 2012 and variations have been identified with respect to site layout, setbacks, building length, density, apartment mix and signage. These variations are supported as the proposal demonstrates that objectives of the site specific controls are met and the desired future character of residential flat buildings within a landscaped setting can still be achieved.
- In accordance with the 88B Instrument, a 3m wide easement for drainage runs through the site from the western side to the eastern boundary and then along this boundary for a distance of approximately 42.6 metres. The easement runs between proposed buildings C and D. The building footprints are clear of the easement. Retaining walls were originally proposed within the easement however the applicant amended the design to ensure that the proposed development would not adversely impact the functionality of the easement.
- The application was notified for 14 days on two occasions and seven submissions were received during the notification periods. The concerns raised primarily relate to the design and construction of the Green Hills Drive road extension (which form part of the underlying subdivision DA), traffic impacts, road and pedestrian safety, the impact on services (water sewer etc) and the overall scale of the development. These concerns are addressed in the report and do not warrant refusal of the application.

Deferred commencement is recommended subject to conditions. Deferred commencement is recommended to ensure Green Hills Drive is constructed and dedicated in accordance with the Voluntary Planning Agreement as it provides access to the proposed development.

BACKGROUND

The site is zoned R1 General Residential and SP2 Infrastructure under LEP 2019. No works are proposed in the SP2 zone. The site is located between business zoned land to the south and west and residential land to the north and east. The site is in close proximity to the Rouse Hill Town Centre (350m) and Rouse Hill Metro Station (600m) to the south and Windsor Road (350m) to the west.

A site specific planning proposal was submitted to Council on 1 September 2015 under 2/2016/PLP to:

- rezone the site from part B5 Business Development, part R3 Medium Density Residential and part SP2 Infrastructure (Public Transport Corridor) to part R1 General Residential and part SP2 Infrastructure;
- Increase the maximum building height from 16m (B5 Business Development land) and 10m (R3 Medium Density Residential land) to heights of 40m, 23m, and 12m;
- Amend the maximum floor space ratio from 1:1 (B5 Business Development land) to apply a base FSR of 1:1 and an incentivised FSR of 2.3:1.
- Amend the minimum lot size from 8,000m² (B5 Business Development land) and 450m² (R3 Medium Density Residential land) to 1,800m²; and
- Identify the site within the Additional Permitted Uses map and include 'shops' as an additional permitted land use under Schedule 1 with retail floor space capped at 1,700m².

The proposal was supported by site specific development controls to be included within DCP 2012 which related to:

- Site layout, accessibility, building heights, setbacks, common open space, building materials and finishes, heritage and vegetation.
- The provision of the Green Hills Drive link through the site to ensure delivery of the road in line with Council's requirements;
- An amended DCP Map Sheet relating to road layout - to reflect development outcomes and access arrangements for the site.

The Planning Proposal received Gateway Determination from the Department of Planning and Environment (now DPIE) on 2 November 2016 subject to amendments and public exhibition. Council completed the amendments and forwarded the Plan to DPIE. The Plan was gazetted on 24 November 2017.

Council entered into a planning agreement with Norlex Holdings Pty Ltd on 25 July 2017 which related to the construction and dedication of a new road through the site (extension of Green Hills Drive), turfing and dedication of land for a new pocket park (passive open space), and payment of monetary contributions to Council by the Developer.

The site is subject to a separate DA approval (1552/2020/ZB) that includes demolition of existing structures, tree removal, dam dewatering, subdivision creating one residential lot and one open space lot, the construction of a new road (Green Hills Drive Extension) and associated drainage and service works. The proposed residential lot under the subdivision application will contain the proposed development. This application was granted approval by the Local Planning Panel on 17 August 2022 subject to a deferred commencement condition relating to the need for separate development consent for minor work on the adjoining property to the east (8-12 McCombe Avenue) to support the planned extension of Green Hills Drive along the eastern side boundary.

A prelodgement meeting (86/2020/PRE) was held with the applicant for the subject development on 7 February 2020. The proposal was referred to the Design Excellence Panel on 13 March 2020 and again on 13 May 2020 prior to lodgement of the current development application.

The subject Development Application was lodged on 26 August 2020. The original proposal was for 339 apartments across three residential flat buildings with basement car parking.

The Design Excellence Panel (DEP) reviewed the proposal twice at pre-lodgement stage on 13 March 2020 and 13 May 2020 and twice after lodgement of the Development Application on 14 October 2020 and 14 May 2021. At its initial meetings prior to lodgement of the DA, the DEP identified a range of issues in relation to scale, built form, amenity, landscape and aesthetics. At the latest DEP meeting, the Panel concluded that whilst there have been some positive changes (distribution of yield and density to a fourth building and revised planning for Blocks A and B), the Panel does not support the proposal in its current form as it does not yet meet the requirements of design excellence. The Panel noted however that its role is advisory only and the applicant may nonetheless elect to proceed with the DA assessment in its current form. The Applicant has provided a response to all design excellence concerns raised by the DEP (refer to Attachments 15 and 16) and this is addressed under Section 4 of this report.

A request for information was sent to the applicant on 5 November 2020 regarding a number of planning, waste, engineering, environmental health and landscaping matters.

On 19 November 2020, Council staff provided a briefing of the Development Application to the Sydney Central City Planning Panel. The key issues discussed included the following:

- Calculation of GFA
- Clause 4.6 variation to Building Height (Building A and C) (2.48m over)
- Dual Key Apartments
- DCP variations to 8m front setback control to Green Hills Drive (future road extension through site) and 6m western side setback.
- ADG solar and daylight requirements
- There are a number of subterranean apartments proposed to the southern (Commercial Road) and western boundaries. The RFB DCP specifies that the floor level of any residential room must be no lower than one metre below natural ground level.
- The length of buildings exceeded the DCP control maximum of 50m (Block A = 66m, Block B = 65m).
- Interface between the development and the future pocket park to be dedicated to Council (the landscape plan showed an oval spread over both private and future public land)
- Various other planning, waste, engineering, environmental health and landscaping matters were raised with the applicant in correspondence on 5 November 2020. This included issues regarding consistency with site specific DCP controls, aboriginal heritage, parking and circulation, stormwater, trees and landscaping, resource recovery, acoustics and contamination.

The Panel supported the concerns of Council and the DRP and sought further clarification regarding:

- The number of apartments below ground level which appears to be approximately 10- 15 units.
- Whether the park would be dedicated to Council.
- The amenity of the balcony areas for the studio portion of the dual key apartments due to the A/C location on the balcony space.
- The prevalence of 'snorkel' apartments within the plans.

- How dual key apartments should be treated in terms of types of units, unit areas and bedroom count.

In response to the DEP comments on 14 October 2020 and the letter dated 5 November 2020, amended plans and additional information were submitted on 18 March 2021. The proposal was amended to four residential flat buildings. The amendments made to the design included:

- A reduction in the number of apartments proposed from 339 to 332;
- A change in the built form and site layout from 3 residential flat buildings to four;
- A reduction in the overall building height (reduced from 2.48m to 0.13m over);
- Deletion of all dual key apartments;
- Deletion of all subterranean apartments;
- An amendment to the setback to Green Hills Drive to comply with the DCP;
- Amended landscape plans that clearly delineated the pocket park from the development site;
- The introduction of 152m² of shop space within Building A fronting Commercial Road.

A further request for information was sent to the applicant on 21 May 2021 regarding a number of planning, waste and landscaping matters as well as several matters from previous correspondence that remained unresolved. Additional information and amended plans were submitted in response on 6 August 2021, 11 August 2021 and 5 October 2021. The proposal was further amended to 330 apartments.

A further letter was sent to the applicant on 2 December 2021 regarding waste management, landscaping, engineering, traffic and planning matters. The applicant submitted amended plans on 13 December 2021 and additional supporting reports and information on 23 February 2022.

On 8 December 2021, Council officers provided a briefing of the Development Application to the Sydney Central City Planning Panel. The key issues discussed included the following:

- Calculation of GFA - the submitted GFA calculation plans still do not appear to include all areas required to be included in GFA calculations which has implications on the overall FSR calculation for the site.
- Cut and retaining walls that were proposed within the existing easement for drainage which will likely redirect the flow of water away from the easement.
- DCP variations proposed:
 - Minimum landscaped area – 50% required – 42.5% provided.
 - Building Length – maximum 50m permitted – approx. 60m & 61m proposed for Buildings A and B.
 - Density – 150-175 persons per hectare permitted – 331.6 persons per hectare proposed (if area of park is included in the calculation)
 - Apartment mix – max 30% 'Type 1' units permitted – 68.5% proposed
 - Adaptable Units – 10% required – 8.5% proposed
 - Site Layout – not as per Site Specific DCP control
 - Side Setback to the western boundary - 6m required – 5.65m proposed.
- Various other planning, waste, engineering, and landscaping matters were raised with the applicant in correspondence on 2 December 2021. This included issues regarding the Pocket Park, compliance with several DCP controls, stormwater management, driveway and basement design and associated vehicle movements, trees and landscaping and waste management.
- Whether or not the most recent design should be put back to the Design Excellence Panel for another review. The most recent design is considered to be an improvement and therefore it is the opinion of Council staff that further referral is not required.

The key issues are addressed below:

- Gross Floor Area

The applicant advised that the areas that were excluded from the GFA calculation are service risers which are excluded from GFA as per the LEP definition. Gross floor area is defined in LEP 2019 as:

'the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- a) the area of a mezzanine, and*
- b) habitable rooms in a basement or an attic, and*
- c) any shop, auditorium, cinema, and the like, in a basement or attic,*

but excludes—

- d) any area for common vertical circulation, such as lifts and stairs, and*
- e) any basement—*
 - i. storage, and*
 - ii. vehicular access, loading areas, garbage and services, and*
- f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- h) any space used for the loading or unloading of goods (including access to it), and*
- i) terraces and balconies with outer walls less than 1.4 metres high, and*
- j) voids above a floor at the level of a storey or storey above.'*

Service risers would fall under Item (f) of the above definition and therefore, the applicants advice is acceptable and the areas are not required to be included in the calculation.

- The applicant removed the retaining walls from within the easement to ensure the flow of water will not be directed away from the easement. This amended arrangement has been reviewed by Council's Engineer and Landscape Officer who raised no concern with the amended design within and around the easement.
- DCP variations
The amended proposal seeks consent for several variations to the DCP. The variations are considered supportable for the reasons outlined in Section 6 of this report.
- Various other planning, waste, engineering, and landscaping matters were raised with the applicant in correspondence on 2 December 2021. This included issues regarding the Pocket Park, compliance with several DCP controls, stormwater management, driveway and basement design and associated vehicle movements, trees and landscaping and waste management.
Amended plans and documentation were submitted by the applicant to address the above matters which have been reviewed by the relevant Council staff. No further concerns were raised subject to conditions.
- The DA has not been put back to the Design Excellence Panel for further review.

A further letter was sent to the Applicant on 28 April 2022 regarding engineering and landscaping matters. Amended civil engineering plans were submitted on 3 June 2022 and amended landscaping plans on 8 June 2022.

Council's Landscape staff had remaining concerns with the soil depth provided over the OSD chambers fronting Green Hills Drive. The applicant and their engineer were consulted about possible amendments to the design to provide a minimum 300mm soil depth above these OSD/WSUD chambers. It was agreed that conditions would be imposed requiring an

amendment to the detailed design plans prior to issue of a construction certificate ensuring this was provided (Refer to Condition No.'s 46, 56 and 63).

DETAILS AND SUBMISSIONS

Owner:	UPG 109 Pty Ltd
Zoning:	SP2 Infrastructure and R1 General Residential
Area:	20,230m ² (parent lot)
Existing Development:	Dwelling and Associated Structures
Contributions	On 25 July 2017, Council entered into a Voluntary Planning Agreement with Norlex Holdings Pty Ltd. While it is noted that the owner has changed since the VPA was entered into, Section 7.6 of the Environmental Planning and Assessment Act states that VPA's run with the land and are enforceable on the current owner.
Notice Adj Owners:	Yes, 14 days on two occasions.
Number Advised:	150
Submissions Received:	7 from 5 properties (including one in support of the proposal)

PROPOSAL

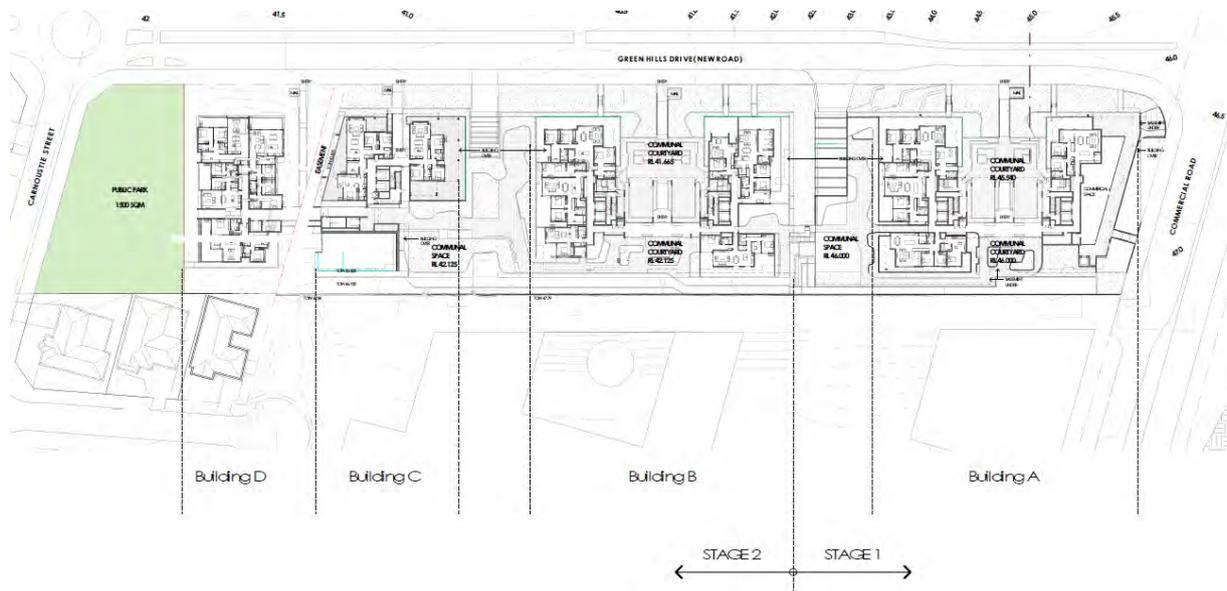
The proposal is for the staged construction of a residential flat building development containing 330 units and shop premises.

The overall development includes:

- 78 x 1 bedroom units
- 185 x 2 bedroom units
- 67 x 3 bedroom units; and
- 152m² of shop floor space.

Basement parking with a total of 567 spaces is proposed. Vehicular access to the parking is provided via two new entry/exit driveways (one for each stage) off a new local road (Green Hills Drive) along the eastern boundary of the lot that connects to Commercial Road to the south and Carnoustie St to the north.

The proposal includes four buildings that are proposed to be constructed over 2 stages as shown below:



An illuminated 'Bathla' sign on the southern and western façades of Building A is also proposed. The sign has dimensions of 3.38m x 1.4m and a total signage area of 4.73m².

Stage 1: Building A

Building A is proposed to contain 147 units over 12 floors comprising:

- 40 x 1 bedroom units
- 78 x 2 bedroom units
- 29 x 3 bedroom units

Building A is also includes 152m² of shop floor space on the ground floor fronting Commercial Road.

Building A is proposed to be provided with 248 spaces over 4 basement levels comprising:

- 15 accessible resident spaces;
- 1 accessible visitor space;
- 6 commercial spaces;
- 6 motorbike spaces;
- 190 resident spaces;
- 1 service vehicle space; and
- 29 visitor spaces.

Stage 2: Buildings B, C & D

Building B is proposed to contain 138 units comprising:

- 38 x 1 bedroom units
- 71 x 2 bedroom units
- 29 x 3 bedroom units

Building C is proposed to contain 35 units comprising:

- 30 x 2 bedroom units
- 5 x 3 bedroom units

Building D is proposed to contain 10 units comprising:

- 6 x 2 bedroom units
- 4 x 3 bedroom units

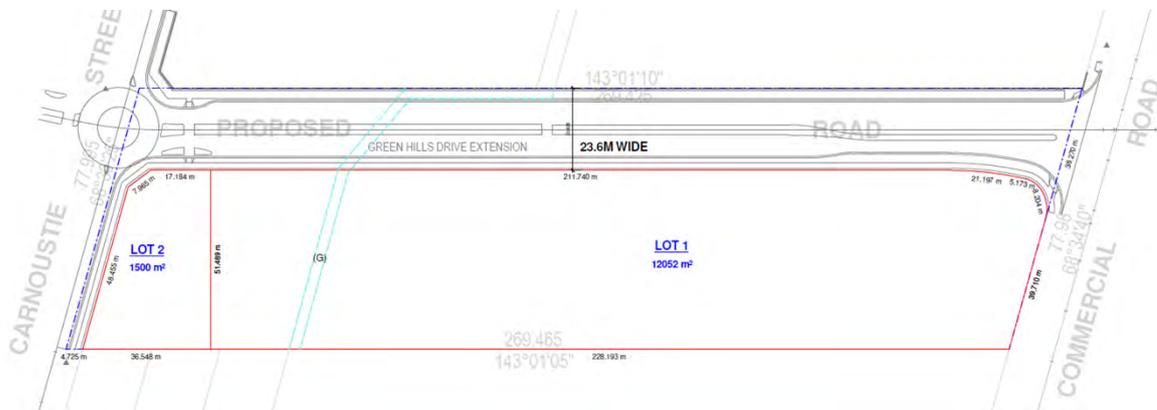
Stage 2 is proposed to be provided with 319 spaces over 3 basement levels comprising:

- 19 accessible resident spaces;

- 1 accessible visitor space;
- 4 motorbike spaces;
- 259 resident spaces; and
- 36 visitor spaces.

The development is proposed to be constructed on Proposed Lot 1 of the below subdivision that has been granted deferred commencement approval by the Local Planning Panel on 17 August 2022:

Proposed Plan of Subdivision (as per DA No. 1552/2020/ZB)



Proposed Lot 1: 12,052m²
Proposed Lot 2: 1,500m²

Proposed Lot 2 contains a proposed pocket park which will be dedicated to Council as per the Voluntary Planning Agreement already in place.

ISSUES FOR CONSIDERATION

1. State Environmental Planning Policy (Planning Systems) 2021 – *Formerly State Environmental Planning Policy (State and Regional Development) 2011*

Part 2.4 and Schedule 6 of SEPP (Planning Systems) 2021 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 \$77,2324,108 (including GST) 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 (Resilience and Hazards) 2021 – *Formerly 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 4.6 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 Contamination Site Investigation Report was undertaken by Geotesta Pty Ltd. The report was reviewed and a number of concerns were raised. The applicant was requested to review the requirements of a Stage 1 and Stage 2 contamination assessment due to the lack of information submitted surrounding the site's history, the lack of justification for the sampling pattern, the limited samples collected and tested and the incomplete test pit logs.

An updated Contamination Site Investigation Report was submitted dated 5 March 2020. The investigation found that the site has a low risk of soil and groundwater contamination and is therefore suitable for the proposed development subject to the recommendation that a data gap assessment of subsurface soils below the dwelling be performed after demolition of the existing dwelling and sheds on the site.

In this regard, a condition of consent is recommended to ensure that the site is suitable for the proposed development with regard to land contamination and the provisions of the SEPP (Refer to Condition No. 23).

3. State Environmental Planning Policy (Transport and Infrastructure) 2021
– Formerly 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 traffic generating development.

Traffic generating development

Clause 2.121 '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.*

(3) 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.*

(4) 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.*

(5) The consent authority must give the TfNSW 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 where a development includes more than 300 dwellings. The proposed development results in a total of 330 apartments.

The Development Application was referred to Transport for NSW for review who raised no objection to the proposal subject to the requirements they imposed on the preceding subdivision development application being met.

Clause 7.11 of the LEP requires a minimum of 330 spaces for residents, 66 spaces for visitors and the DCP requires a minimum of 6.08 spaces for the non-residential use. Resulting in a total of 403 spaces being required under Council's controls. The proposed development includes 567 car parking spaces. Refer to Section 6b for further discussion.

A Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd has been submitted with the application which demonstrates that sufficient parking will be provided to meet the needs of future users of the development.

The submitted traffic study also notes that the RMS Technical Direction nominates 0.19 peak hour vehicles trips per unit during the AM peak period and 0.15 peak hour trips per unit during the PM peak hours for high density residential flat buildings and 1.6 peak hour

vehicle trips per 100m² of GFA during the AM peak period and 1.2 peak hour vehicle trips per 100m² of GFA during the PM period.

To be consistent with the traffic impact assessment that accompanied the planning proposal (prepared by John Coady Consulting Pty Ltd), a higher traffic generation was adopted for the assessment, as follows:

- Commercial: 2 peak hour vehicle trips per 100m² of GFA; and
- 0.29 peak hour vehicle trips per unit

Overall, the proposed development would generate approximately 99 trips per hour during the morning and afternoon peak periods.

Council's Traffic Section has reviewed the Development Application, raised no objection to the proposal and concurs with the submitted Traffic Report that the proposed development will not have an unacceptable traffic impact in terms of road network capacity.

In this regard, the potential for traffic safety and road congestion of the development have been satisfactorily addressed and satisfies Clause 2.121 of SEPP (Transport and Infrastructure) 2021.

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

The development application was accompanied by a design verification statement prepared by Kannfinch with regard to the provisions of SEPP 65. The proposal has been assessed against the provisions of the Apartment Design Guidelines (ADG) as outlined below.

An addendum was submitted (dated 6 August 2021) to reflect the most recent set of architectural plans prepared by Calibre Consulting.

a. Design Quality Principles

In accordance with Clause 30(2) of the SEPP, a consent authority in determining a Development Application for a residential flat building is to take into consideration the design quality principles. The Development Application has been assessed against the relevant design quality principles contained within the SEPP as follows:

Principle 1: Context and neighbourhood character

The proposal is compatible with the existing and desired context and character of the area. The proposal seeks to respond to and contribute to the context of Rouse Hill both in its present state as well as the desired future character.

The site is bounded by Commercial Road to the south and Carnoustie Street to the north. To the northwest and northeast are established low density residential dwellings. The adjacent site to the west is a commercial development with at grade car parking and loading facilities.

The land to the south is vacant but forms part of the Rouse Hill Regional Centre and is zoned R1 General Residential and B4 Mixed use.

Principle 2: Built form and scale

The proposal is consistent with the requirements of the Hills LEP and is appropriately articulated to minimise the perceived scale. Good building separation and variety along the elevations and layering of façade elements assist in creating expressive street frontages and enhancing the developments relationship with the public domain. The height

of the buildings decreases across the site, stepping down from 11 storeys at the Commercial Road end to two storeys at the Carnoustie Street end adjacent to the pocket park.

Principle 3: Density

The density of the development is derived from the site specific LEP and is appropriate in the context of the site and availability of infrastructure and public amenity. The site is within walking distance to Rouse Hill Shopping Centre (300m) and Rouse Hill Metro station (860m).

Principle 4: Sustainability

The design achieves natural ventilation and solar access as required by the Apartment Design Guidelines. The incorporation of insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

Principle 5: Landscape

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

Principle 6: Amenity

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

Principle 7: Safety

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

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

Principle 8: Housing diversity and social interaction

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development complies with the mix requirements of the LEP as detailed in this report. The application includes 78 x 1 bedroom, 185 x 2 bedroom and 67 x 3 bedroom units.

Principle 9: Aesthetics

An appropriate composition of building elements, material textures and colours has been used. The design is modern in style and appropriate for the area.

b. Apartment Design Guide

The following table is an assessment of the proposal against the Design Criteria provided in the Apartment Design Guide as required under Clause 30(2) of the SEPP.

It is noted that proposed lot 1 has an area of 12,052m² (as per Subdivision DA No. 1552/2020/ZB).

Clause	Design Criteria	Compliance									
Siting											
Communal open space	<p>25% of the site</p> <p>50% of the area achieves a minimum of 50% direct sunlight for 2 hours midwinter.</p>	<p>Yes</p> <p>4,228m² excluding the pocket park</p> <p>This equates to: 31.19% of the site including the park and 35% of the site excluding the park</p> <p>A solar access assessment report was submitted on 6 August 2021.</p> <p>The report states that compliance is achieved with this control.</p>									
Deep Soil Zone	<p>7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m² and 15% for sites greater than 1500m².</p>	<p>Yes</p> <p>1,887m² of deep soil zones (with minimum 6m dimensions) is provided covering 15.7% of the site (Proposed Lot 1).</p>									
Separation	<table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>4 storeys</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>5-8 storeys</td> <td>9m</td> <td>4.5m</td> </tr> </tbody> </table> <p><i>Distances are to be combined for buildings on the same site according to habitable/non-habitable room type.</i></p> <p>No separation is required for blank party walls.</p>	Building Height	Habitable rooms and balconies	Non-habitable rooms	4 storeys	6m	3m	5-8 storeys	9m	4.5m	<p>Yes</p> <p>Adequate separation and interface conditions have been provided between windows and balconies to ensure visual privacy is achieved.</p>
Building Height	Habitable rooms and balconies	Non-habitable rooms									
4 storeys	6m	3m									
5-8 storeys	9m	4.5m									
Visual privacy	<p>Visual privacy is to be provided through use of setbacks, window placements, screening and similar.</p>	<p>Yes</p> <p>Solid walls to balconies and window placement are proposed where appropriate.</p>									

Car parking	<p>Car parking to be provided based on proximity to public transport in metropolitan Sydney.</p> <p>For sites</p> <ul style="list-style-type: none"> • within 800m of a railway station or light rail stop, or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum parking requirement for residents and visitors is set out in accordance with the RMS Guide to Traffic Generating Development or the car parking requirement prescribed by the relevant council, whichever is less. which is:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</p>	<p>Yes</p> <p>The site is located within 800m of the Rouse Hill Metro Station.</p> <p>Therefore the car parking rates within RMS' Guide to Traffic Generating Development apply to the development as they are the lesser when compared to Council's DCP car parking requirements.</p> <p>0.6 x 78 = 46.8 0.9 x 185 = 166.5 1.4 x 67 = 93.8 330 / 5 = 66</p> <p>Total: 373.1</p> <p>There is a total of 567 resident and visitor car parking spaces provided within the basement which exceeds the minimum 373.1 required.</p> <p>It is noted Clause 7.11 of the LEP specifies higher minimum parking rates for incentivised FSR which are also achieved by the development – Refer to Section 6(b)(ii).</p> <p>The parking proposed does not comply with the Parking DCP rates however the ADG takes precedence.</p>
Designing the Building		
Solar and daylight access	Living and private open spaces of at least 70% of apartments are to receive a	A solar access assessment has been

	<p>minimum of 2 hours direct sunlight between 9am and 3pm midwinter.</p>	<p>submitted on 6 August 2021 as requested to ensure compliance was achieved.</p> <p>In summary:</p> <p>Building A: 90 (61.22%) Building B: 96 (69.57%) Building C: 35 (100%) Building D: 10 (100%)</p> <p>Total: 231 units (70%) achieve compliance</p>
	<p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>Yes</p> <p>A solar access assessment has been submitted as requested to ensure compliance was achieved.</p> <p>In summary:</p> <p>Building A: 26 (17.69%) Building B: 22 (15.94%) Building C: 0 (0%) Building D: 0 (0%)</p> <p>Total: 48 units (14.55%)</p>
<p>Natural ventilation</p>	<p>At least 60% of apartments are to be naturally cross ventilated in the first 9 storeys of a building.</p> <p>Apartments at 10 storeys or greater, are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>	<p>Yes</p> <p>A Qualitative Natural Ventilation Assessment report has been submitted as requested to ensure compliance was achieved.</p> <p>In summary, overall 65.4% (189 of 289) of units in the first 9 storeys comply.</p>

	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes The maximum overall depth does not exceed 18m for a cross through apartments.
Ceiling heights	For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.	Yes 3.1m structural floor to floor heights allow for minimum ceiling heights of 2.7m for all apartments.
Apartment size	1. Apartments are required to have the following internal size: Studio – 35m ² 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each. 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Yes Minimums proposed: One-bed – 50m ² Two-bed – 75m ² Three-bed – 95m ² Yes N/A All habitable rooms have windows greater than 10% of the floor area of the room.
Apartment layout	Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height. In open plan layouts the maximum habitable room depth is 8m from a window. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space) Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Yes

	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts</p>	
Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.</p>	<p>Yes</p> <p>One-bed – 8m² + minimum 2m depth Two-bed – 10 m² + minimum 2m depth Three-bed – 12m² + minimum 2.4m depth</p> <p>Ground Level units POS – 15m² minimum with 3m minimum depth</p>
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Yes</p> <p>Yes</p>
Storage	<p>Minimum storage is to be provided as follows:</p> <p>Studio – 4m³ 1 bedroom – 6m³ 2 bedroom – 8m³ 3+ bedrooms – 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>Yes</p> <p>One-bed – Minimum 6m³ Two-bed – Minimum 8m³ Three-bed – Minimum 10m³</p> <p>At least 50% of the required storage is located within the apartment.</p>
Apartment mix	<p>A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.</p>	<p>Yes – apartment mix is satisfactory and in accordance with LEP Clause 7.11.</p> <p>One-bed (50m²) – 78 units Two-bed (75m²) – 108 units</p>

		Two-bed (110m ²) – 77 units Three-bed (95m ²) – 40 units Three-bed (135m ²) – 27 units
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5. Compliance with State Environmental Planning Policy (Industry and Employment) 2021 – Formerly SEPP 64 – Advertising Signage

Clause 3.6 of the SEPP states:

“A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

(a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and

(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.”

Schedule 5 - Assessment Criteria

Assessment Criteria	Proposal	Compliance
<p>Character of the Area</p> <p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p> <p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>Yes</p> <p>There is no theme in the area or locality</p>	Yes
<p>Special areas</p> <p>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	No	Yes
<p>Views and vistas</p> <p>Does the proposal obscure or compromise important views?</p>	No	Yes

Does the proposal dominate the skyline and reduce the quality of vistas?	No	
Does the proposal respect the viewing rights of other advertisers?	Yes	
Streetscape, setting or landscape		Yes
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes	
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes	
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	No, the built form is proposed as part of this application and therefore there is no existing advertising	
Does the proposal screen unsightliness?	N/A	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No, the signage does not protrude above the building	
Does the proposal require ongoing vegetation management?	No	
Site and building		Yes
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes, the signage proposed is in proportion with the scale of the development	
Does the proposal respect important features of the site or building, or both?	Yes	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes	

<p>Associated Devices and Logos with Advertisements and Advertising Structures</p> <p>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>No</p>	<p>N/A</p>
<p>Illumination</p> <p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	<p>No</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes, illumination is proposed from sunset to sunrise</p>	<p>Yes</p>
<p>Safety</p> <p>Would the proposal reduce the safety for any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p> <p>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</p>	<p>No</p> <p>No</p> <p>No</p>	<p>Yes</p>

6. Compliance with LEP 2019

a. Permissibility

Proposed Lot 1 is zoned R1 General Residential under Local Environmental Plan 2019. The proposal comprises uses defined as the following:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.

Note.

Shops are a type of retail premises—see the definition of that term in this Dictionary.

Clause 2.5 of the LEP prescribes that development on particular land that is described or referred to in Schedule 1 may be carried out with development consent.

Schedule 1 Additional permitted uses prescribes the following:

8 Use of certain land at Commercial Road, Rouse Hill

- 1) *This clause applies to certain land at Commercial Road, Rouse Hill, being part of Lot 5, DP 30916, that is in Zone R1 General Residential, shown as "Item 9" on the Additional Permitted Uses Map.*
- 2) *Development for the purposes of shops is permitted with development consent.*
- 3) *Development consent under subclause (2) may only be granted if the retail floor space on the site is no more than 1,700m².*

The proposal provides shop floor space with a total gross floor area of 152m² located on the ground floor of Building A. This is below the maximum gross floor area of 1,700m² for retail floor space additional permitted land uses under Schedule 1 of the LEP.

The proposed uses are permitted within the R1 General Residential zone under the provisions of LEP 2019.

b. Development Standards

The following addresses the principal development standards of the LEP:

CLAUSE	REQUIRED	PROPOSED	COMPLIES
4.1A Minimum Lot Size	4,000m ²	Proposed Lot 1: 12,052m ²	Yes
4.3 Building Height	W: 40m S: 23m M1: 12m	Building A: 39.8m Building B: 40m Building C: 22.4m Building D: 10.4m	Yes
4.4 Floor Space Ratio	1:1 2.3:1 (incentive)	Parent Lot Area: 20,242m ² Less road acquisition: 6,690m ² Remaining Site Area: 13,551.53m ²	Yes, refer to discussion below under Clause 7.11.

		Proposed GFA: 31,167.28m ² Proposed FSR: 2.3: 1	
5.1A Relevant Acquisition Authority	Development consent must not be granted to any development on land identified on the Land Reservation Acquisition Map to be acquired for a public purpose unless the consent authority is satisfied that the development is likely to be consistent with the public purpose identified on that map for that land.	A portion of the parent lot is zoned SP2 Infrastructure and marked "Public Transport Corridor" for use by Transport for NSW. The Subdivision Development Application that underpins this application includes the dedication and construction of a new local road in accordance with the LEP.	Yes
6.3 Public Utility Infrastructure	Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	The applicant has submitted sufficient information to demonstrate that adequate infrastructure is available for the proposed development.	Yes
7.7 Design Excellence	Development consent must not be granted unless the development exhibits design excellence	Proposal referred to Council's Design Excellence Panel.	Yes, refer to discussion below.
7.11 Development on Certain land within the Sydney Metro Northwest Urban Renewal Corridor	An incentivised Floor Space Ratio can be applied if the development provides a specific mix, family friendly unit sizes and parking.	The proposal provides the required unit mix and sizes and parking in accordance with the Clause.	Yes, refer below for further discussion.

i. 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 detailed in Clause 7.7(4):

- 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:

With regard to Clause 7.7(4)(a), the architectural design, building materials, building type and location are consistent with the desired future character of the area.

With regard to Clause 7.7(4)(b), the non-residential use on the ground floor of Building A fronts Commercial Road which will assist in protecting the public space from noise and traffic from Commercial Road. Habitable rooms also overlook the public domain to promote natural surveillance. These measures ensure that 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 proposed development is unlikely to have a detrimental impact on any view corridors.

With regard to Clause 7.7(4)(d), the proposal results in negligible impact on adjoining properties in terms of overshadowing. Refer shadow diagrams in Attachment 13.

With regard to Clause 7.7(4)(e), the proposed development has been assessed in detail against the provisions of the relevant development control plans. Refer to Section 7.

With regard to Clause 7.7(4)(f), the development is considered suitable for the site, is in keeping with the proposed subdivision currently under assessment and the proposed uses are generally consistent with that as envisaged under the planning proposal. The building separation, setbacks, amenity and urban form have the potential to be consistent with that as envisaged under the planning proposal.

With regard to Clause 7.7(4)(g), the design excellence of the proposal was considered by the Design Excellence Panel (DEP) twice at pre-lodgement stage on 13 March 2020 and 13 May 2020 and then twice after lodgement of the Development Application on 14 October 2020 and 14 May 2021.

At its initial meetings prior to lodgement of the DA, the DEP identified a range of design quality issues in relation to scale, built form, amenity, landscape and aesthetics.

In the meetings held after the DA was lodged, the DEP noted that the applicant had made changes to the proposal including a reduction in the number of apartments, amendments to building heights, the addition of a fourth building and greater articulation in the plans and facades to reduce the overall bulk and scale of the development. However the Panel felt that further improvements were required to the built form, site integration, amenity, landscaping and the public domain.

At its final meeting, the DEP concluded the following:

"Whilst there have been some positive changes (distribution of yield and density to a fourth building and revised planning for Blocks A and B), the Panel does not support the proposal in its current form as it does not yet meet the requirements of design excellence. The Panel notes that its role is advisory only and the applicant may nonetheless elect to proceed with the DA assessment in its current form."

The DEP Meeting Notes from 14 April 2021 are provided for consideration in Attachment 16. The Applicant has provided a detailed response to the concerns raised by the DEP (Refer to Attachment 17).

A summary of the applicant's response is detailed below:

Response to Context

The amended plans demonstrate a closer relationship to the DCP with the reduction in scale and bulk presented to Greenhills Drive for all the three buildings 'A', 'B' and 'C' and the placement of a small 3 storey fourth Building 'D' to the north fronting the park. The evident stepping down of the building height towards the park is a positive outcome helping to achieve the desired outcome for this important transition site situated between the town centre to the south and low-rise residential area to the north. The amended plans also now include a portion of commercial space fronting Commercial Road which will provide additional amenity to the local residents.

Further, the landscaping strategy for the site has been designed to soften the proposed buildings with a mix of native and exotic species. Native ground cover is proposed to be included within all road frontages, strengthened by significant replacement planting.

Bulk, Scale and Massing

The amended plans demonstrate the greater articulation of the proposed building massing through the utilisation of the deep soil landscaped recesses, which have the effect of visually minimising the building length.

Increased planting is proposed between Buildings A and B as well as within the proposed stormwater easement between Buildings C and D. The inclusion of planters within the communal open spaces helps to soften the area. The southern walls of Building A and B have been treated with significant landscaping to soften the concrete walls as well as screen from the adjoining development. Tall canopy trees are included within the Communal Courtyard between Buildings B and C.

The car park entries have been designed to be located between the buildings to increase efficiency and preserve the main building frontage for landscaping and pedestrian access.

The layout of Buildings A and B have been revised to enable a more open courtyard, which enhances solar access to the buildings.

Site Coverage and Landscaped Open Space

The proposed basement has been amended to no longer provided in a single basement for the development. The Landscape Plans have been revised to offer greater clarity of the proposed landscape design.

Height and Density

The Architectural Plans have been amended to reflect the bulk and scale of the buildings and to demonstrate compliance with the ADG Solar Access and Ventilation Controls and are supported by a report.

Setbacks

The amended plans generally demonstrate compliance with the DCP setback controls. The building elements including the private terraces have been amended to be within the 8m setback to Green Hills Drive. The western frontage of Buildings A and B encroach into the 6m setback by 200-350mm which is seen as minor in comparison to the scale of the development. Full compliance with the setback control is not achievable as it would result in non-compliance of the ADG internal unit dimensions. The minor setback encroachment does not impact on the amenity of the neighbouring properties and the objectives of the control are still met.

Apartment Size and Mix

The GFA diagrams and FSR calculations have been included within the amended plans and were prepared in accordance with the Land and Environment Court's direction.

Landscape Design

Pedestrian movements have been outlined with pedestrian access to the local park being demonstrated. The amended Landscape Plans accurately and clearly depict the proposed landscaping strategy, clearly demonstrating the proposed planting schedule.

Public Domain and Streetscape

All proposed deep soil areas have been revised to comply with the ADG definition. Suitable screening of utility services has been included. The bin enclosure areas have been removed from the Landscape Plans and are contained within the basement.

The 'subterranean' ground floor apartments in the western side of Building C have been removed.

The planting schedule for the public domain and deep soil planting areas have been revised to include additional planting with a minimum of 75L exotic and native trees as well as substantial soft landscaping such as ground cover and small shrubs.

Park Edge Interface

The design intent for the proposed pocket park has been detailed in the amended Landscape Plans, which proposes to retain existing vegetation along the boundary and additional planting. Additional Section drawings have been provided demonstrating a high-quality relationship between Building 'D' and the public park. Planting along the external wall of Building D which faces the public park is proposed to offer screening and privacy. Refer to Drawing No. L305 and L400.

Revised Landscape Plans have been prepared which shows a variety of proposed planting along Green Hills Drive. Detailed Planting schedules with minimum sizes have been provided within the amended plans. Refer to the amended Landscape Plans - Drawing No. L300-L302 for additional details of the planting schedule. Additional 1:50 sections have been provided demonstrating a high-quality relationship between the proposed buildings and their environments along with the public domain.

SEPP 65 Comments

The proposed public domain interface complies with the ADG. Communal and Public Open Space has been clearly notated on the amended Landscape Plans, with details regarding amenities, children's play facilities and landscaping detailed. Deep Soil Zones have been revised to adhere to the 6m wide dimensions.

Amended Architectural Plans demonstrate the distance separations between buildings, with internal courtyards having cross privacy.

A solar access study has been conducted by SLR which reveals that 70% of the proposed buildings received solar access between the hours of 9am-3pm on June 21st. The submitted Acoustic Report which details acoustic compliance for dwellings adjacent to car park entries and Commercial Road.

The amended Landscape Plans indicate the open space provision, deep soil areas and shadow impacts.

In line with the Panel's comments, the development was independently reviewed by SLR, who prepared a Solar Access and Natural Ventilation assessment, which determined that the proposed development complies with the ADG requirements. SLR's findings are attached.

Sustainability and Environmental Amenity

The proposed development complies with the ADG controls for Solar and Daylight and Natural Ventilation. The amended plans demonstrate that the minimum ADG sustainability objectives are achieved.

Architecture and Aesthetics:

The amended plans present more suitably articulate building forms with variation to the height and massing. The central landscaped area with recessed elements results in breaking up the massing of the building into two separate 'wings' which more closely resembles a tower architectural typology when expressed from Green Hills Drive.

The screening material proposed is powder coated steel grating panels that have been used on other projects which has responded adequately to.

The proposed unit plans are high quality, efficient and of comfortable proportions with well-proportioned private open spaces available.

Comment:

With regard to the Panel's comments regarding the design intent of the Pocket Park, Item C of Schedule 1 of the Planning Agreement only requires the owner to source and deliver turf to the Council for the Pocket Park. As a result, the applicant was requested to remove any additional planting or works shown within the Pocket Park from the plans.

The Applicant has not lodged a Development Application for a Concept Development Application under Section 4.22 of the Environmental Planning and Assessment Act 1979. The development is for the built form development. All statutory matters have been addressed in the report including any variations to the DCP controls. The proposal meets all the relevant provisions under the applicable environmental planning instruments including The Hills LEP 2019.

It is considered that the matters under Clause 7.7 Design excellence have been satisfactorily addressed.

ii. Clause 7.11 – Development on certain land within the Sydney Metro Northwest Urban Renewal Corridor

The following table demonstrates compliance with this development standard.

Apartment Mix	LEP Development Standard	Proposal	Compliance
One bedroom dwellings	25% to the nearest whole number of dwellings (Maximum)	23.6% (78 of 330 units)	Yes
Three or more bedroom dwellings	20% to the nearest whole number of dwellings (Minimum)	20.3% (67 of 330 units)	Yes

Apartment Diversity	LEP Development Standard	Proposal	Compliance
Minimum internal floor area of 2 Bedroom dwellings is 110m ²	≥40%	41.6% (77 of 185 units)	Yes
Minimum internal floor area of 3 Bedroom dwellings is 135m ²	≥40%	40.3% (27 of 67 units)	Yes

Parking Type	LEP Development Standard	Proposal	Compliance
1, 2, 3 & 4 Bedroom	1 car space per dwelling and 1 space per 5 units	330 resident spaces and 66 visitor spaces required. 483 resident car spaces and 67 visitor spaces are provided for the residential flat buildings.	Yes

The proposal complies with Council's local housing mix and diversity provision under Clause 7.11. Therefore, the incentive Floor Space Ratio of 2.3:1 can be applied to the proposed development.

As detailed in this report, the development is proposed over Proposed Lot 1 of Subdivision Development Application 1552/2020/ZB which is not yet determined. The parent lot has a total site area of 20,242m². 6,690m² of the parent lot is required for the road acquisition resulting in a residual site area of 13,552m². The total gross floor area proposed is 31,167.28m² resulting in a FSR of 2.3:1.

In this regard, the proposal complies with Clause 7.11 of the LEP.

c. Other provisions

The proposal has been considered against the relevant provision of LEP 2019. Specific regard has been given to Clauses:

- 5.10 Heritage Conservation;
- 6.3 Public utility infrastructure; and
- 7.2 Earthworks

The proposal has been considered against these provisions and subject to conditions, satisfies each of the standards and objectives relating to each of the clauses.

7. Compliance with The Hills Development Control Plan 2012

The proposal has been against the following provisions of The Hills Development Control Plan 2012:

- Part D Section 5 - Kellyville Rouse Hill Release Area
- Part B Section 5 - Residential Flat Building
- Part C Section 1 - Parking
- Part C Section 2 - Signage
- Part C Section 3 - Landscaping

It is noted that the proposal is a development facilitated by a planning proposal with an incentivised provision for FSR. As a result, site specific development controls were implemented in the DCP under Clause 4.17 of Part D Section 5 - Kellyville / Rouse Hill Release Area.

The objectives of the site specific controls detailed within Clause 4.17 are to:

Facilitate a high quality residential and commercial development that responds appropriately to its context in terms of built form and scale.

Ensure that future development on the site provides amenity to residents within and surrounding the site.

Ensure that appropriate access and connectivity is provided to and from the site including the construction of the Green Hills Drive extension along the site's eastern boundary.

Provide for development which supports the viability of the Rouse Hill Train Station and the adjacent Rouse Hill Regional Centre.

The site specific development controls include site layout, accessibility, building heights, setbacks, common open space, active street frontages, building materials and finishes, heritage and vegetation.

Clause 4.17 also states that in addition to the site specific controls, relevant controls within Part B Section 5 Residential Flat Building apply to the subject land and notes that where there is any inconsistency the site specific controls apply. Some standards, such as density, number of storeys, unit mix, sizes and parking are superseded by the site specific provisions in the LEP detailed in Section 4 of this report.

The proposal complies with all the relevant development controls and objectives in the DCP, with the exception of the following:

THDCP PART D SECTION 5 - KELLYVILLE ROUSE HILL RELEASE AREA

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
LOT 5 DP 30916, Commercial Road, Rouse Hill – Site Specific Controls			
4.17.1 Site Layout	<p>The layout of future development shall be generally in accordance with Figure B.</p>  <p>Figure B – Indicative site layout and built form</p>	<p>Four buildings are proposed with heights ranging from 11 storeys at the Commercial Road end to two storeys adjacent to the pocket park at the northern end.</p>	No
4.17.4 Setbacks	<p>Development shall be setback from the western site boundary by 6 metres.</p>	<p>Building A: 5.8m to wall</p> <p>Building B: 5.65m to wall</p> <p>The unroofed terraces for the ground floor units in Building A & B also encroach further into this setback</p>	No

PART B SECTION 5 – RESIDENTIAL FLAT BUILDING

DEVELOPMENT CONTROL (CLAUSE NO.)	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE												
3.7 Building Length	Max. 50m	Approx 60m and 61m for Buildings A and B	No												
3.10 Density	150-175 persons per hectare	1.3 x 78 1 bedroom units = 101.4 2.1 x 185 2 bedroom units = 388.5 2.7 x 67 3 bedroom units = 180.9 Total: 670.8 / 12,052m ² = 556.5 persons per hectare (for proposed lot 1) / 20,230m ² = 331.6 persons per hectare (for the parent lot)	No												
	<table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Occupancy Rate (Persons)</th> </tr> </thead> <tbody> <tr> <td>Existing dwelling</td> <td>3.5</td> </tr> <tr> <td>1 bedroom unit</td> <td>1.3</td> </tr> <tr> <td>2 bedroom unit</td> <td>2.1</td> </tr> <tr> <td>3 bedroom unit</td> <td>2.7</td> </tr> <tr> <td>4 bedroom unit</td> <td>3.5</td> </tr> </tbody> </table>	Dwelling Type	Occupancy Rate (Persons)	Existing dwelling	3.5	1 bedroom unit	1.3	2 bedroom unit	2.1	3 bedroom unit	2.7	4 bedroom unit	3.5		
Dwelling Type	Occupancy Rate (Persons)														
Existing dwelling	3.5														
1 bedroom unit	1.3														
2 bedroom unit	2.1														
3 bedroom unit	2.7														
4 bedroom unit	3.5														
3.11 Unit Layout and Design	Residential Flat Development (30 or more units) (e) Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.	Type 1: 226 units = 68.5%	No												

PART C SECTION 2 – SIGNAGE

RESIDENTIAL ZONE SIGNAGE REQUIREMENTS			
CONTROL	PERMISSIBLE	PROPOSED	COMPLIANCE
2.3	a) Max area is 2.25m ² with max dimensions of 1.5m x 1.5m.	3.38m x 1.4m proposed	No
ILLUMINATION OF SIGNS			
CONTROL	PERMISSIBLE	PROPOSED	COMPLIANCE

2.11	c)	Illuminated signage is prohibited within Residential zones other than an illuminated cube light to identify health care premises.	Proposed from sunset to sunrise every day	No
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a) Site Specific Built Form Controls

i) Site Layout

Clause 4.17.1(a) of DCP Part D Section 5 – Kellyville / Rouse Hill Release Area states that the layout of future development shall be generally in accordance with Figure B (shown below):



Figure B – Indicative site layout and built form

The proposal is generally in accordance with the above layout however there are four buildings proposed instead of five and the number of storeys of each building differs as a result. Proposed Buildings A and B are 12 storeys high, Building C is 7 storeys and Building D is three storeys.

The relevant objectives of this clause of the DCP are:

(i) *To achieve a site layout that maximises development opportunities whilst providing ample, quality open spaces.*

(ii) *To integrate future development with surrounding land uses and ensure a suitable interface is provided between development on the site and surrounding lower scale residential development.*

The applicant has provided the following justification:

The DCP foreshadows the development of 5 buildings of varying heights/storeys. Modelling demonstrates that this will result in significant non-compliance with the ADG in terms of;

- *Overshadowing of communal open space*
- *Inequitable distribution of communal open space between the buildings*
- *Building separation/privacy issues*
- *Greater facade spans along the new road frontage, reducing legibility*
- *Insufficient capacity in 'built form' to meet LEP floor space ratio. i.e. building 'depths' need to be increased to circa 22m in order to achieve viable capacity i.e. building foot print would need to be increased with corresponding reduction in communal open space*
- *Complicated staging*
- *Park dimensions less than the 50 x 50m nominated in the DCP and compromised open space.*
- *Minimal separation distance to adjoining low scale residential properties*

The proposed development varies slightly from the site layout detailed in Clause 4.17.1. The proposed building layout has been designed to achieve 4 buildings of varying heights which is generally in accordance with the DCP. The proposed development is consistent with providing a building which adjoins the proposed local park and allows pedestrian connectivity throughout the entire site. Further, the propose development complies with the objectives of Clause 4.17.1 as it is enabling the provision of the Green Hills Drive extension.

Comment:

The site layout in Figure B of the site specific DCP controls was based on conceptual designs submitted with planning proposal 6/20165/PLP. A planning proposal sets out strategic justification for amending an environmental planning instrument including block/massing diagrams and building envelopes to justify the increase in provisions such as height or floor space ratio. The detailed design including built form and design excellence is not assessed as part of the planning proposal but under subsequent development applications.

The photomontages submitted with the planning proposal and included in the Council report include towers of similar bulk, scale and layout to those currently proposed. Refer to Figures 2 and 3 below extracted from the Council report for the planning proposal.



Figure 2
Indicative concept

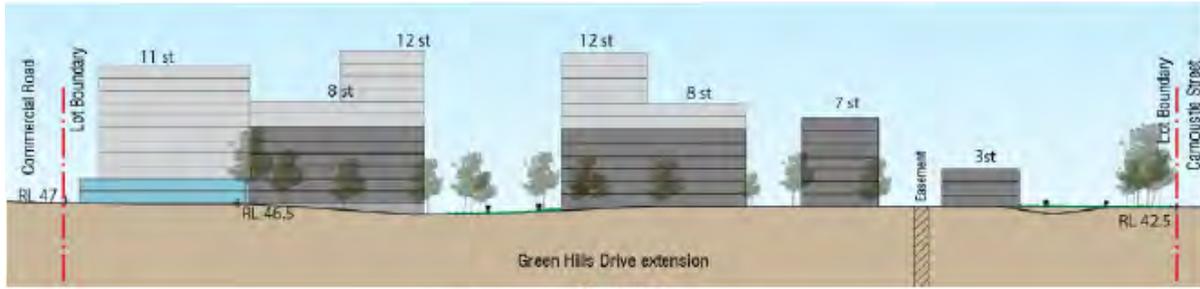


Figure 3
Proposed building heights

The initial proposal included three residential flat buildings with heights of 13 storeys, 12 storeys and 8 storeys.



Original Three Building Proposal as lodged

In response to concerns raised by the Design Excellence Panel and Council staff, the proposal was redesigned to provide four residential flat buildings and include non-residential shop floor space within the building fronting Commercial Road as envisaged by the planning proposal. The buildings proposed heights of 12 storeys, 12 storeys, 7 storeys and 3 storeys. These heights are consistent with those depicted in the DCP as well as the planning proposal.



Amended Four Building Proposal

As detailed by the applicant, the four building design was preferable to five in order to achieve compliance with the ADG.

Whilst the building envelopes vary to those submitted with the planning proposal, the built form is considered to be in line with what was envisaged and achieves compliance with SEPP 65 – ADG design criteria. All DCP variations have been suitably justified or addressed in this report.

It is considered that despite the variation to the site layout detailed in Clause 4.17.1 of the site specific controls, the proposal still meet the objectives of the control and the variation can be supported.

ii) Setbacks

Clause 4.17.4(c) of DCP Part D Section 5 – Kellyville / Rouse Hill Release Area states that development shall be set back 6 metres from the western site boundary.

Buildings A and B propose a variation to these controls. It is also noted that unroofed terraces of two ground floor units only in these buildings also encroach into the western site boundary setback.

The objective of this clause of the DCP is:

- (i) *To protect privacy and amenity of adjoining land uses and to reduce bulk and scale.*

The applicant provided the following justification:

Buildings A and B have a minor encroachment into the 6m rear western side setback. This encroachment is very minor in nature being a maximum of 350mm of the external wall and roofing.

Full compliance with the setback control is not achievable as it would result in non-compliance of the ADG internal unit dimensions. The minor setback encroachment does not impact on the amenity of the neighbouring properties. The objectives of the control are still met.

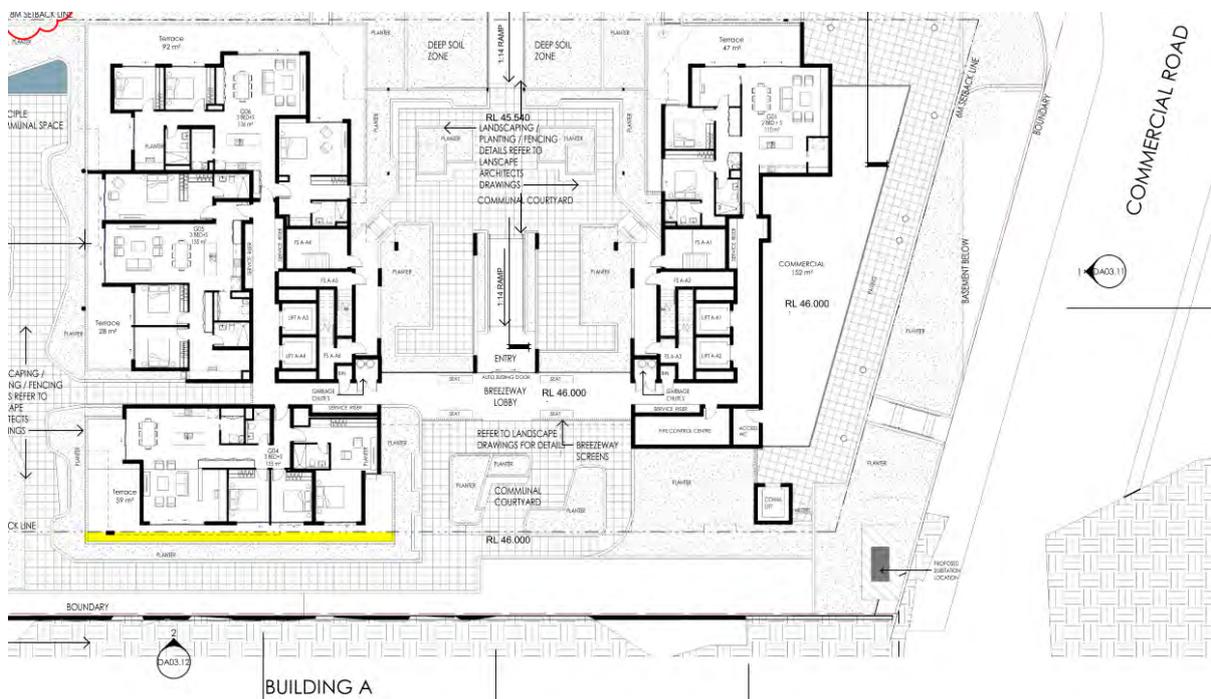
Considering the nature of the development, this encroachment is seen to be insignificant. The proposed development complies with all the other setbacks and is consistent with the objectives of Clause 3.3 of THDCP – Part D Section 5. The proposed encroachment does not impact on the provision of a useable area of private open space, ability to provide sufficient space for vehicle parking, sunlight access to habitable rooms.

Comment:

Building A proposes a set back to the western boundary of 5.8 metres to the wall of the building and approximately 5.4 metres to the unroofed terrace of one ground floor unit (Unit G04) only. The areas of non-compliance are highlighted in yellow below:

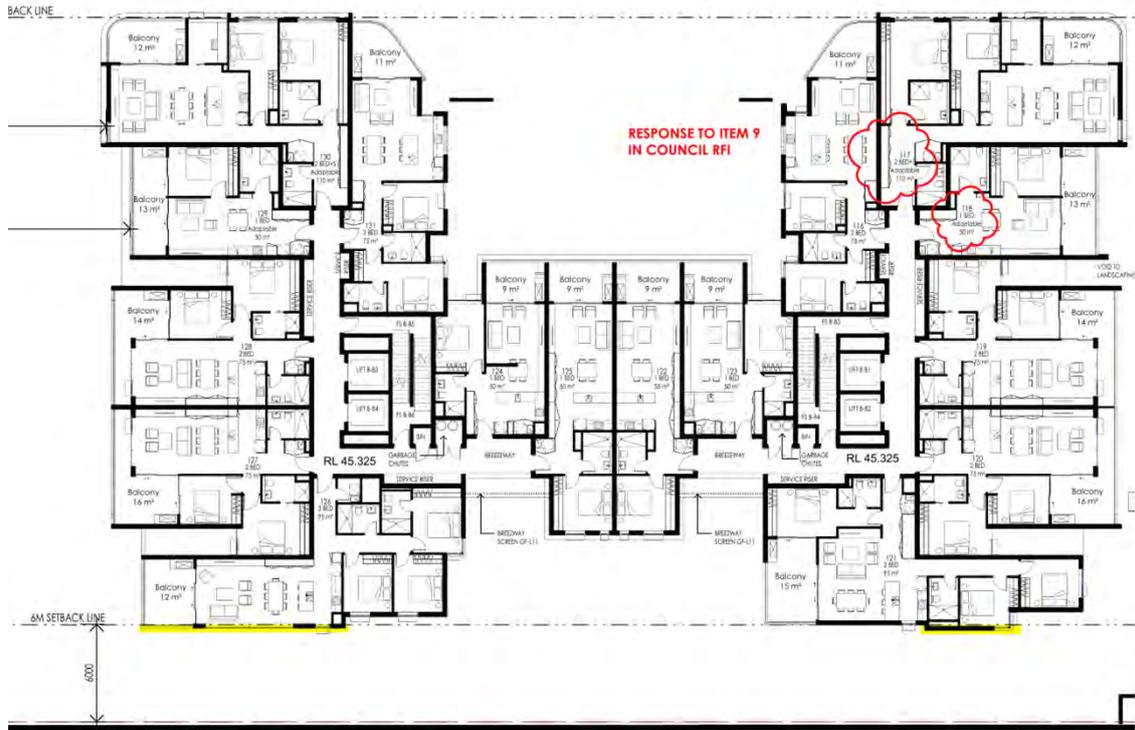


Building A – area of non-compliance highlighted in yellow

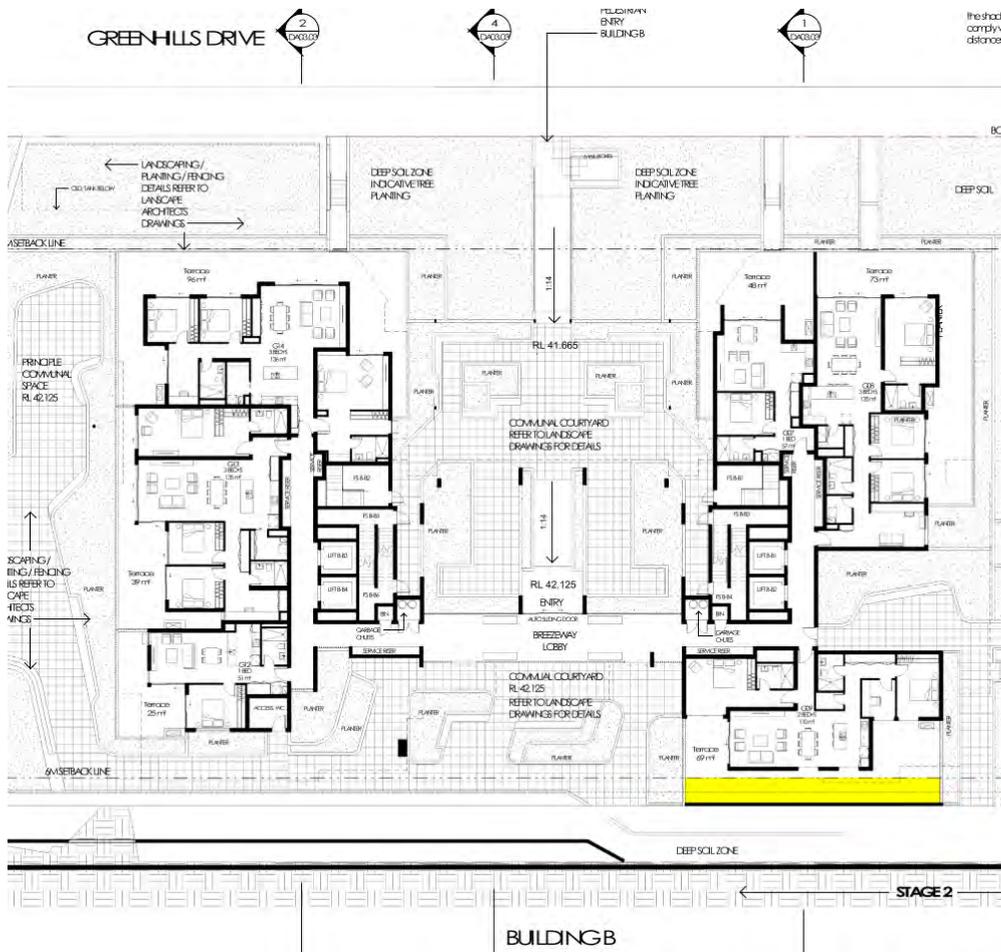


Ground Floor – Building A – Unit G04
(unroofed terrace area of non-compliance highlighted in yellow)

Building B proposes a set back of 5.65 metres to the western boundary and approximately 4.2 metres to the unroofed terrace of one ground floor unit (Unit G09) only. The areas of non-compliance are highlighted in yellow below:



Building B – areas of non-compliance highlighted in yellow



Ground Floor – Building B – Unit G09
(unroofed terrace area of non-compliance highlighted in yellow)

It is considered that these encroachments are minor in nature and add to the architectural diversity of the building.

It is also noted that Buildings A and B are located on the southern portion of the lot (see picture below) and the areas of non-compliance are directly adjacent to a mixed use development and its car park to the west. As a result, there will be no adverse impact on adjoining properties as a result of the non-compliance.

In this regard, the variation to the western site boundary setback of Building A and B is supported.



iii) Building Length

Clause 3.7(a) of DCP Part B Section 5 – Residential Flat Building states that the maximum linear length of any residential flat building is 50 metres.

Buildings A and B are approximately 60 and 62 metres in linear length respectively which is a variation to this control.

The objectives of this clause of the DCP are:

- (i) To reduce the visual bulk and scale of residential flat building developments.*
- (ii) To ensure that developments will enhance and contribute to the streetscape and desired character of the future and existing neighbourhood.*

The ground floor and Level 11 area in the middle of both buildings are communal landscaped courtyard and terrace areas.

As detailed by the applicant, the building envelope design ensures that the bulk of the building is located in the centre and also above ground level and below ridge height.

The landscaped communal courtyard and terrace areas at ground level and on Level 11 of these buildings ensures the variation does not increase the visual bulk and scale of the building from Green Hills Drive and contributes to the streetscape. In this regard, the variation can be supported.

Comment:

The Building B tower comprises a maximum 45m building length however the variation to the 50m control occurs with the inclusion of the circular podiums on Level 1 - Level 3. Private communal open space is provided on the two storey high circular podiums which results in architectural diversity and interest when viewed from the Spurway Drive/Natura Rise frontages. The variation does not increase the visual bulk and scale of the residential flat building and contributes to the streetscape. In this regard, the variation can be supported.

iv) Density

Clause 3.10(a) of DCP Part B Section 5 – Residential Flat Buildings states that the maximum population density permitted is 175 persons per hectare with a desirable range between 150-175 persons per hectare.

As detailed in the table above, the proposed density is 556.5 persons per hectare (for proposed lot 1) and 331.6 persons per hectare (for the parent lot).

However the development is facilitated by a planning proposal with an incentivised provision for FSR under Clause 7.11 of the LEP. As a result, site specific development controls were implemented in the DCP under Clause 4.17 of Part D Section 5 - Kellyville / Rouse Hill Release Area.

The proposed development complies with the incentivised FSR and is therefore supportable in this regard.

v) Unit Layout and Design

Clause 3.11(e) of DCP Part B Section 5 – Residential Flat Building states that Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.

The proposed development includes 226 Type 1 units which equates to 68.5% of the overall development.

The relevant objective of this clause of the DCP is:

- (i) *To ensure that individual units are of a size suitable to meet the needs of residents.*

The applicant provided the following justification:

The Minimum internal floor area of each unit complies with the ADG.

Comment:

While it is noted that the majority of units in the development are Type 1 in size, the apartment mix complies with the controls of this clause of the DCP ensuring a variety of units will be available to meet the needs of potential residents.

In addition, as detailed in Section 6(b)(ii) of this report, the proposal complies with the apartment mix controls detailed within Clause 7.11 of the LEP as well as

In this regard, the variation can be supported.

vi) Signage Area

Clause 2.3(a) of DCP Part C Section 2 – Signage states that in a Residential Zone, the maximum area of a sign is 2.25m² with maximum dimensions of 1.5 metres x 1.5 metres.

An illuminated 'Bathla' sign on the southern and western façades of Building A is proposed. The sign has dimensions of 3.38m x 1.4m and a total signage area of 4.73m².



The objectives of this clause of the DCP are:

- (i) To permit an approved use to adequately identify their premises while maintaining the residential character of the area.*
- (ii) To ensure that business and building identification signs are appropriate to the size and scale of the activity conducted on the property.*
- (iii) To ensure that business and building identification signs do not detract from any residential area by requiring the size, shape, materials and location of the signage to complement the visual character of the surrounding area.*

Comment:

Given the size of the development, the signage proposed is considered to be appropriate in size, scale and position on the building to ensure the premises is adequately identified without detracting from the character of the area. In this regard, the variation can be supported.

vii) Illumination of Signage

Clause 2.11(c) of DCP Part C Section 2 – Signage states that illuminated signage is prohibited within Residential zones other than an illuminated cube light to identify health care premises.

The above sign is proposed to be illuminated from sunset to sunrise every day.

The objective of this clause of the DCP is:

(i) To ensure that illuminated signage does not adversely impact on adjacent property owners or the amenity of the area.

Comment:

The proposed signs are located on the top of Building A on the western and southern elevations. These elevations face mixed use and commercial properties and not the nearby residential properties. This ensures no adverse impact on adjacent property owners or the amenity of the area will occur and the variation can be supported.

8. Issues Raised in Submissions

The application was notified for a period of 14 days on two occasions. In total, seven submissions from five properties were received. One of which was in support of the proposal.

ISSUE/OBJECTION	COMMENT	OUTCOME
<p><u>Road Network / Design</u> The development should be rejected or reviewed further as the new road between Caddies Blvd/Commercial Road and Mile End incorporating Greenhills Drive is insufficient for current commuter usage.</p> <p>Currently it is only single carriage each way and is required to be dual carriage for the expected increase in growth to the area with the proposed for additional housing and car spaces.</p> <p>The added housing would allow safe dual carriage for residents leaving and entering along with buses and other transport from Green Hills Road up to Mile End Road.</p> <p>The proposal does also not allow for traffic lights and pedestrian crossing lights on the new road or open space to handle the expected traffic flow.</p>	<p>The construction of the new road (Green Hills Drive) and associated traffic lights forms part of the preceding Subdivision Development Application. This application is for the built form on proposed lot 1 that follows the subdivision and road construction.</p> <p>The proposed road design has been reviewed by Council's Infrastructure and Transport Planning Team and Transport for NSW who raise no objection subject to conditions which will be imposed on the preceding Subdivision DA.</p> <p>This application is recommended for a deferred commencement approval to ensure the works that form the subdivision DA are completed prior to work commencing on this DA as access to the development is from the new road.</p>	<p>Issue addressed.</p>
<p><u>Traffic Impact</u> What measures are being adopted for the additional influx of vehicles around our streets? Its fine to say that</p>	<p>The submitted Traffic and Parking Assessment Report has been reviewed by Council's Infrastructure and Transport Planning Team who raised no</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>parking has been sorted, however, potentially it would mean something like 500 additional vehicles; this is not mentioning the additional strain on the services....water sewer etc.</p> <p>Looking at the plans, there appear to be no steps being taken to avoid possible serious injury to the public with the increased traffic which will naturally occur once the development is completed.</p> <p>The proposed development will also increase the safety risks for merging cars travelling east bound on commercial road from Windsor Road. Currently dual lane on Commercial Road until McCombe Ave in which Commercial Rd becomes a single lane travelling east bound.</p> <p>Alternative dual carriage and possible ring road access should be considered between Caddies Blvd, McCombe Ave, Greensborough and Pinehurst Ave to accommodate the extra vehicles and increased traffic for the proposed development.</p>	<p>objections to the proposal in terms of traffic impact subject to the proposed Green Hills Drive extension, roundabout (intersection of Green Hills Drive and Carnousite Street) and traffic signal (intersection of Green Hills Drive and Commercial Road) being implemented to the satisfactions of Council and TfNSW.</p> <p>The approved planning for the new signalised intersection at the intersection of Greenhills Drive/Commercial Road and Caddies Boulevard will result in a central concrete median being constructed on Commercial Road from the new signalised intersection extending just past McCombe Avenue. This will change the vehicle access from McCombe Avenue at the Commercial Road intersection to left in and left out only. This change to vehicle access combined with the extension of Greenhills Drive to a new signalised intersection at Commercial Road and Caddies Blvd will reduce vehicle volumes using McCombe Avenue and improve safety at the intersection of McCombe Avenue and Commercial Road.</p> <p>The applicant has also ensured adequate servicing is available for the development from the servicing authorities as required by the SEPP.</p>	
<p><u>Pedestrian / Road Safety</u> The proposed development doesn't appear to address the safety concerns for both pedestrians illegally crossing between Caddies Blvd, Commercial Road and McCombe Ave and drivers navigating these local roads.</p>	<p>This application is for the built form on proposed lot 1 that follows the subdivision and road construction.</p> <p>These concerns have been passed onto Council's Road Safety Officer for separate consideration.</p>	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>These roads are hazardous, dangerous and the increase in VPH will significantly increase these risks and recent incidents for pedestrians.</p> <p>This provides a concern for School Buses and School children as well as accessing local council parks and the recent flooding in the area.</p>		
<p>The number of units proposed is simply too high and we feel that it is nothing more than a money grab for the local council in additional rates.</p>	<p>As detailed in this report, the built form proposed is in keeping with that envisaged in the preceding planning proposal, which established the site specific development controls, such as floor space ratio, with which the proposal complies.</p>	<p>Issue addressed.</p>
<p>Has any consideration been given to McCombe Ave?</p> <p>The intersection of this street with Commercial Rd is extremely dangerous with a number of vehicle accidents already occurred.</p> <p>In addition, cars use this street as a shortcut and more often than not speed through it, once again creating a dangerous situation for the daycare centre on the same street, this is simply and accident waiting to happen.</p>	<p>McCombe Avenue and the concerns regarding it and the intersection with Commercial Road are not a consideration in the assessment of this application.</p> <p>These concerns have been passed onto Council's Road Safety Officer for separate consideration.</p>	<p>Issue addressed.</p>
<p>GPT Group have just lodged a revised DA of 1.3BN worth of investment for commercial/residential/retail development in the Northern Precinct of Rouse Hill Town centre bound by Rouse Hill Drive, Windsor Road and Commercial roads and Caddies Boulevard.</p> <p>The proposed scheme envisions eight "super lots" with 2,100 residential dwellings spread across</p>	<p>As detailed in this report, the built form proposed is in keeping with that envisaged in the preceding planning proposal, which established the site specific development controls, such as floor space ratio, with which the proposal complies.</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>them, making a density of 230 dwellings per hectare ranging from 2 to 25 storeys. And 300++ units of apartments will be added to the site, developed by Hills on Central.</p> <p>In additional to that the new Rouse Hill hospital will be built along Commercial Road next couple of years.</p> <p>There is a significant oversupply of apartments in the area.</p>		
<p>More employment opportunities are needed in the area, not more high density development.</p>	<p>The subject lot is zoned R1 General Residential. The first two objectives of this zone are to provide housing for the community using a variety of housing types and densities.</p> <p>The proposed development is a permissible form of development and is consistent with the site specific planning proposal that was finalised by the Department of Planning and Environment. It is also consistent with the site specific development controls that have been adopted by Council for the site.</p> <p>As can be seen on the zoning map in Attachment 3, the site is immediately adjacent to, and opposite, land zoned for business development.</p> <p>The proposed development will complement the development potential of the locality and provide housing for the local community.</p>	<p>Issue addressed.</p>
<p>The Council and Federal Government are failing to future proof development in the area.</p>	<p>The proposed development is permissible in the zone, is considered to complement and integrate with existing and future development in the locality and will provide housing for the community.</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
	As detailed above, it is recommended for approval subject to the works included in the preceding subdivision application being constructed to ensure the local road network can accommodate the development without resulting in unacceptable traffic implications.	
Local hospitals and schools will not be able to accommodate the additional residents the development will bring to the area.	<p>The proposed development is a permissible form of development and is consistent with the site specific planning proposal that was finalised by the Department of Planning and Environment. It is also consistent with the site specific development controls that have been adopted by Council for the site.</p> <p>Hospitals and schools is a matter for the State Government.</p>	Issue addressed.

9. External Referral Comments

Transport for NSW

The application was referred to the Transport for NSW for comment. It is noted that Transport for NSW is not a concurrence authority under the Environmental Planning and Assessment Act 1979. No objections were raised to the proposal subject to the requirements imposed on the preceding subdivision application being met.

NSW Police

The application was referred to the NSW Police. No objections were raised to the proposal, subject to recommended conditions of consent (refer condition No. 6).

10. Internal Referral Comments

Engineering

The application was referred to Council's Subdivision Engineering Section. No objections were raised to the proposal, subject to conditions. It is noted that an amendment is required to ensure the soil depth provided over the OSD chambers fronting Green Hills Drive. A minimum 300mm soil depth above these OSD/WSUD chambers is required as detailed in Condition No.'s 46, 56 and 63. Amended detailed design plans are required prior to issue of a construction certificate.

Traffic

The application was referred to Council's Infrastructure and Transport Planning Team who raised no objections to the proposal in terms of traffic impact subject to the proposed Green Hills Drive extension, roundabout (intersection of Green Hills Drive and Carnousite

Street) and traffic signal (intersection of Green Hills Drive and Commercial Road) being implemented to the satisfactions of Council and TfNSW.

Refer Section 3 for TfNSW comments in relation to potential for traffic safety and road congestion compliance with SEPP (Transport and Infrastructure) 2021.

Tree Management, Landscaping and Ecology

The application was referred to Council's Landscape Assessment Officer and Ecologist. No objections were raised to the proposal, subject to conditions of consent. It is noted that an amendment is required to ensure the soil depth provided over the OSD chambers fronting Green Hills Drive. A minimum 300mm soil depth above these OSD/WSUD chambers is required as detailed in Condition No.'s 46, 56 and 63. Amended detailed design plans are required prior to issue of a construction certificate.

Environmental Health

The application was referred to Council's Environment and Health Section. No objections were raised to the proposal, subject to conditions of consent.

Resource Recovery

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

Contributions

The application was referred to Council's Forward Planning Team for Contributions comments. The obligations in the Planning Agreement applicable to the land dated 25 July 2017 (Planning Agreement) must be performed in accordance with the terms of the Planning Agreement including, but not limited to, the payment of monetary contributions, completion of Capital Works and the Dedication of Land identified in Schedule 1 (Clause 9).

Written evidence is to be submitted to Council at the relevant stage, demonstrating that the relevant obligations of the Planning Agreement have been satisfied including, but not limited to, the payment of monetary contributions, completion of Capital Works and the Dedication of Land identified in Schedule 1 (Clause 9).

Land and Spatial Information

The application was referred to Council's Land and Spatial Information Section. No objections were raised, subject to conditions.

CONCLUSION

The Development Application has been assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, SEPP (Planning Systems) 2021, SEPP (Resilience and Hazards) 2021, SEPP (Transport and Infrastructure) 2021, SEPP (Industry and Employment) 2021, SEPP (Biodiversity and Conservation) 2021, SEPP 65 – Design Quality of Residential Apartment Development, SEPP – BASIX 2004, Local Environment Plan 2019, and The Hills Development Control Plan 2012 and is considered satisfactory.

The proposal has been assessed against the requirements of The Hills DCP 2012 and the variations identified with respect to site layout, setbacks, building length, density, apartment mix and signage have been assessed as satisfactory, subject to recommended conditions to ensure the proposal meet the objectives of the controls.

The issues raised in the submissions have been addressed in the report and refusal of the application is not warranted.

Deferred commencement is recommended subject to conditions.

IMPACTS:

Financial

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

The Hills Future

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.

Local Strategic Planning Statement

The Hills Shire Council's Local Strategic Plan (LSPS) is the framework for the direction of The Hills guides the future next five years. The LSPS was endorsed by Council on 22 October 2019 and was formally made on 6 March 2020. Council's LSPS identifies a significant need to provide diverse housing supply to cater for a broad range of household types and budgets. The strategy aims to deliver the right type of additional housing stock in areas that can be serviced with the right level of infrastructure and assist in creating liveable, walkable neighbourhoods.

The development application is aligned with the objectives of the LSPS Housing Strategy as it provides additional housing to meet the required 38,000 dwellings across the Shire and 330 dwellings of the 800 dwellings required in Rouse Hill by 2036. It also provides housing in an area serviced by public transport and close to mixed use developments and the Rouse Hill Town Centre.

The proposal will also meet the LSPS Productivity and Centres Strategy objective of planning for sufficient jobs, targeted to suit the skills of the workforce. The provision of supporting shop floor space will activate the site, provide job opportunities and facilitate a development that will contribute to the safety and vibrancy of Rouse Hill.

The site is also located on the outer ring of the Rouse Hill Strategic Centre. Transit oriented development such as The Greens is encouraged by the LSPS and will provide access to jobs and public transport to a high number of residents. This meets the objectives of the Integrated Transport Strategy to build strategic centres to realise their potential, renew and create great places and influence travel behaviour to promote sustainable choices. In this regard, the proposal is consistent with the aims and objectives of the LSPS.

RECOMMENDATION

The Development Application be approved subject to the following:

DEFERRED COMMENCEMENT

1. Preceding Subdivision

- A. Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, deferred commencement consent is granted subject to:
 1. The issuing of an operative consent for the preceding subdivision approved by Development Consent 1552/2020/ZB. That subdivision includes the construction and dedication of Green Hills Drive providing access to the development.

- B. The applicant must provide Council with written evidence demonstrating that the matters listed under Part A1 above have been satisfactorily addressed no later than four weeks before the notice of expiry date.
- C. Upon compliance with the requirements of Parts A and B; a full consent will be issued subject to the following conditions:

GENERAL MATTERS

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

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

The amendment in red relates to the soil depth provided over the OSD chambers fronting Green Hills Drive. A minimum 300mm soil depth above these OSD/WSUD chambers is required as detailed in Condition No.'s 46, 56 and 63. Amended detailed design plans are required prior to issue of a construction certificate.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO	DESCRIPTION	REVISION	DATE
DA 00.01	Cover Sheet	F	16/07/2021
DA 00.02	Project Statistics and Notes	T	16/02/2022
DA 01.02	Site Plan – Ground Plane	U	27/05/2022
DA 02.01	Reference Plans – Sheet 1	M	16/07/2021
DA 02.02	Reference Plans – Sheet 2	M	16/07/2021
DA 02.03	Reference Plans – Sheet 3	M	16/07/2021
DA 02.04	Reference Plans – Sheet 4	M	16/07/2021
DA 02.05	Reference Plans – Sheet 5	J	16/07/2021
DA 02.06	Reference Plans – Sheet 6	J	16/07/2021
DA 02.09	Stage 1 – Basement 4	F	16/07/2021
DA 02.10	Stage 1 – Basement 3	U	16/07/2021
DA 02.11	Stage 1 – Basement 2	X	16/02/2022
DA 02.12	Stage 1 – Basement 1	Y	16/02/2022
DA 02.13	Stage 1 – Ground Floor	CC	16/02/2022
DA 02.14	Stage 1 – Level 1	W	27/07/2021
DA 02.15	Stage 1 – Level 2	V	27/07/2021
DA 02.16	Stage 1 – Level 3	W	27/07/2021
DA 02.17	Stage 1 – Level 4	W	27/07/2021
DA 02.18	Stage 1 – Level 5	W	27/07/2021
DA 02.19	Stage 1 – Level 6	W	27/07/2021
DA 02.20	Stage 1 – Level 7	V	27/07/2021
DA 02.21	Stage 1 – Level 8	V	27/07/2021
DA 02.22	Stage 1 – Level 9	U	27/07/2021
DA 02.23	Stage 1 – Level 10	V	27/07/2021

DA 02.24	Stage 1 – Level 11	V	27/07/2021
DA 02.25	Stage 1 – Roof	U	27/07/2021
DA 02.27	Stage 2 – Basement 3	Q	16/02/2022
DA 02.28	Stage 2 – Basement 2	W	16/02/2022
DA 02.29	Stage 2 – Basement 1	X	28/01/2022
DA 02.30	Stage 2 – Ground Floor	DD	24/05/2022
DA 02.31	Stage 2 – Level 1	BB	16/02/2022
DA 02.32	Stage 2 – Level 2	BB	16/02/2022
DA 02.33	Stage 2 – Level 3	AA	16/02/2022
DA 02.34	Stage 2 – Level 4	AA	16/02/2022
DA 02.35	Stage 2 – Level 5	Z	16/02/2022
DA 02.36	Stage 2 – Level 6	AA	16/02/2022
DA 02.37	Stage 2 – Level 7	V	27/07/2021
DA 02.38	Stage 2 – Level 8	U	27/07/2021
DA 02.39	Stage 2 – Level 9	U	27/07/2021
DA 02.40	Stage 2 – Level 10	V	27/07/2021
DA 02.41	Stage 2 – Level 11	V	27/07/2021
DA 02.42	Stage 2 – Roof	T	27/07/2021
DA 03.01	Long Section & Height Plane	R	27/07/2021
DA 03.02	Cross Sections - Sheet 1 – Building A	H	27/07/2021
DA 03.03	Cross Sections – Sheet 2 – Building B	H	27/07/2021
DA 03.04	Cross Sections - Building C	H	27/07/2021
DA 03.05	Cross Sections	D	27/07/2021
DA 03.06	Cross Sections – Street Interface	D	27/07/2021
DA 03.07	Cross Sections – Street Interface	D	27/07/2021
DA 03.08	Cross Sections – Public/Private Interface	D	27/07/2021
DA 03.10	Site Elevations	L	27/07/2021
DA 03.11	Elevations – Building A	P	16/02/2022
DA 03.12	Elevations – Building A	M	27/07/2021
DA 03.13	Elevations – Building B	M	27/07/2021
DA 03.14	Elevations – Building B	L	27/07/2021
DA 03.15	Elevations – Building C and D	L	27/07/2021
DA 03.15.1	Elevations – Building C and D	G	27/07/2021
DA 03.16	External Materials Schedule	F	16/07/2021
-	Perspectives (5 pages)	-	-
LPDA 20-230	Site Context	-	30/05/2022
L101	Tree Survey	G	30/05/2022

L102	Landscape Diagrams, Area Calculation and Pedestrian Access	F	03/02/2022
L201	Hardscape Plan (Building A)	G	30/05/2022
L202	Hardscape Plan (Building B)	G	30/05/2022
L203	Hardscape Plan (Building C)	G	30/05/2022
L204	Hardscape Plan (Building C & D)	G	30/05/2022
L300	Tree Planting 1	G	30/05/2022
L301	Tree Planting 2	G	30/05/2022
L302	Understorey Planting 1	G	30/05/2022
L303	Understorey Planting 2	G	30/05/2022
L304	Understorey Planting 3	G	30/05/2022
L305	Understorey Planting 5	G	30/05/2022
L306	Rooftop Landscape	F	03/02/2022
L307	Rooftop Landscape (Various)	F	03/02/2022
L400	Sections A, B, C, D	G	30/05/2022
L401	Sections E-E, H-H, I-I	F	03/02/2022
L402	Section F-F, G-G	F	03/02/2022
L403	Street View – Elevation (Green Hill Drive)	F	03/02/2022
L404	Section J-J, K-K	A	27/05/2022
L500	Details 1	F	03/02/2022
L501	Details 2	F	03/02/2022
L502	Details 3	F	03/02/2022
L503	Details 4	F	03/02/2022
DA01.02-24 & DA02.27-41	Street/Unit Numbering Plans (32 Pages – for numbering purposes only)	Q, U and V	Refer to Plans

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.

3. External Finishes

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

4. Tree Removal

Approval is granted for the removal of fifty-four (54) trees numbered 23, 27-28, 37-38, 42, 45-46, 56, 63-89 and 115-132 as indicated on the Landscape Plans prepared by Concept Landscape Architects.

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

5. Compliance with Transport for NSW Requirements

Compliance with the requirements of Transport for NSW attached as Appendix A to this consent and dated 13 July 2022 which raise no objection subject to the requirements imposed on the preceding subdivision DA (DA No. 1552/2020/ZB) being met.

6. Compliance with NSW Police Requirements

Compliance with the requirements of NSW Police attached as Appendix B to this consent and dated 15 October 2020. The following is required or as otherwise agreed by NSW Police and Council in writing:

Surveillance

The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical.

Vegetation

As this development proposes to have significant vegetation throughout the site, it must be emphasised that the vegetation, especially the shrubs and shade trees, be kept trimmed at all times. Lower tree limbs should be above average head height and shrubs should not provide easy concealment.

It is recommended that 3-5 metres of cleared space be located either side of residential pathways and bicycle routes. Thereafter, vegetation can be stepped back in height to maximise sightlines.

A regular maintenance schedule needs to be implemented to ensure that the vegetation does not become overgrown.

The height of the trees when they are fully grown allows for visibility underneath and should not obstruct people from seeing and being seen. This can be ensured if they are well maintained with the lower branches removed as the height increases.

Lighting and Technical Supervision

It is important the communal areas are well supervised, by allowing natural surveillance of these sites.

It is important that landscaping does not impinge on site lines and that these paths are well lit.

Lighting should meet minimum Australian standards. Special attention should be made to lighting the entry and exit points from the buildings, car park and access/exit driveways.

The access/exit driveways need to be adequately lit to improve visibility and increase the likelihood that offenders will be detected and apprehended. At the same time throughout the site transition lighting is needed to reduce vision impairment, i.e. reducing a person walking from dark to light places.

CCTV

Police suggest the use of a CCTV system to monitor the common open spaces throughout the development, especially if no access control to the area is provided. Police would also suggest the use of CCTV to monitor entry/exit to the complex.

CCTV cameras need to be able to zoom in on a person of interest without loss of focus and/or quality. The owner should train all relevant staff of how to use the CCTV cameras.

Territorial Reinforcement

The strategic location of supervisors and employees increases the risk to offenders and crime effort. Territorial reinforcement can be achieved through:

- Design that encourages people to gather in public space and to feel some responsibility for its use and condition.
- Design with clear transitions and boundaries between public and private space.
- Clear design cues on who is to use space and what it is to be used for.

It is recommended that all public access points are well marked and inviting.

Environmental Maintenance

Vandalism can induce fear and avoidance behaviour in a public space, therefore the rapid repair of vandalism and graffiti, the replacement of car park lighting and general site cleanliness is important to create a feeling of ownership.

A maintenance schedule to remove any graffiti or repair damaged property should be implemented. Having an area that appears well kept and cared for can act as a deterrent. The use of robust materials in the carpark will assist in having any graffiti removed. Porous substances could inhibit the thorough cleaning of damaged areas leaving a 'ghost' of the markings that were caused.

Access Control

All areas of the development not open to the public need to have clear indications of this. Any areas that are restricted should have a sign present so that criminals have no excuse to being in an area they are not supposed to.

Warning signs should be strategically posted around the building to warn intruders of what security treatments have been implemented to reduce opportunities for crime. EG. 'Warning, trespassers will be prosecuted.' Or 'Warning, these premises are under electronic surveillance.'

Security / Entry Control System

One of the major issues that have been brought to Police attention in this Local Government Area is the prevalence of offenders breaching the security access to the unit block, particularly the car park areas, and breaking into the units' garages and storage areas. Offenders often gain access to commit these offences despite the presence of a security shutter restricting unauthorised access at the entrance to the car park area. Ensuring the section of the security roller shutter near the manual door release is solid, improved strength to garage doors and better quality locking mechanism would reduce the incidence of this type of crime.

Fire Exits and Stairs

Magnetic door locking systems linked to Fire Sprinkler alarms ensure that fire exits are used for emergencies only.

Police recommend that all fire doors are alarmed so that no unauthorised access is permitted. A magnetic strip is also recommended so that the door will shut closed. Signage is recommended on all fire doors to show that doors are alarmed and to only be used in emergencies. Any external doors that can be used to enter the car park or into the complex should have a plate installed to the door.

The stairways should also be checked frequently and items that could be used to hold doors open should be removed. The handles, hinges, latch and striker plate should be checked for foreign objects that may hinder the effectiveness of these mechanisms, allowing the door to remain open or not be locked as it should be.

Natural Ladders

Police recommend that the development avoid creating outer ledges capable of supporting hands/feet and balustrades should not provide anchor points for ropes. Also, for any fencing proposed for the development Police would recommend palings are placed vertically to stop unauthorised access by persons using horizontally placed palings as a ladder to access ground floor units. This also applied to internal structures to avoid children being able to climb out of the centre.

During construction

The presence of machinery and tools, as well as building materials will be tempting so please ensure that all tools are locked and secured, with regular checks conducted in relation to the security of the site. Police recommend that any large reels containing electrical cabling or copper material be secured and hidden when not in use.

It is recommended that CCTV with motion activated alerts are used so that the presence on site of any person can be monitored out of hours. Ensure that large equipment such as excavators and bob cats are tracked, and that any smaller tools have serial numbers or identifying marks recorded.

Ensure that any access points have contact details for a site manager clearly visible so if Police or other services need to attend they can speak to the right person.

Letter boxes

High quality letterboxes that meet the Australian standards - ISO9001:2008 should be installed. It is also required that the mail boxes should only be able to be accessed via within the unit complex by residents. The letterboxes shall be under CCTV surveillance to help deter letterbox mail theft.

Police also suggest the installation of circular letter box locks.

Storage cages

Police suggest if caged storage units and caged garages are used, have the cage built up to the ceiling within the car park so offenders cannot climb over the caged areas. A caged storage area should have a door that is reinforced instead of a cage with just a lock. A plate is suggested to stop offenders who may get into the garaged areas of the units from using a jemmy to get in. It is also suggested that an extra lock such as a dead lock or a latch lock be installed also.

Car Park

The carpark should be well lit and bright. Refrain from the use of sensor lights, especially in areas less travelled. The entry to the carpark should also be well lit.

The storage cages should be of a robust, opaque material.

7. Planting Requirements

All trees planted as part of the approved landscape plan prepared by Concept Landscape Architects are to be planted in minimum 75L pot sizes. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers and ornamental grasses are to be minimum 150mm pot sizes. Any species that need substituting requires confirmation from Council.

For all planting on slab and planter boxes the following minimum soil depths must be provided:

- 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.

8. Provision of Parking Spaces

The development is required to be provided with 567 off-street car parking spaces.

The following allocation of car parking spaces is required:

Stage 1:	248 spaces
Stage 2:	319 spaces

These car parking spaces shall be available for off street parking at all times.

9. Separate application for other signs

A separate application is required to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures other than the signage approved in this consent.

10. 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.

11. 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.

12. Structures Adjacent to Piped Drainage Easements

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

13. Requirements for Council Drainage Easements

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

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

14. 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.

15. Minor Engineering Works - Stage 2

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) Proposed work over the Inter-allotment Stormwater Drainage

The proposed work over the drainage easement requires separate construction approval from Council beforehand, under Section 68 of the Local Government Act 1993.

The design and construction of this stormwater drainage work must be provided for in accordance with Council's Design Guidelines Subdivisions/ Developments and Works Specifications Subdivisions/ Developments, and the following requirements:

1. Structure shall be design and constructed to be disassembled without impacting the adjoining structures outside the stormwater easement.
2. Footing shall be located outside the stormwater easement
3. The structure shall not impart a load on the pipe in the easement
4. 300mm freeboard shall be provided between the 1% AEP and the underside of the pedestrian bridge
5. The building, opening and access to the building shall be protected or set at minimum of 300mm above the 1% AEP within the easement.
6. The proposed retaining wall 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
7. Design Compliance issued by a chartered Structural engineer certifying that the requirements of this condition have been satisfied.

The cost of application, approval and inspection fees are payable by the applicant in accordance with Council's Schedule of Fees and Charges.

Once the stormwater drainage work is complete a works as executed plan must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments and submitted to Council's Construction Engineer for written approval. The works as executed plans must be prepared by a civil engineer or registered surveyor.

Prior to the issue of any construction certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval for this stormwater pipe have been inspected, accepted and signed off by Council's Manager - Subdivision & Development Certification.

16. 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.

17. Recycled Water – Rouse Hill/ Sydney Water

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

18. 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.

19. 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 a Registered Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

20. 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.

21. Air Conditioner Location

The air-conditioning unit location is to be as shown on the approved plans or is to comply with the criteria of exempt development as outlined in the SEPP - Exempt & Complying Development Codes 2008.

You are reminded that the air conditioning must be designed so as not to operate:

- (i) Between 7am and 10pm — at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
- (ii) Between 10pm and 7am — at a noise level that is audible in habitable rooms of adjoining residences.

22. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Pulse Acoustic Consultancy referenced as Project number 20109 and dated 27 July 2020 and the Acoustic report prepared by Pulse White Noise Acoustics Pty Ltd, referenced as Project No. 210259, dated 8 July 2021 and submitted as part of the Development Application are to be implemented as part of this approval.

23. Contamination Assessment & Site Remediation

The recommendations of the Contamination Site Investigation Report prepared by Geotesta Pty Ltd, referenced as NE625.Rev01, dated 29 April 2021 and submitted as part of the Development Application are to be implemented as part of this approval.

A data gap assessment is to be undertaken near and under where structures are to be demolished. The report of the data gap assessment shall be submitted to the certifying authority prior to the issue of an occupation certificate.

Should the assessment find contamination at levels requiring remediation a Remedial Action Plan shall be prepared and the remediation undertaken. A Validation report shall be submitted to the certifying authority prior to the issue of an occupation certificate.

There shall not be any onsite disposal of contaminated soil, waste or soil for which the contaminated status is unknown.

24. Retention of Trees

All trees not specifically identified on the approved landscape plans for removal in accordance with the Condition No. 4 are to be retained with remedial work to be carried out in accordance with the Arboricultural Impact Assessment and Tree Management Plan prepared by Redgum Horticultural dated 18/5/21. All retaining walls and level changes are to be outside of the TPZ extent of group of trees identified as Tree 24.

25. Protection of Existing Trees and Native Vegetation

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

26. Control of early morning noise from trucks

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

27. Control of Noise from Trucks

The number of trucks waiting to remove fill from the site must be managed to minimise disturbance to the neighbourhood.

28. Secure Properties and Maintain Vegetation

The house that is currently located on the development site is to be made secure so that the public cannot access the house or dump rubbish on the land until the house is demolished. The vegetation on the property is to be maintained and controlled so that the property does not become overgrown and thus creating an unsafe and / or unhealthy environment. The site is to be maintained in a healthy and safe state for the duration of the development and until the issue of an occupation certificate.

29. Provision of Kitchen Waste Storage Cupboard

Waste storage facility must be provided in each unit/dwelling to enable source separation of recyclable material from residual garbage. Each unit/dwelling must have a waste storage cupboard provided in the kitchen with at least 2 removable indoor bins with a minimum capacity of 15 litres each. The bins provided should allow convenient transportation of waste from the kitchen to the main household bins or waste disposal point. The Principal Certifying Authority must visually confirm in person, or receive photographic evidence validating this requirement, prior to the issue of any Occupation Certificate.

30. Construction of Separate Waste Storage Areas

The development must incorporate separate dedicated waste storage areas, to facilitate the separation of residential waste and recycling from commercial material, designed and constructed in accordance with the following requirements. The garbage collection room must provide minimum storage facility for 19 x 1100 litre garbage and 19 x 1100 litre recycle bins. Each residential garbage room must also provide minimum space for 2 x 2 bin linear track systems for Building's A, B and C. Building D must provide a waste storage area adequate to store at minimum 2 x 1100 litre garbage and 1 x 1100 recycle bin. A separate garbage room must be provided for commercial waste.

- The waste storage areas must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins and associated waste infrastructure as specified above.
- The layout of the waste storage areas 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 design of the waste storage areas must ensure that commercial tenants do not have access to the residential waste storage areas, and vice versa for residential occupants.
- The walls of the waste storage areas must be constructed of brickwork.
- The floor of the waste storage areas 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 areas must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).
- The waste servicing door for the residential waste storage area must be supplied with a lock through Council's Waste Management Master Key System 'P3520'. See condition titled 'Installation of Master Key System to Waste Collection Room' for further details.
- The residential waste storage area must have a resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door must be separate to the waste servicing door.
- All doors of the waste storage areas, when fully opened, must be flush with the outside walls and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The waste storage areas must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- The waste storage areas 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 areas, it is not to conflict with the space designated for the placement of bins.
- The waste storage areas 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 areas must have appropriate signage (Council approved designs for residential and NSW EPA for commercial), 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(s) 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)

31. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2-2002 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 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. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

32. Provision of Bulky Goods Storage Area

A separate room or caged area for unwanted bulky goods must be provided that opens directly onto the designated waste service bay. The area must be designed and constructed in accordance with the following requirements.

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

33. Communal Composting Areas

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

34. Commercial Waste and Recycling Collection Contract

There must be a contract in place with a licenced contractor for the removal and lawful disposal of all commercial 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.

35. 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.

36. Provision of Waste Chute System

The development must incorporate a dual chute system for the disposal of both garbage and recyclables in Buildings A, B and C. Chute openings must be provided on every residential floor within the building corridors. The waste chutes must terminate into the waste storage rooms. Garbage must discharge into 1100 litre bins housed on a 2-bin linear track system with compactor (2:1 compaction ratio) and recyclables must discharge into 1100 litre bins housed on a 2-bin linear track system. The waste chute system must be maintained in accordance with manufactory standards.

37. Provision of Bin Cupboards

A separate bin cupboard must be provided next to chute openings on every residential floor to allow for the disposal of items unsuitable for chute disposal or a third waste stream. The cupboards must be sized to store at least a single 240 litre bin. The dimensions of a 240 litre bin are 735mm deep, 580mm wide and 1080mm high.

38. 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.

39. Planning Agreement

The obligations in the Planning Agreement applicable to the land dated 25 July 2017 (Planning Agreement) must be performed in accordance with the terms of the Planning Agreement including, but not limited to, the payment of monetary contributions,

completion of Capital Works and the Dedication of Land identified in Schedule 1 (Clause 9).

The completion of capital works must be satisfied prior to the first to occur of:

1. The issue of an Occupation Certificate for any part of 'the Development' (as defined under the VPA); or
2. The issue of a Subdivision Certificate (including strata subdivision) for a plan which, when registered, would create the first Final Lot within 'the Development' (as defined under the VPA).

The payment of monetary contributions must be satisfied prior to the first to occur of:

1. The issue of an Occupation Certificate for the relevant Final Lot; or
2. The issue of a Subdivision Certificate (including strata subdivision) for a plan which, when registered, will create the relevant Final Lot.

Written evidence is to be submitted to Council at the relevant stage, demonstrating that the relevant obligations of the Planning Agreement have been satisfied including, but not limited to, the payment of monetary contributions, completion of Capital Works and the Dedication of Land identified in Schedule 1 (Clause 9).

40. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council and its Contractor. The service must be arranged no earlier than two days prior to occupancy and no later than seven days after occupancy of the development. All requirements of Council's domestic waste management service must be complied with at all times. Contact Council's Resource Recovery Team on (02) 9843 0310 to commence a domestic waste service.

41. Property Numbering and Cluster Mail Boxes

The responsibility for property numbering is vested solely in Council under the *Local Government Act 1993*.

The overall property address for this development is: 39 Green Hills Drive Rouse Hill.

Building A: 39 Green Hills Drive Rouse Hill.

Building B: 37 Green Hills Drive Rouse Hill.

Building C: 35 Green Hills Drive Rouse Hill.

Building D: 33 Green Hills Drive Rouse Hill.

Approved unit numbering is as per plans submitted marked as DWG No: DA01.02-24 & DA02.7-41 and marked up as 'Numbering Plans' by Council's Land Information Team within consent documentation; and as follows:

Level	Building A	Building B	Building C	Building D
Ground	G01-G05	G06-G11	G12-G13	G14-G17
One	101-115	116-131	132-137	138-141
Two	201-215	216-231	232-237	238-239
Three	301-315	316-331	332-337	NA
Four	401-415	416-431	432-437	NA
Five	501-515	516-531	532-537	NA
Six	601-615	616-631	632-634	NA
Seven	701-715	716-724	NA	NA
Eight	801-815	816-824	NA	NA
Nine	901-910	911-917	NA	NA
Ten	1001- 1009	1010-1016	NA	NA

Eleven	1101-1104	1105-1108	NA	NA
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These addresses shall be used for all correspondence, legal property transactions and shown on the final registered Deposited Plan/Strata Plan lodged with Land Registry Services NSW as required.

Under no circumstances can unit numbering be repeated or skipped throughout the development regardless of the building name or number.

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

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

Mail Boxes

Australia Post requires cluster mail boxes to be perpendicular to the footpath or road and within easy reach for the postal delivery officer. For resident's useability and convenience, they are to be located close to relevant entry points.

Cluster mail boxes are to be located as shown on plans submitted marked as DWG No: DA01.02; Rev: U; Dated: 27/05/2022 and marked up as 'Numbering Plan' by Council's Land Information Team within consent documentation. Cluster mail boxes are to be located within the site 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 and commercial unit plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietors additional mail box is to be located within the cluster located at Building A: 39 Green Hills Drive.

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.

42. Separate Development Application – Non-residential use

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

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

- Proposed use and its permissibility
- Hours of operation
- Delivery Details
- Staff Numbers

- Acoustic impacts
- Signage, and
- Parking Provision

43. Irrigation

An automatic watering system to be installed as a minimum to all common areas. 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.

44. Ventilation for Basement Carpark

The basement car park is to be provided with ventilation in accordance with Australian / New Zealand Standard AS/NZS 1668.2 2012.

Certification of compliance shall be submitted to the Certifying Authority.

The exhaust from the basement carpark shall be positioned so as to not cause a nuisance due to odour or noise to an occupier of any residential premises.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

45. Notice of Requirements

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

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

46. Onsite Stormwater Detention

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters using Drains model to ensure that the existing stormwater pipes within the street can cater for the additional flows from this development.

The stormwater concept plan prepared by Orion Consulting, Project number 20-0009, Drawing NO. 200, Revision Rev B, dated 30-06-2021, Drawing NO. 201, Revision Rev F, dated 25/05/202 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) A minimum soil depth of 300mm shall be provided above the OSD/WSUD chamber. The OSD layout and size shall be revised to comply with this requirement. This requirement shall be shown on the stormwater plan and shall be consistent with the landscape requirements covered in this consent.

Water sensitive urban design elements, consisting of filters and rainwater tank, are to be located generally in accordance with the plans and information submitted with the application.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

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

All model parameters and data outputs are to be provided.

The design and construction of the 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.

47. 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.

48. Works in Existing Easement Stage 2

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

49. 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.

50. Security Bond – Road Pavement and Public Asset Protection Stage 1

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$282,000 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side (200m) multiplied by the width of the road (15m).

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.

51. Security Bond – Road Pavement and Public Asset Protection Stage 2

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$366,000 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the 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 (260m) multiplied by the width of the road (15m).

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.

52. 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 Orion Consulting, Project number 20-0009, drawing no.001, Revision D, dated 17/05/2022, and 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.

b) 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.

c) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by Orion Consulting, Project number 20-0009, drawing no.002, Revision B, dated 28/01/2022. 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.

The proposed retaining wall 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

53. Construction Management Plan

Prior to the issuing of a Construction Certificate a Construction Management Plan must be submitted to Council's Manager – Subdivision and Development Certification for approval. The Construction Management Plan must specifically address each of the following matters:

- Construction traffic (internal).
- Traffic control (external). This needs to consider road closures and delivery routes with respect to the surrounding road network as separately conditioned.
- Public asset protection.
- Dust management as separately conditioned.
- Sediment and erosion control as separately conditioned.
- Stockpiles.
- Noise; outside of standard work hours for float deliveries will need to have written Transport for NSW approval and Council and affected neighbours must be notified in writing.
- Working hours; including plant warming up and/ or noise above conversation levels before the nominated starting time.
- Tree/ vegetation protection.
- Fauna protection, recovery and relocation (including fauna habitat)

54. 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.

55. 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.

56. Landscape Plan

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

The plan must contain:

- a) site boundaries and dimensions surveyed;
- b) north point, and scale (1:200 desirable);
- c) existing and proposed levels;
- d) basement extents;
- e) all trees, grassed areas, landscape features and main structures on the site (buildings, car parking, driveways, walls, fences, paving, storage areas, elements contributing to the significance of a heritage item etc);
- f) retaining walls and level changes outside of TPZs;
- g) landscape area diagrams excluding any landscaped areas less than 2m dimensions;
- h) detailed planting plans showing individual locations of plant species and a schedule of proposed planting, including botanical names, common names, quantities, pot size, expected mature height and staking requirements;
- i) location of stormwater including OSDs, pits and stormwater drainage. Depth of soil over the OSD is to be minimum 300mm; and
- j) location of fire egress and external services

57. Translocation of Threatened Species

Prior to any disturbance to the subject site, a targeted search for *Meridolum corneovirens* (Cumberland Plain Land Snail) is to be conducted. Any Cumberland Plain Land Snail found during this process is to be relocated to a nearby site approved by Council containing appropriate habitat within Cumberland Plain Woodland that is covered by a Biodiversity Conservation licence obtained from NSW Department of Planning, Industry and Environment. A Relocation Plan is to be prepared in accordance with the Office of Environment and Heritage's Translocation Operational Policy (2019), and is to be submitted to The Hills Shire Council's Manager – Environment and Health for approval prior to issue of a Construction Certificate.

58. Erosion & Sediment Control Plan

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

- a. Allotment boundaries
- b. Location of the adjoining roads
- c. Contours
- d. Existing vegetation
- e. Existing site drainage
- f. Critical natural areas

- g. Location of stockpiles
- h. Erosion control practices
- i. Sediment control practices
- j. Outline of a maintenance program for the erosion and sediment controls

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

59. Internal Pavement and Turntable Structural Design Certification

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

60. Construction Management Plan

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

61. Design Verification of Residential Units

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

62. Subdivision Works Certificate/ Preceding Subdivision

A Subdivision Works Certificate for the preceding subdivision approved by Development Consent 1552/2020/ZB must be issued by Council before a Construction Certificate can be issued for this development. This is to ensure the detailed design of Green Hills Drive is finalised before the detailed design of these buildings.

63. Landscaping above OSD

The Prior to Construction Certificate Stormwater Plans are to demonstrate minimum 300mm depth of soil at the north-eastern boundary for all OSDs within the Greenhills Drive setback. Access pits are to extend to Finished Ground Level (FGL). The plan is to be submitted to the satisfaction of Council's Manager - Environment and Health.

64. Revised Plans - Stage 2

The architectural, landscaping and stormwater plans shall be revised to be consistent/matching with the future approved works under S68 Local Government Act approval over the existing stormwater easement.

The revised architectural, landscaping and stormwater plans along with the approved S68 Local Government Act approval shall be provided to Principal Certifier Prior to the issue of any construction certificate of stage 2

PRIOR TO WORK COMMENCING ON THE SITE

65. Protection of Existing Trees

The trees that are to be retained are to be protected during all works strictly in accordance with AS4970- 2009 Protection of Trees on Development Sites.

At a minimum a 1.8m high chain-wire fence is to be located and constructed to the extents as specified in the Tree Protection Plan prepared by Redgum Horticultural dated 18/5/21 and is to be in place prior to works commencing (including demolition) to restrict the following occurring:

- Stockpiling of materials within the tree protection zone,
- Placement of fill within the tree protection zone,

- Parking of vehicles within the tree protection zone,
- Compaction of soil within the tree protection zone.

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

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

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

Tree Protection fencing must only be relocated under the direct supervision of the Project Arborist. Any works undertaken whilst fencing is relocated must be supervised by the Project Arborist.

66. Sydney Water Building Plan Approval

A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval and receipt from Sydney Water Tap in™ (if not already provided) must be submitted to the Principal Certifier upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

67. Trenching within Tree Protection Zone

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

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

Any proposed stormwater pipes must be installed using sensitive construction, such as non-destructive digging, under the supervision of an AQF level 5 Arborist within the TPZ of retained trees.

68. 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.

69. 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.

70. 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.

71. Transport for NSW Design Approval

The design and construction of the relevant works must be approved by Transport for NSW before any works commence on that road. A copy of the Transport for NSW stamped approved construction plans must be submitted to Council.

72. Contractors Details Stage 2

The contractor carrying out the works over the stormwater easement 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.

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 Lots 1136 and 1137 within DP1029338, and lot 1 within DP1204916 within the likely zone of influence from any excavation, dewatering or construction induced vibration.

75. 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.

76. 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.

Applicants are advised to consult with the relevant electricity authority with respect to electricity supply and connection points to the site, or any other electrical infrastructure located in close proximity to the proposed works. Unimpeded access must be available to the electricity supply authority, during and after building, to the electricity meters and metering equipment.

77. 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.

78. 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).

79. Details and Signage - Principal Contractor and Principal Certifier

Details

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

Before work commences, details of the Principal Certifier, in accordance with Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, is to be lodged on the NSW Planning portal.

Signage

A sign is to be erected in accordance with Section 70 of the Environmental Planning and Assessment Regulation 2021. The sign is to be erected in a prominent position on the site before the commencement of the work, and show –

- a) the name, address and telephone number of the Principal Certifier,
- b) the name and a telephone number on which the principal contractor/person responsible for the work may be contacted outside working hours.

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

80. Notification of Asbestos Removal

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

81. Project Ecologist

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

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

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

82. 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.

83. 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.

84. Soil and Water Management Plan

A Soil and 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.

The plan is to include a plan of management for the treatment and discharge of water accumulated in open excavations. Water containing suspended solids greater than 50 mg/L shall not be discharged to the stormwater system.

85. Erosion & Sediment Control Plan Kept on Site

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

86. Construction and/or Demolition Waste Management Plan Required

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

87. Tree Removal & Fauna Protection

1. Pre-clearance survey (habitat features): Within one week prior to any removal of vegetation a pre-clearance survey is required to be undertaken by a qualified ecologist to identify, number and flag using high visibility tape hollow-bearing trees and other habitat features such as nests or hollow logs.

The results of the pre-clearance survey shall be submitted to The Hills Shire Council's Manager – Environment & Health. The report should include details such as size and location of the habitat features and any proposed additional measures required to mitigate the risk to fauna during clearing operations.

2. Notify Council: The Environment & Health Team must be provided with at least 2 working days' notice prior to the commencement of clearing vegetation and must be provided with site access during clearing operations.

DURING CONSTRUCTION

88. 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.

89. Hours of Work

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

Monday to Saturday - 7.00am to 5.00pm;

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

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

90. Survey Report and Site Sketch

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

91. Compliance with BASIX Certificate

Under Section 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this Development Consent that all commitments listed in BASIX Certificate

No. 1109618M_02 is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

92. Critical Stage Inspections and Inspections Nominated by the Principal Certifier

Section 6.6 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Section 61 of the Environmental Planning and Assessment (Development Certification and fire Safety) Regulation 2021. Prior to allowing building works to commence the Principal Certifier must give notice of these inspections pursuant to Section 58 of the Environmental Planning and Assessment (Development Certification and fire Safety) Regulation 2021.

An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspection or other inspection required by the Principal Certifier is not carried out. Inspections can only be carried out by the Principal Certifier unless agreed to by the Principal Certifier beforehand and subject to that person being a registered certifier.

93. 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.

94. Asbestos Removal

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

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

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

95. Dust Control

The emission of dust must be controlled and monitored for on-going effectiveness for the duration of the excavation and site work to minimise nuisance in accordance with the Dust Management Plan (DMP) submitted as part of this development. Any amendment or change to the approved dust management plan must be by consultation with Council.

96. Tree Removal & Fauna Protection

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

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

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

97. Protection of Existing Vegetation

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

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

98. 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.

99. Construction Noise

The emission of noise from the construction of the development shall comply with the Construction Noise Management Plan prepared by Pulse White Noise Acoustics dated 8 July 2021 and the *Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)*.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

100. 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 Landscape Plans prepared by Conzept Landscape Architects uploaded onto ECM on 8/6/22 by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

101. 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.

102. 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.

103. 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.

104. 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.

105. 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.

e) Positive Covenant – Onsite Waste Collection

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

f) Positive Covenant – Easement Encroachments

The subject site must be burdened with a positive covenant relating to the structure/s approved within the easement using the "easement encroachments" terms included in the standard recitals.

106. Planning Agreement

The obligations in the Planning Agreement applicable to the land dated 25 July 2017 (Planning Agreement) must be performed in accordance with the terms of the Planning Agreement including, but not limited to, the payment of monetary contributions, completion of Capital Works and the Dedication of Land identified in Schedule 1 (Clause 9).

The completion of capital works must be satisfied prior to the first to occur of:

1. The issue of an Occupation Certificate for any part of 'the Development' (as defined under the VPA); or
2. The issue of a Subdivision Certificate (including strata subdivision) for a plan which, when registered, would create the first Final Lot within 'the Development' (as defined under the VPA).

The payment of monetary contributions must be satisfied prior to the first to occur of:

1. The issue of an Occupation Certificate for the relevant Final Lot; or
2. The issue of a Subdivision Certificate (including strata subdivision) for a plan which, when registered, will create the relevant Final Lot.

Written evidence is to be submitted to Council at the relevant stage, demonstrating that the relevant obligations of the Planning Agreement have been satisfied including, but not limited to, the payment of monetary contributions, completion of Capital Works and the Dedication of Land identified in Schedule 1 (Clause 9).

107. 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.

108. Property Condition Report – Private Assets

Before a Subdivision Certificate is issued, an updated dilapidation report must be prepared and submitted to Council. The updated report must identify any damage to adjoining properties and the means of rectification for the approval of Council.

109. Biodiversity compliance

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

1. Tree Removal & Fauna Protection – Details prepared by the project ecologist demonstrating compliance with the Tree Removal and Fauna Protection condition/s of this consent.
2. Evidence of Replacement Planting Requirements – Invoices and photographs detailing the procurement of local provenance species demonstrating compliance with the Replacement Planting requirements condition of this consent.

110. Clearance Certificate

On completion of any asbestos removal works a Clearance Certificate in accordance with Clause 474 of the Work Health and Safety Regulation 2017 shall be provided to the Principal Certifier.

111. Internal Pavement Construction

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

112. Final Inspection of Waste Storage Areas

Prior to any Occupation Certificate being issued, a final inspection of the waste storage areas and associated management facilities constructed in both stages must be undertaken by Council's Resource Recovery Project Officer. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for domestic waste collection by Council and its Domestic Waste Collection Contractor. The time for the inspection should be arranged at least 48 hours prior to any suggested appointment time.

113. Provision of Signage for Waste Storage Areas

Prior to any Occupation Certificate being issued, a complete full set of English and traditional Chinese waste education signage (garbage, recycling and no dumping) must be installed in a visible location on every internal wall of all waste storage areas. Additionally, one set of English and Chinese garbage and recycling signage must be provided above every chute opening on every floor. The signage must meet the minimum specifications below and must be designed in accordance with Council's approved artwork. Waste signage artwork can be downloaded from Council's website; www.thehills.nsw.gov.au.

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

114. Domestic Waste Collection Risk Assessment

Prior to any Occupation Certificate being issued, a risk assessment must be undertaken on site by Council's Coordinator Resource Recovery. The time for the assessment must be arranged when clear unobstructed circulation in and out of the site is available for Council's Domestic Waste Contractor to perform a mock collection run at the site.

115. Waste Chute System Installation Compliance Certificate

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

116. Installation of Master Key System to Waste Collection Room

Before the issue of an Occupation Certificate, the site project manager must organise with Council's contractor to install a lock box fitted with Council's Waste Management Master Key System 'P3520', to allow Council's collection waste Contractor to access the site and waste storage area. The lock box must be fitted to the wall at the cost of the developer and house all required keys, remotes and scan cards to access the site for waste collection. Please contact Council's Resource Recovery Assessment Officer to organise the installation.

117. Design Verification Certificate for Residential Units

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

118. Registration of Preceding Subdivision

An Occupation Certificate cannot be issued for this development before a Subdivision Certificate has been issued for the preceding subdivision approved by Development Consent 1552/2020/ZB. This is to ensure Green Hills Drive is constructed and dedicated providing access to the development. This is also required to comply with the Voluntary Planning Agreement.

119. Insect and Odour Control

Before the issue of an occupation certificate, Council's Resource Recovery Assessment Officer must be satisfied with the installation of an insect control system provided in the garbage rooms and the garbage collection room. The equipment installed must be an ultra violet fly trap with a UV lamp of at least 20W or higher or similar. The fly trap should be an electric-grid style and mounted to an internal wall or attached to the ceiling. In addition, an adequate air deodoriser must be installed to help prevent offensive odours.

THE USE OF THE SITE

120. Offensive Noise

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provisions of the *Protection of the Environment Operation Act 1997*.

121. 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*.

122. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage areas, 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. All waste storage areas must be screened from view from any adjoining residential property or public place. A caretaker must be appointed to manage waste operations on site including undertaking all instructions issued by Council to enable waste collection e.g. transporting bins from the garbage rooms to the main garbage collection room. Waste storage areas must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

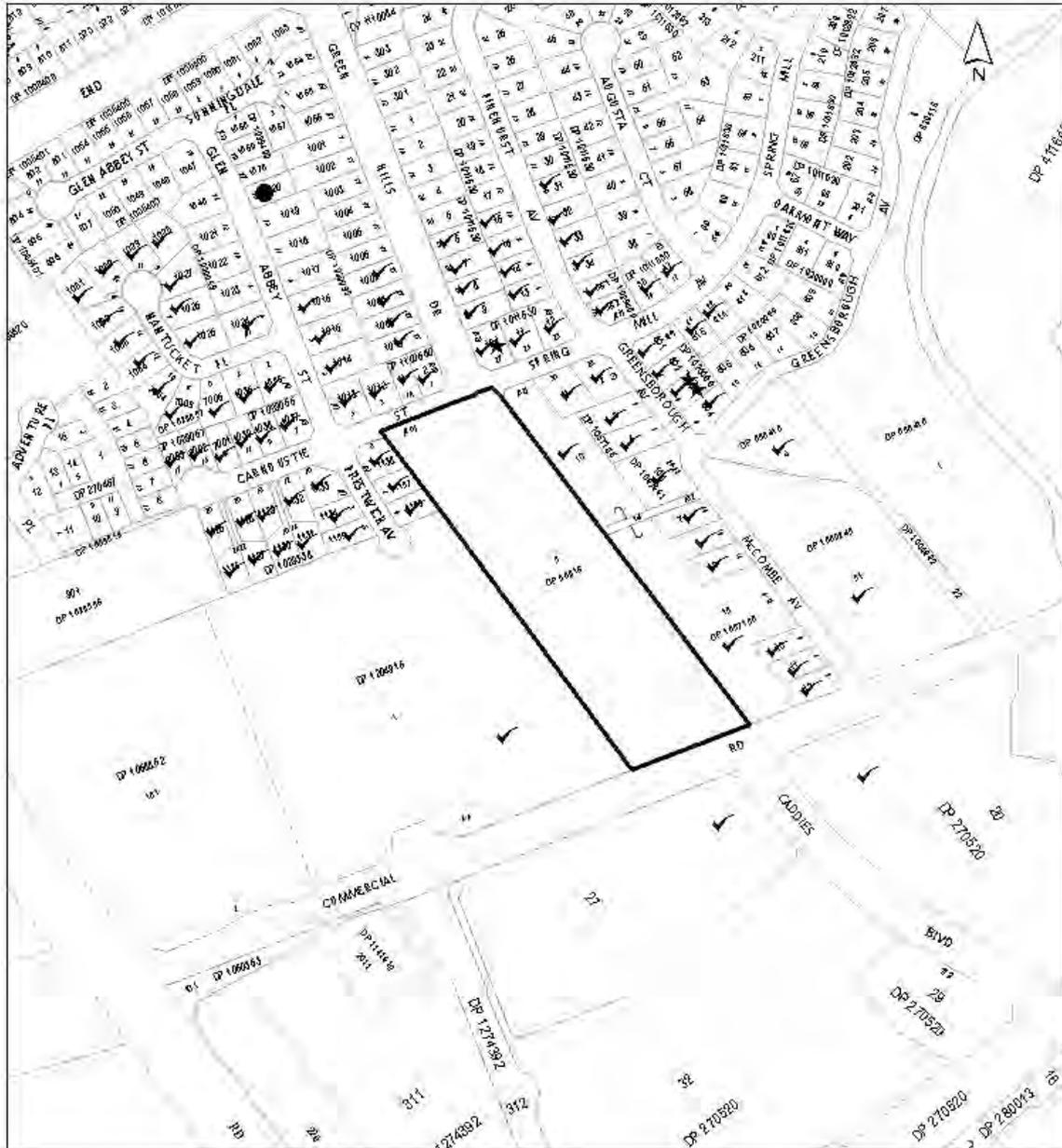
123. Commercial Waste and Recycling Collection

All commercial 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.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map
4. LEP Height of Buildings Map
5. LEP Floor Space Ratio Map
6. LEP Floor Space Ratio Incentive Map
7. LEP Clause 7.11 Application Map
8. Site / Staging Plan
9. Height Plane
10. Floor Plans
11. Elevations
12. Sections
13. Shadow Diagrams
14. Landscape Plan
15. Perspectives
16. Design Excellence Panel Meeting Report
17. Applicant's Response to Design Excellence Panel Meeting Report
18. Planning Agreement Lot 5 Commercial Road Rouse Hill

ATTACHMENT 1 – LOCALITY PLAN



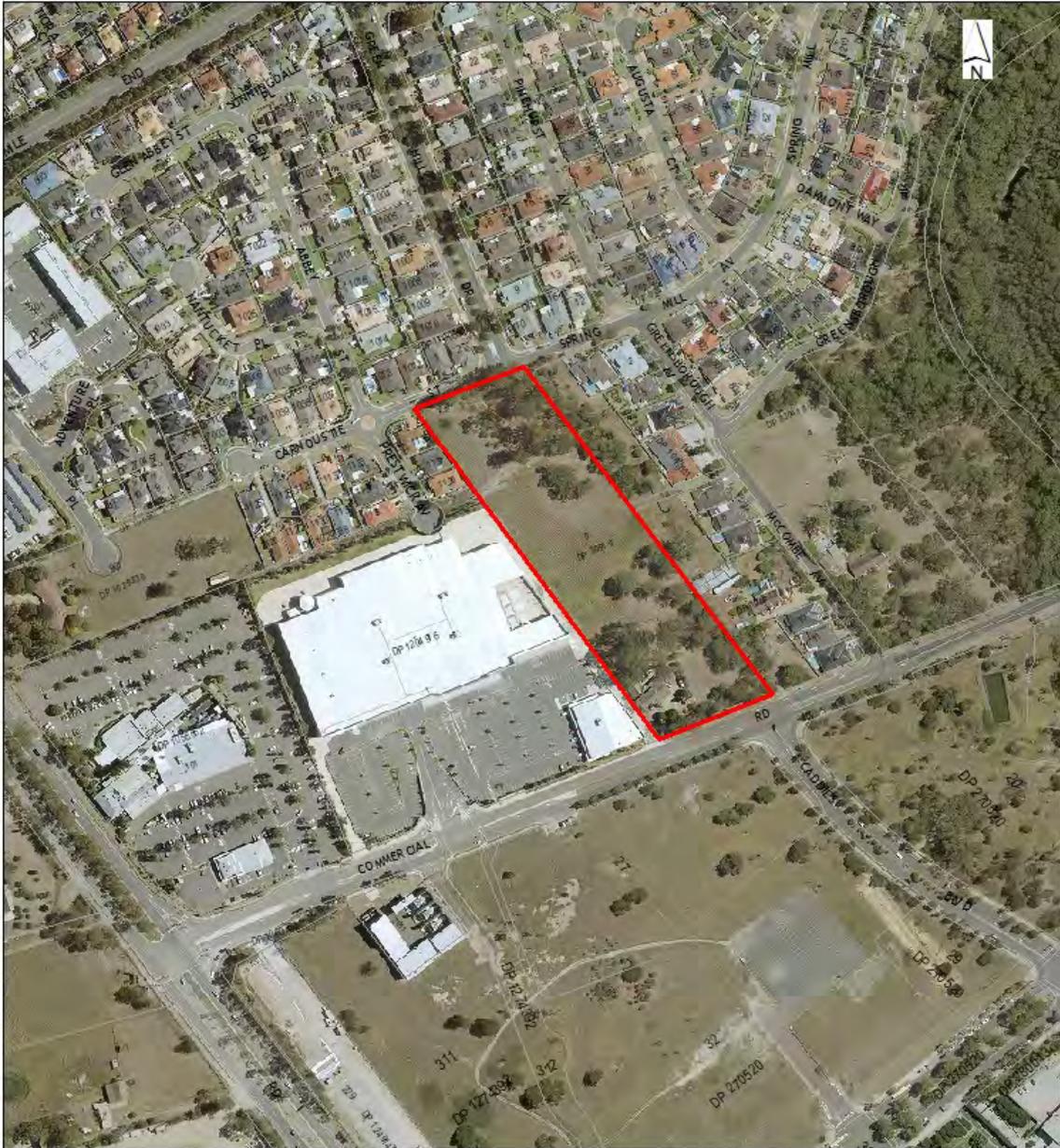
- SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSION RECEIVED 1ST NOTIFICATION PERIOD
- ★ SUBMISSIONS RECEIVED 2ND NOTIFICATION PERIOD
- ★ TWO SUBMISSION RECEIVED OFF THE SCOPE OF THIS MAP

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

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BASECADASTRE COPY RIGHT LAND & PROPERTY INFORMATION NSW (LP). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPY RIGHT.

ATTACHMENT 2 – AERIAL PHOTOGRAPH



 SUBJECT SITE

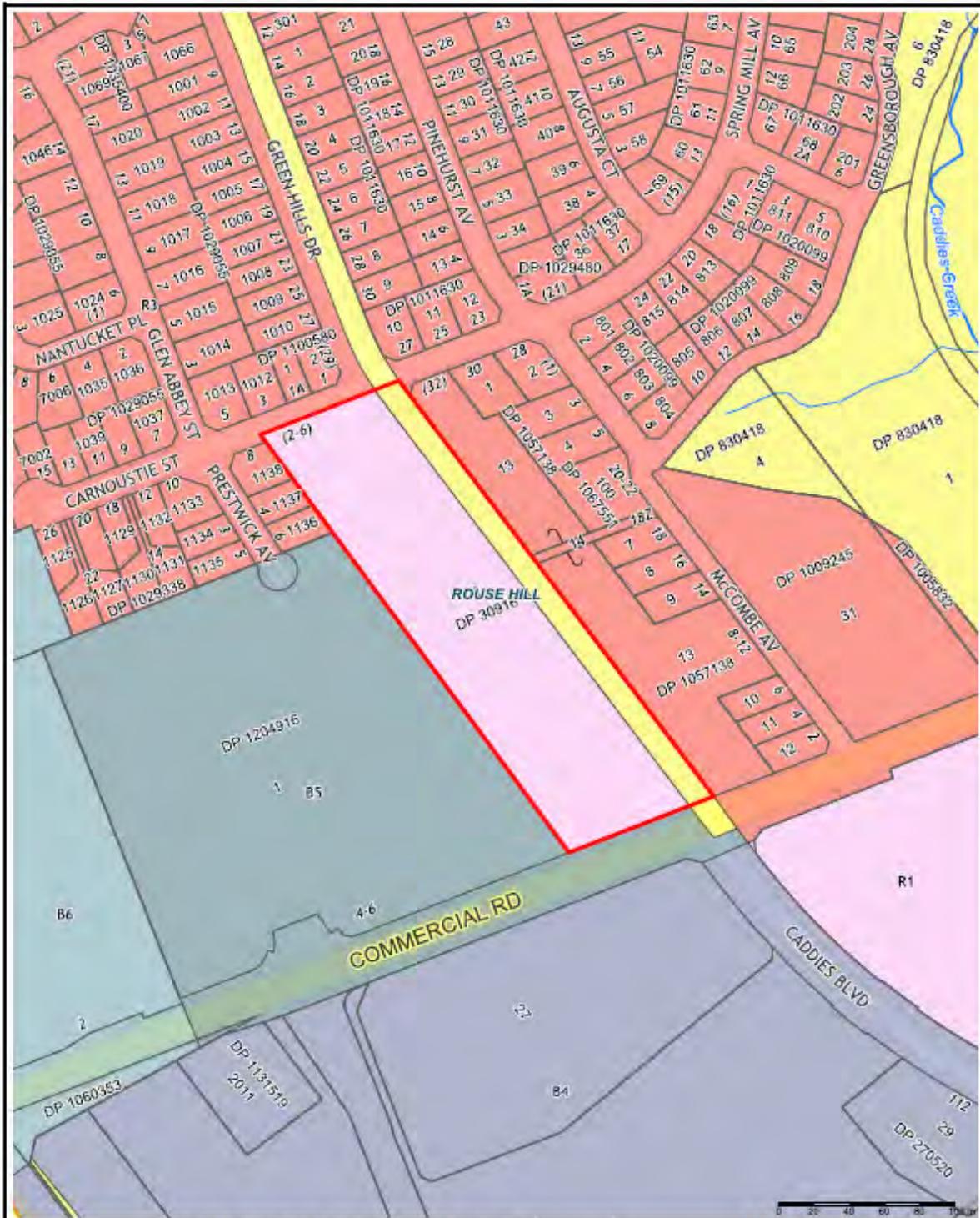
THE HILLS
Sydney's Garden Shire

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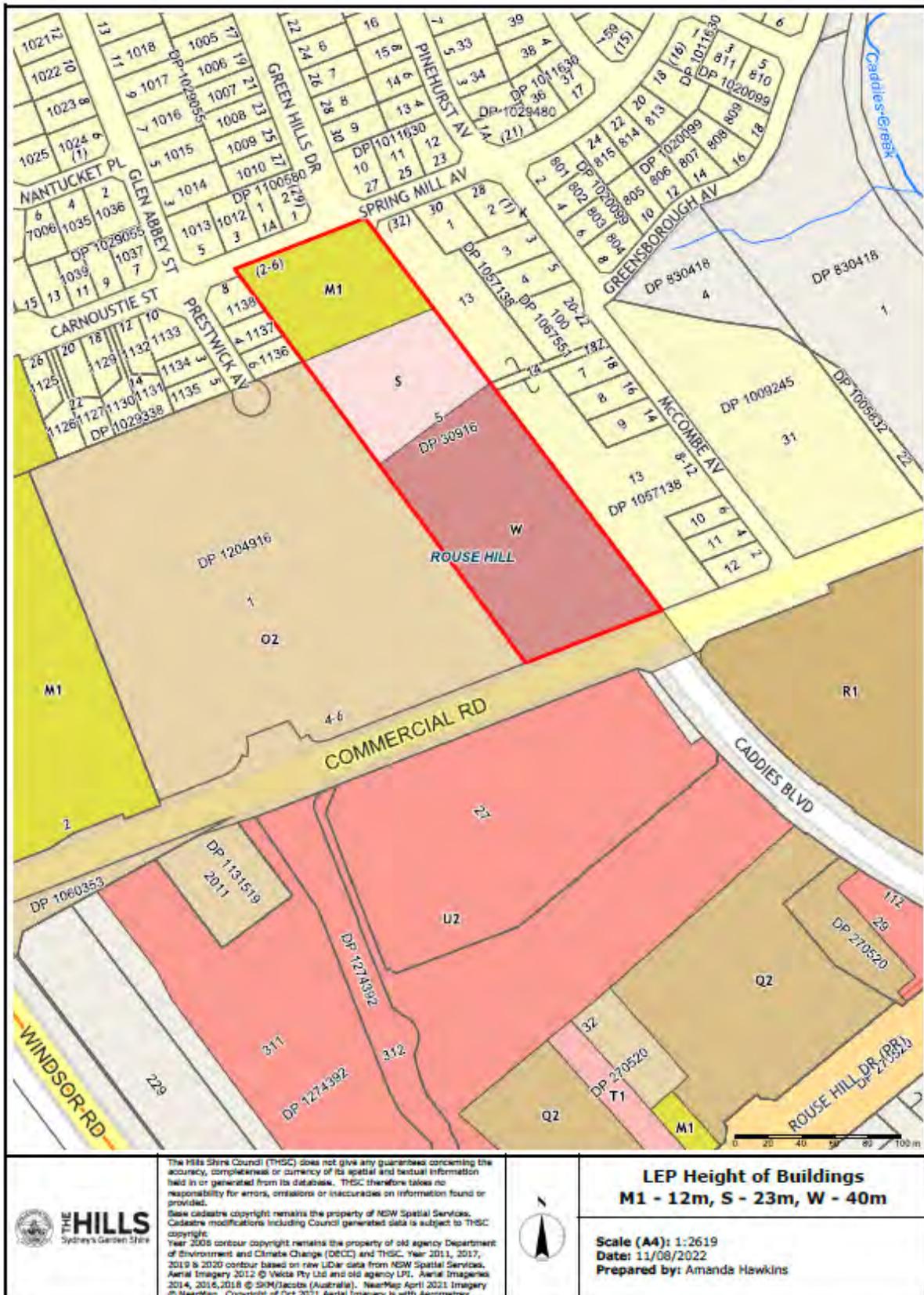
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ATTACHMENT 3 – LEP ZONING MAP



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ATTACHMENT 4 – LEP HEIGHT OF BUILDINGS MAP



ATTACHMENT 5 – LEP FLOOR SPACE RATIO MAP



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LEP 2019 FSR (BASE)
N 1:1

Scale (A4): 1:1676
Date: 11/08/2022
Prepared by: Amanda Hawkins

ATTACHMENT 6 – LEP FLOOR SPACE RATIO INCENTIVE MAP



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**LEP 2019 FSR (INCENTIVE)
2.3:1**

Scale (A4): 1:1676
Date: 11/08/2022
Prepared by: Amanda Hawkins

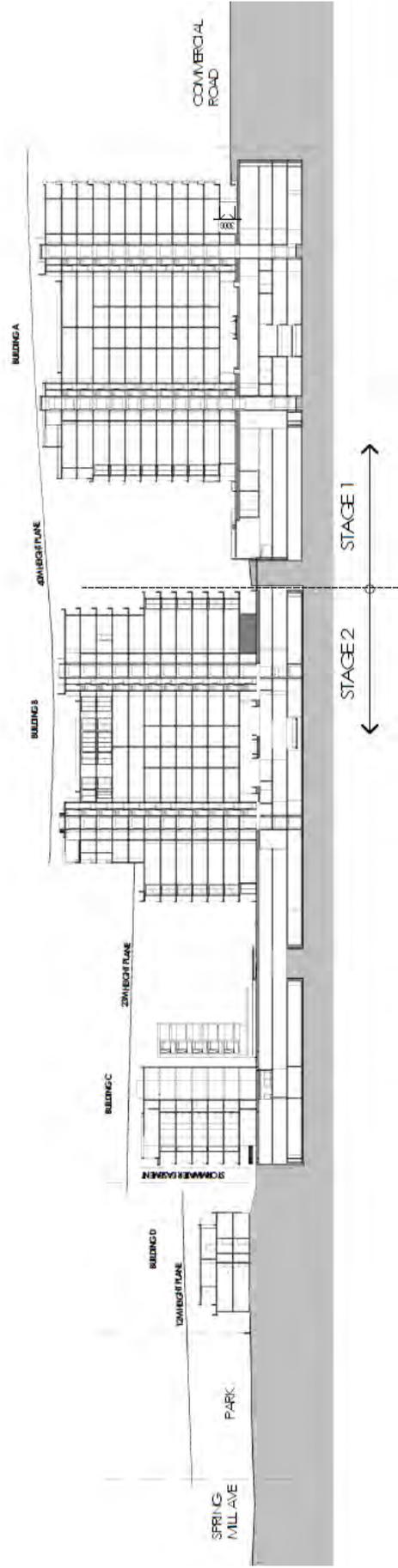
ATTACHMENT 7 – LEP CLAUSE 7.11 APPLICATION MAP



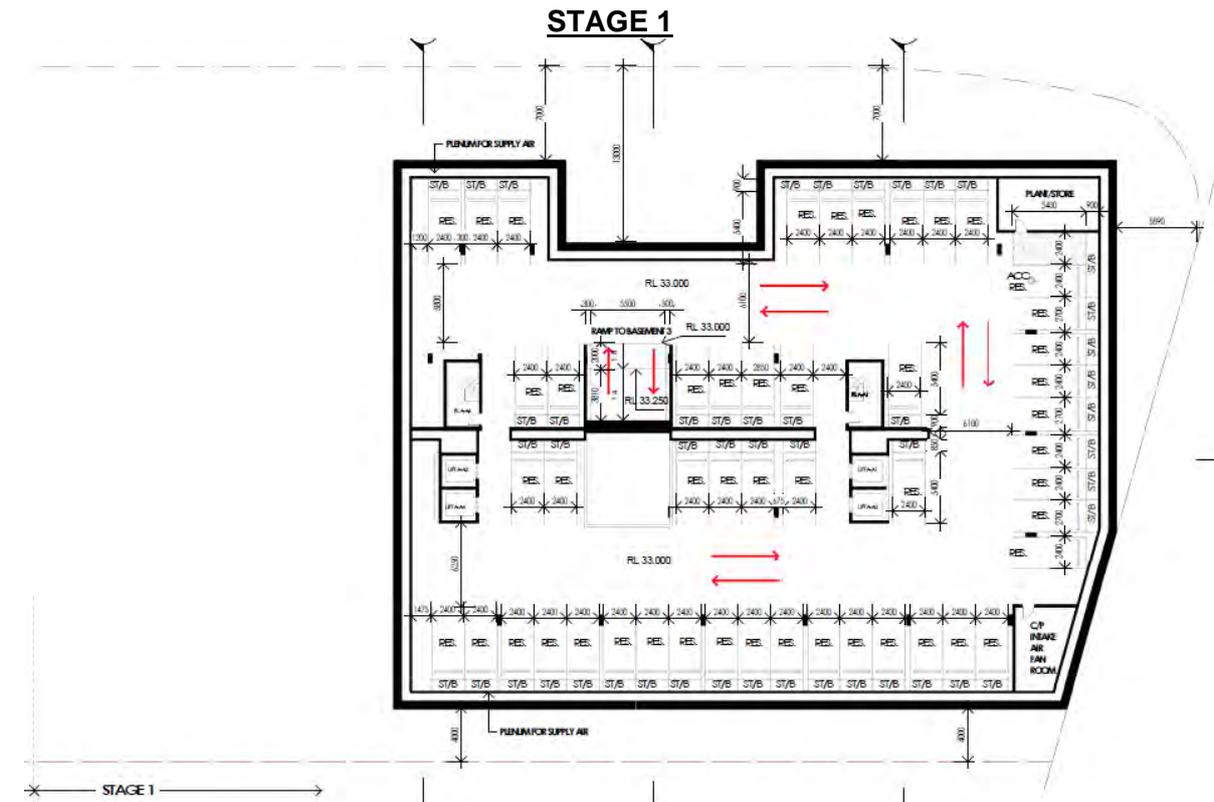
	<p>The Hills Shire Council (THSC) does not give any guarantee concerning the accuracy, completeness or currency of its spatial and textual information held in or generated from its database. THSC therefore takes no responsibility for errors, omissions or inaccuracies on information found or provided.</p> <p>Base cadastre copyright remains the property of NSW Spatial Services. Cadastre modifications including Council generated data is subject to THSC copyright.</p> <p>Year 2005 contour copyright remains the property of old agency Department of Environment and Climate Change (DECC) and THSC. Year 2011, 2017, 2019 & 2020 contour based on raw LiDAR data from NSW Spatial Services. Aerial Imagery 2012 © Velica Pty Ltd and old agency LPI. Aerial Imageries 2014, 2016, 2018 © SPN/Jacobs (Australia). NearMap April 2021 Imagery © NearMap. Copyright of Oct 2021 Aerial Imagery is with Aeromatrix.</p>		<p>LEP 2019 CLAUSE 7.11 APPLICATION MAP - ITEM 9</p> <p>Scale (A4): 1:1676 Date: 11/08/2022 Prepared by: Amanda Hawkins</p>
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ATTACHMENT 9 – HEIGHT PLANE AND LONG SECTION

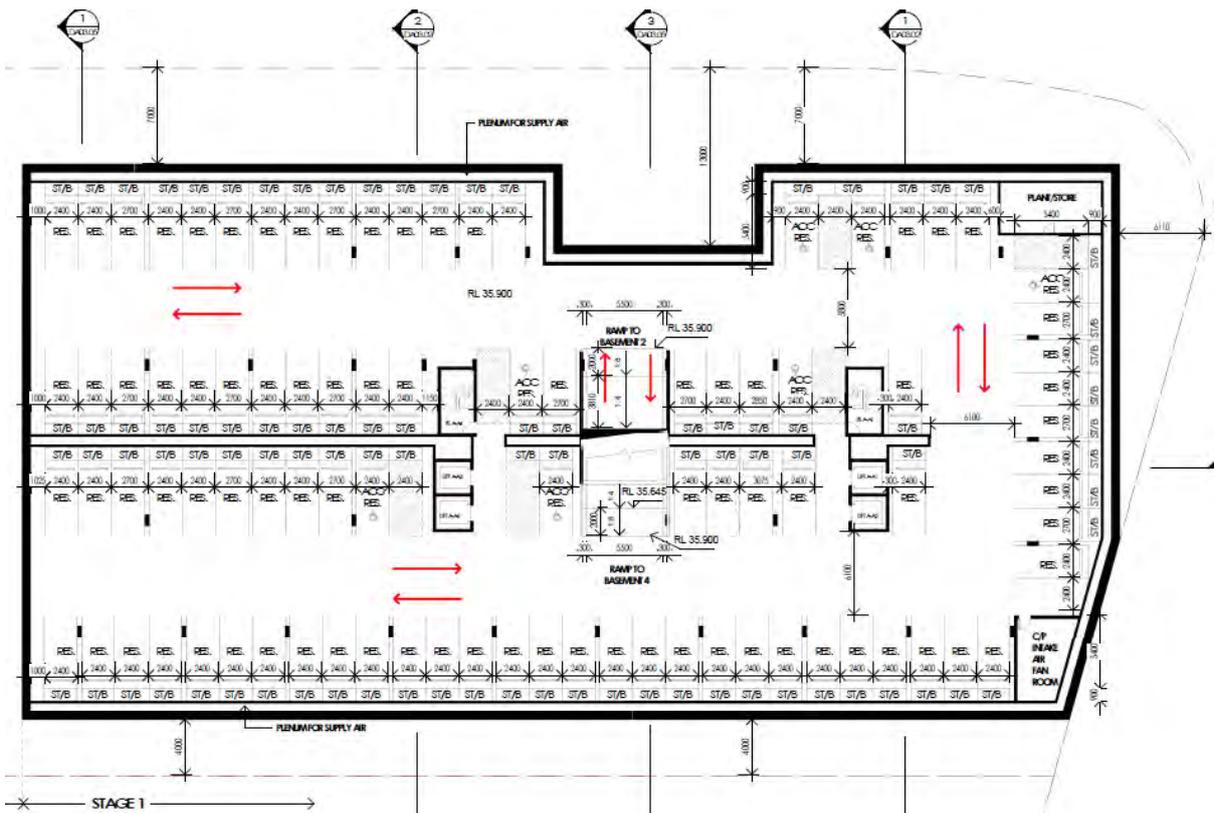




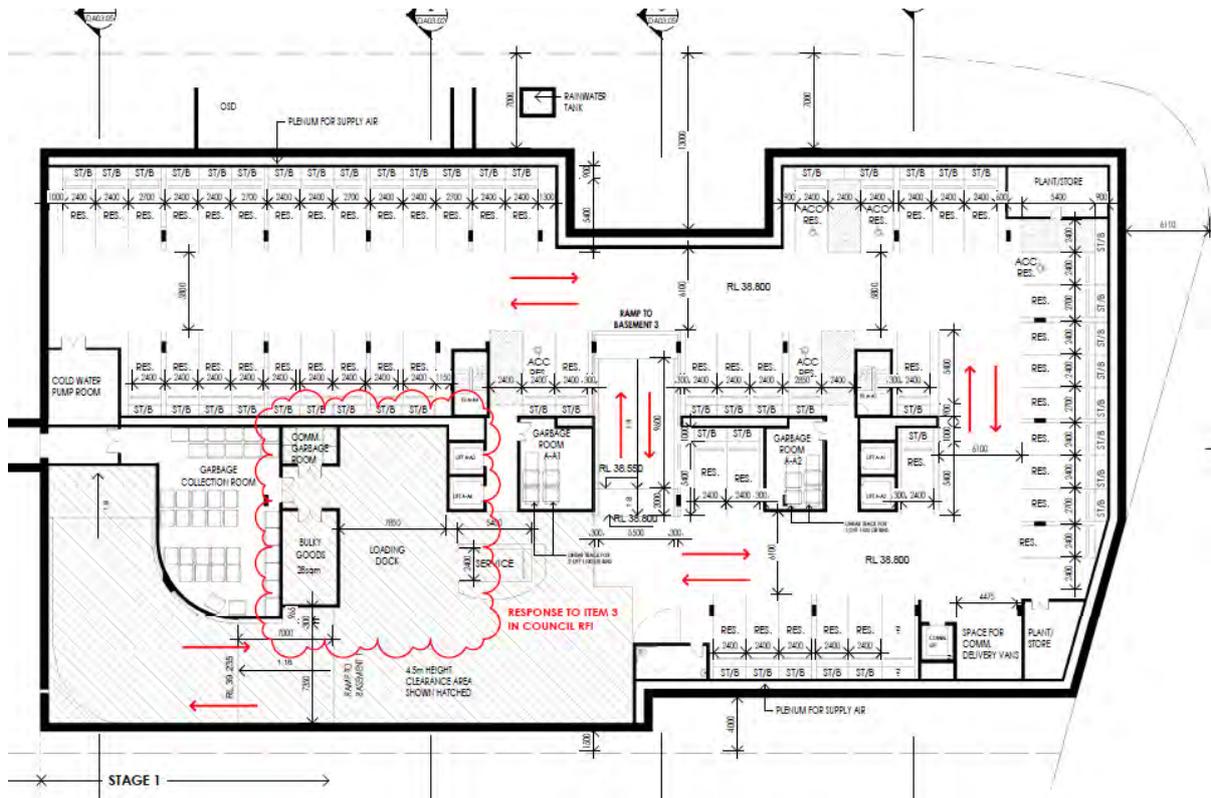
ATTACHMENT 10 – FLOOR PLANS



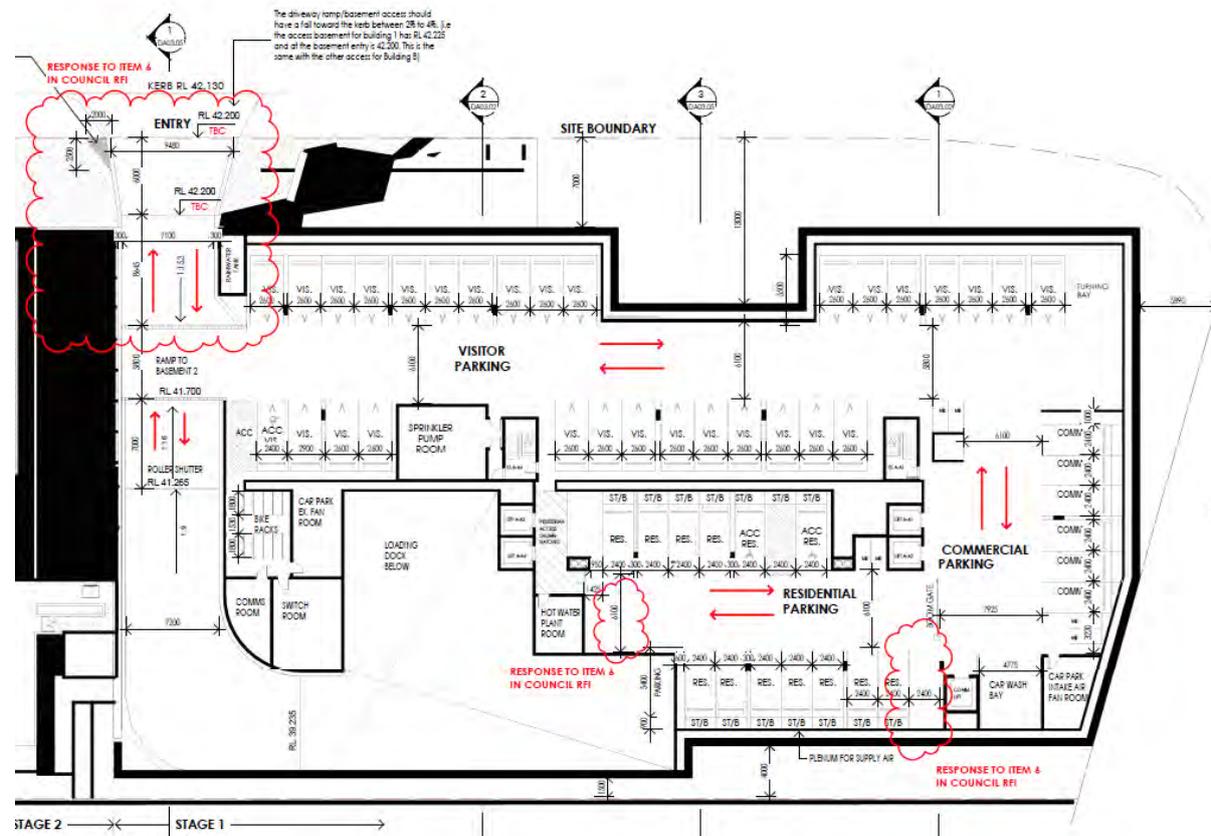
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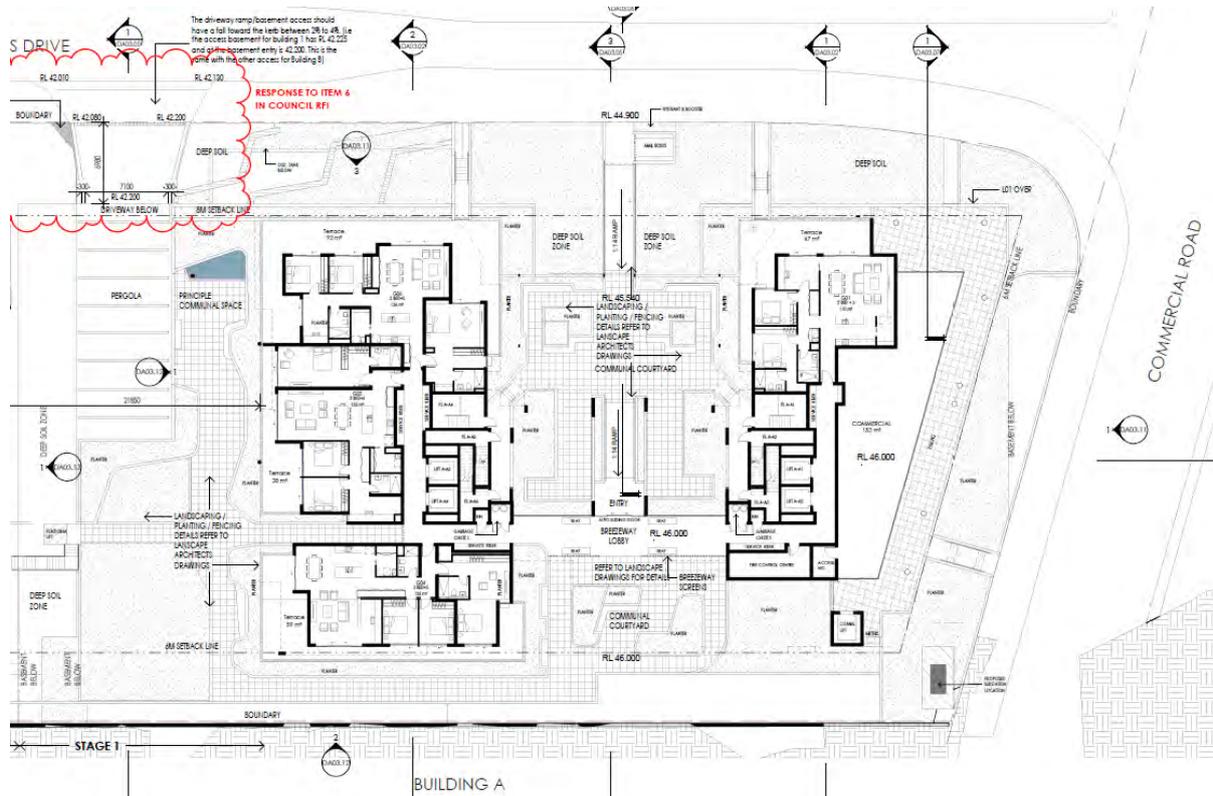
Basement 3



Basement 2



Basement 1



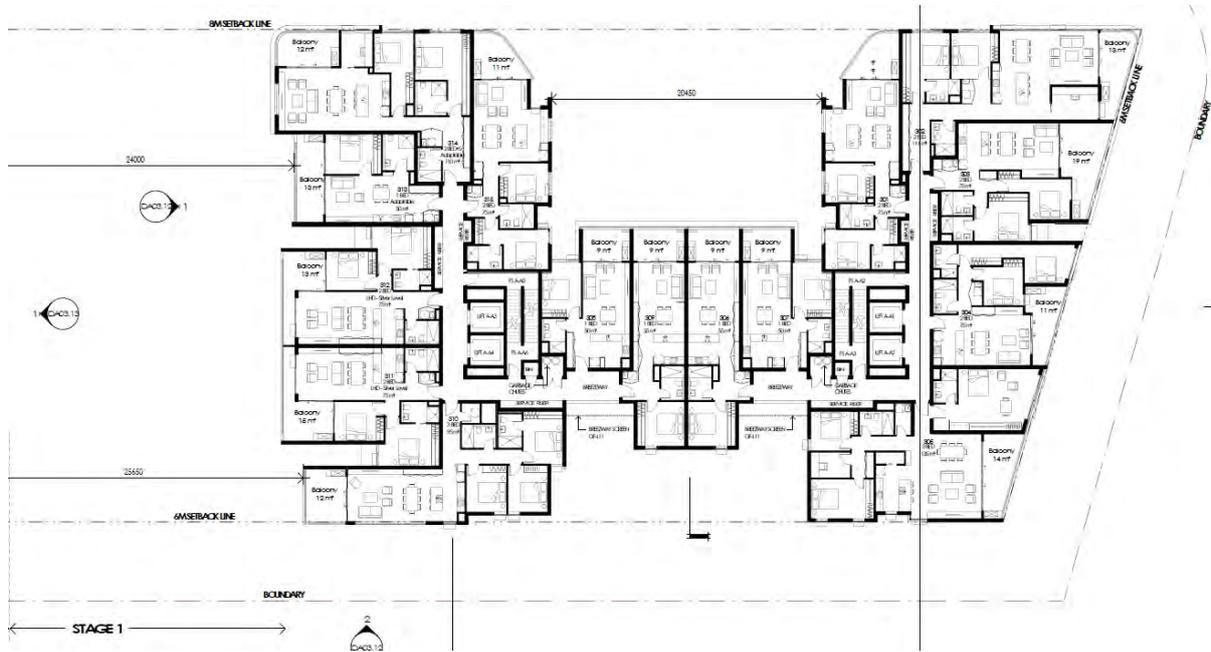
Ground Floor



Level 1



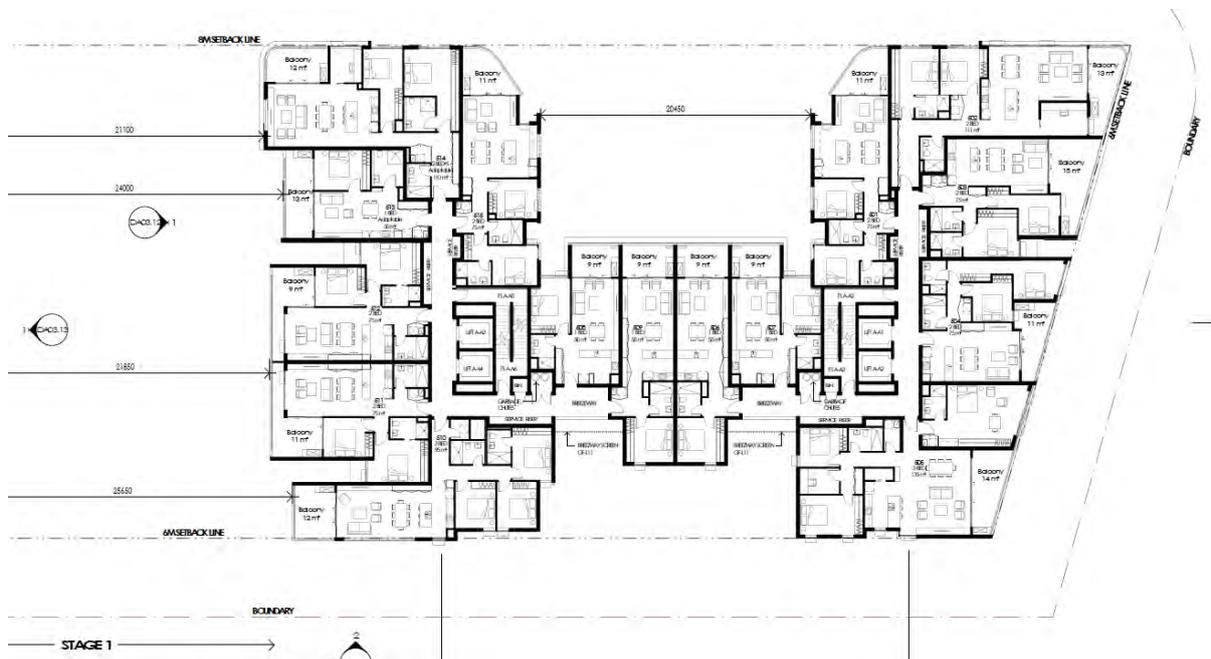
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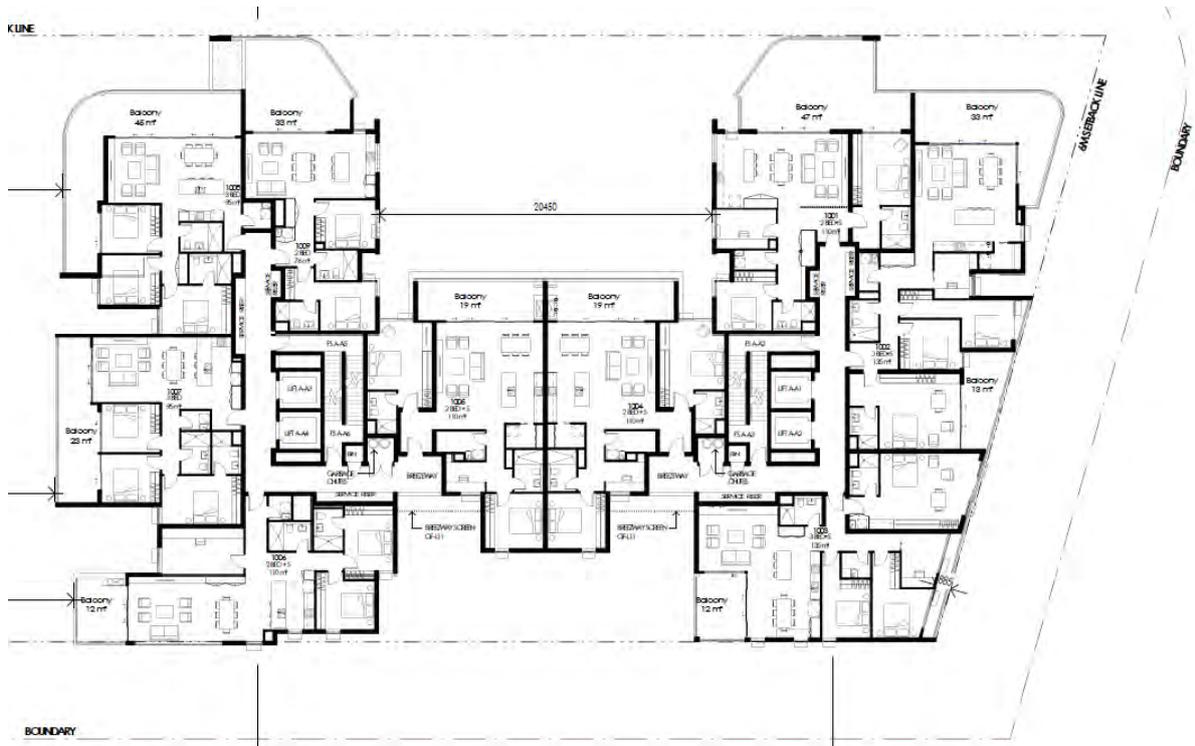
Level 3



Level 4



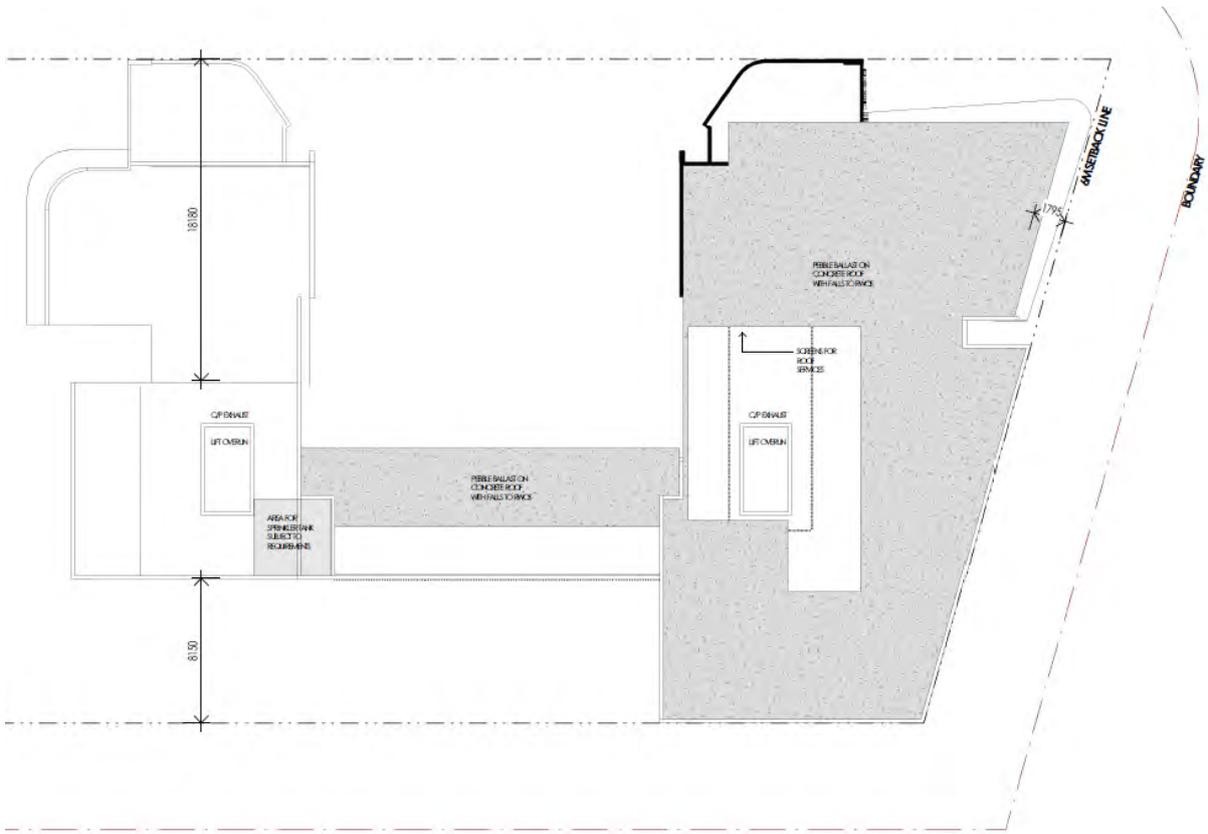
Level 5



Level 10

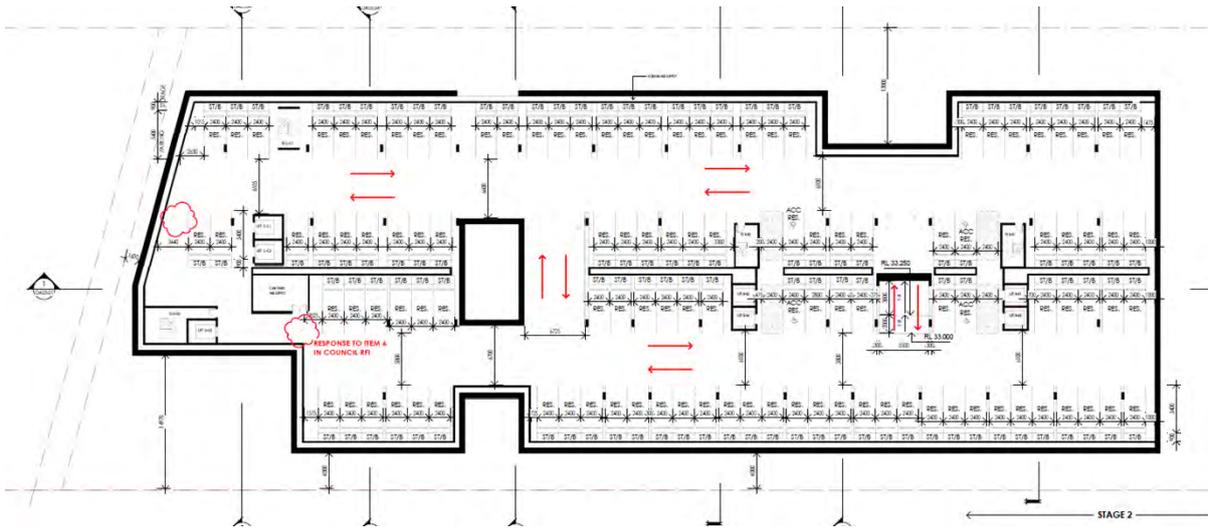


Level 11

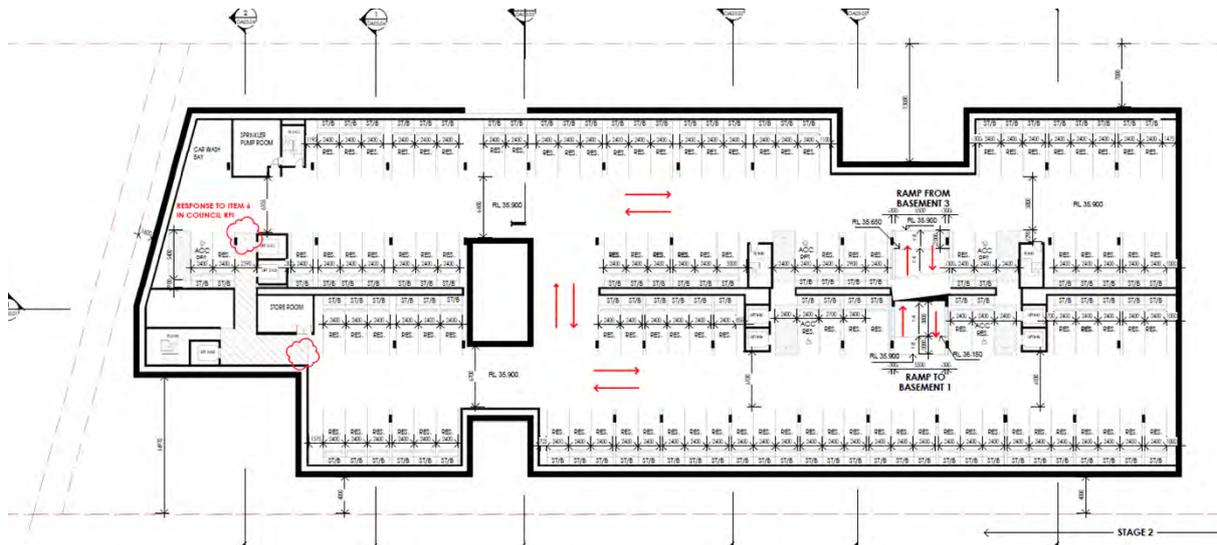


Roof

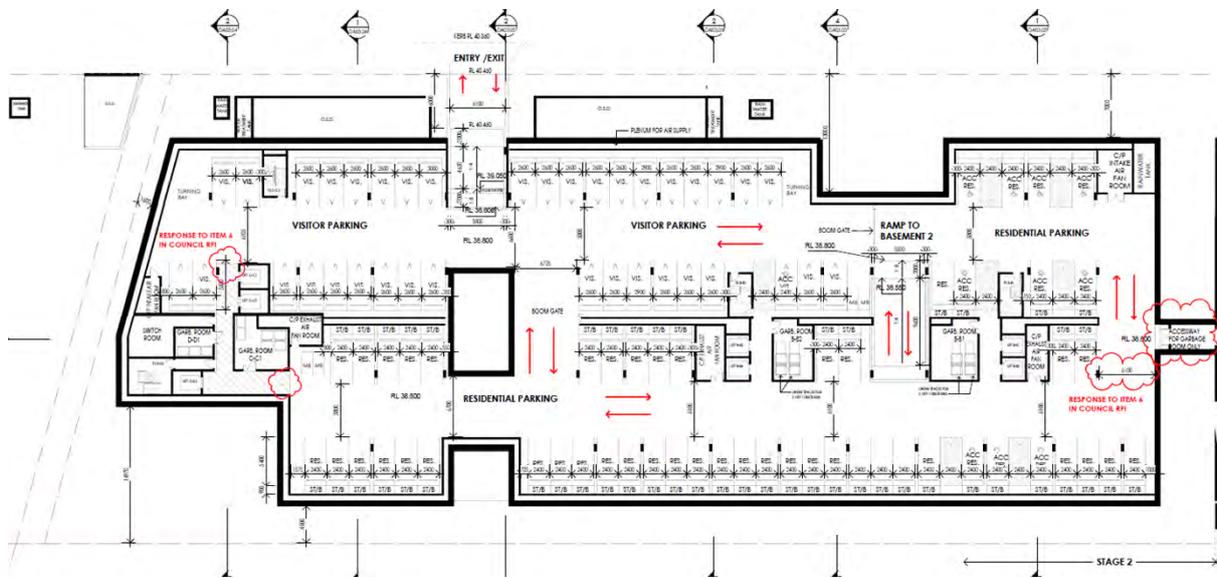
STAGE 2



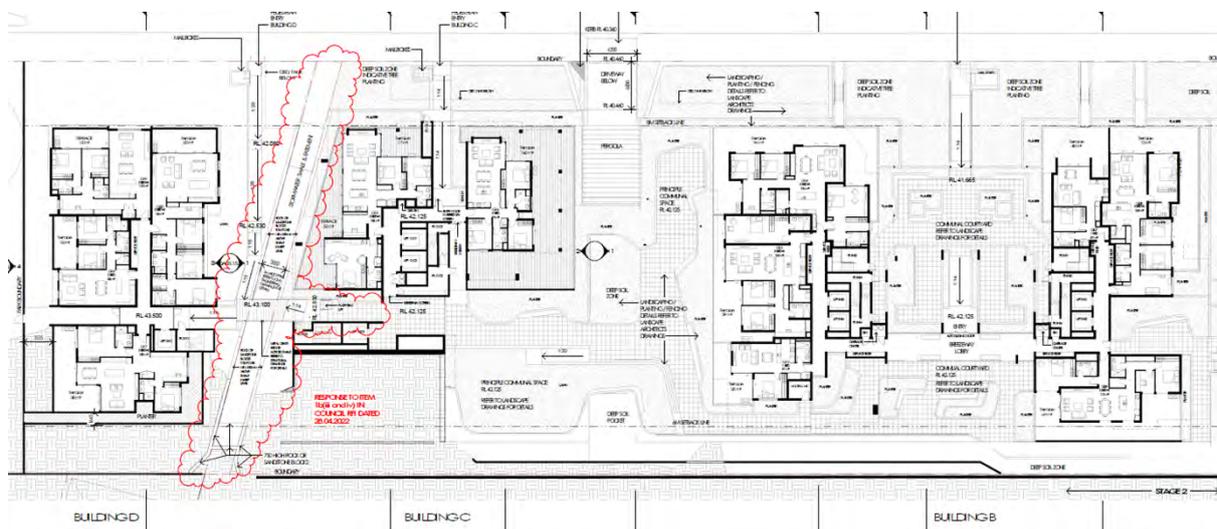
Basement 3



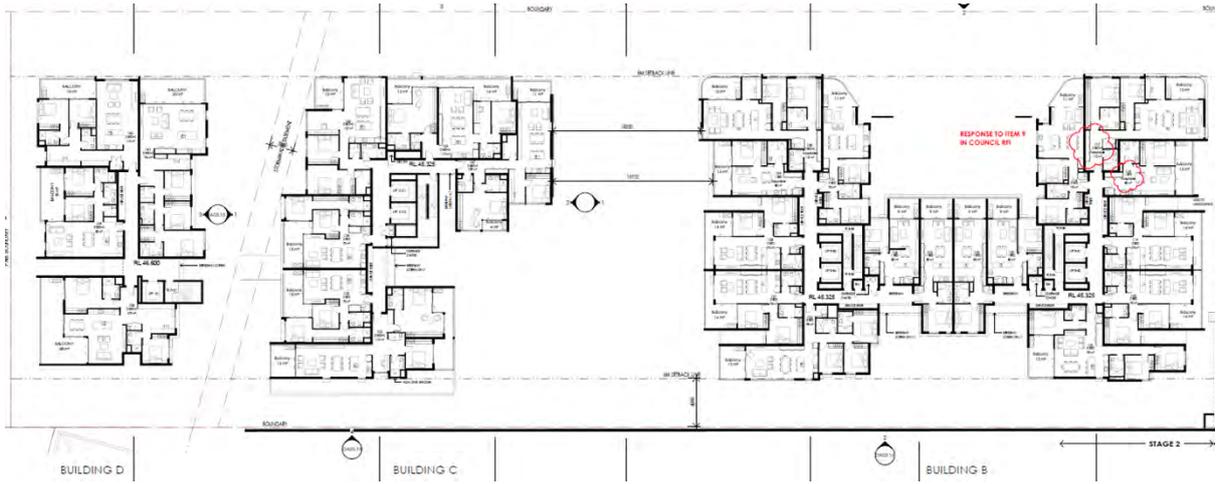
Basement 2



Basement 1



Ground Floor



Level 1



Level 2



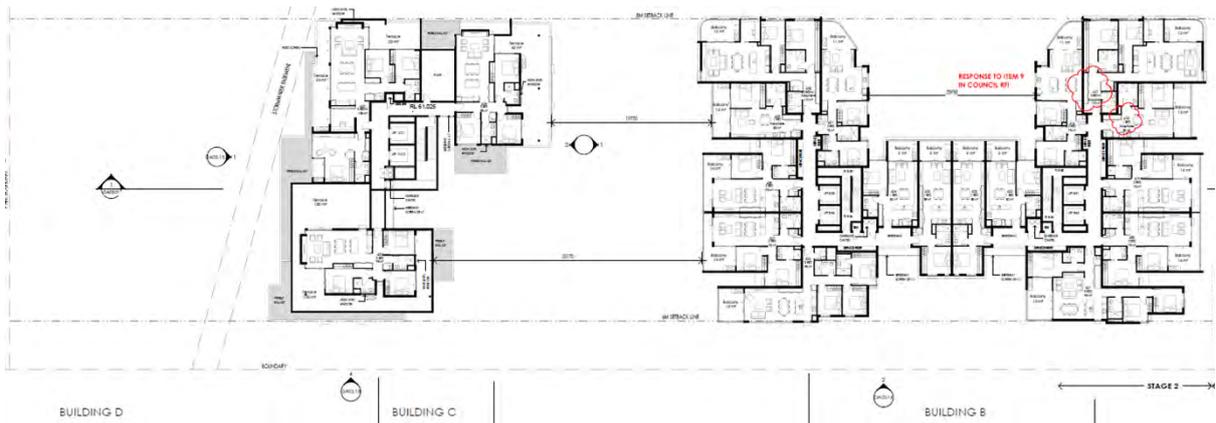
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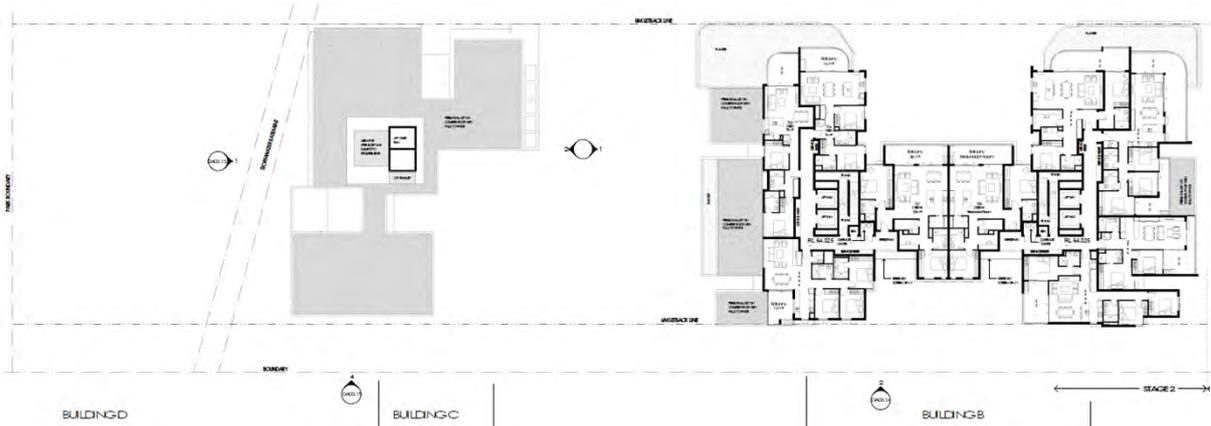
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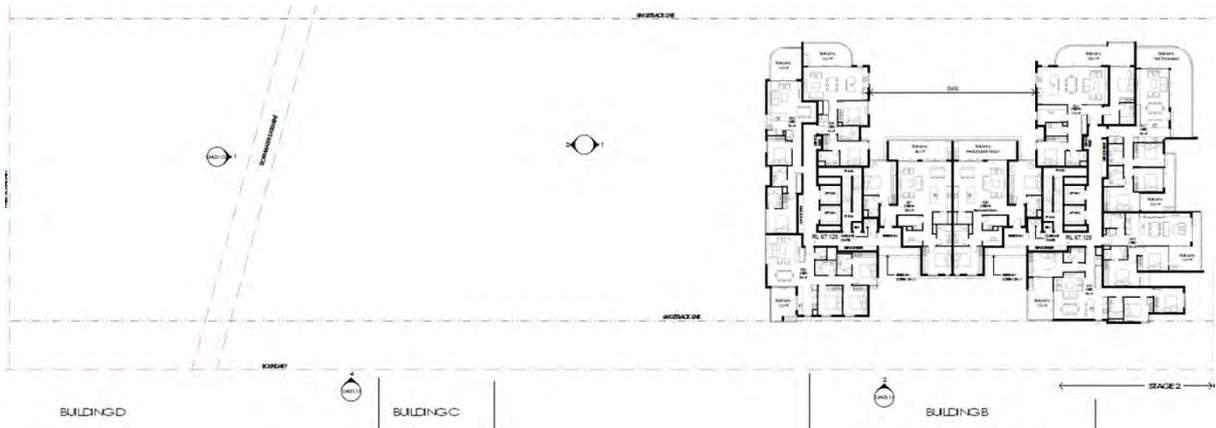
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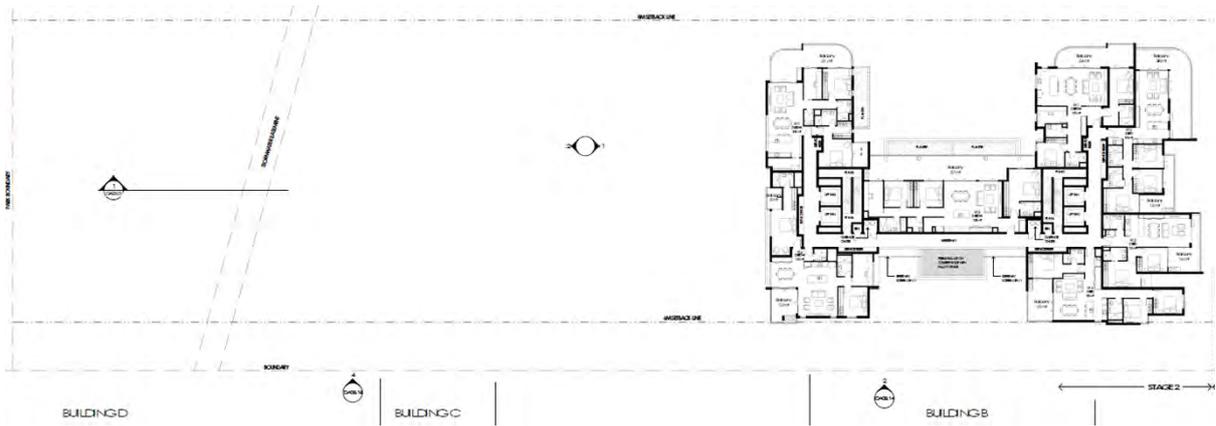
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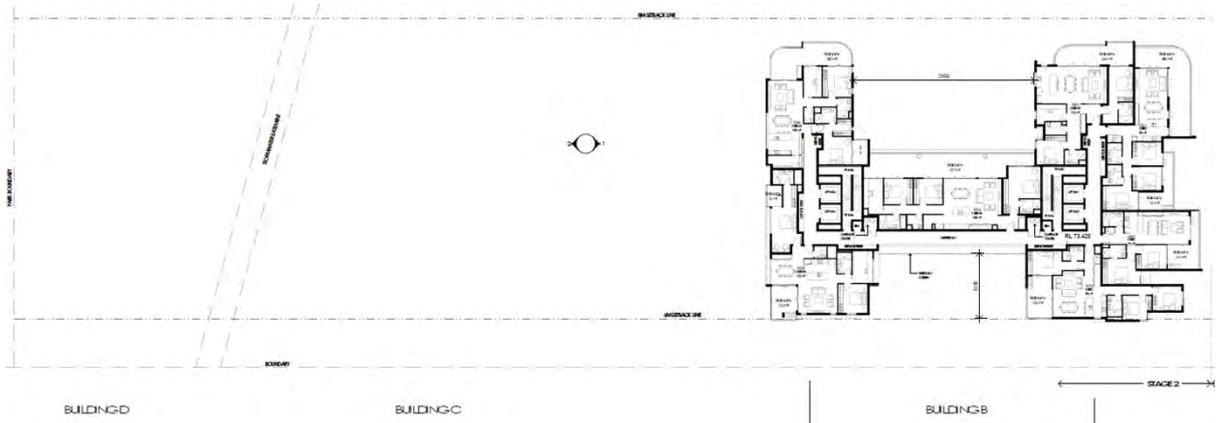
Level 7



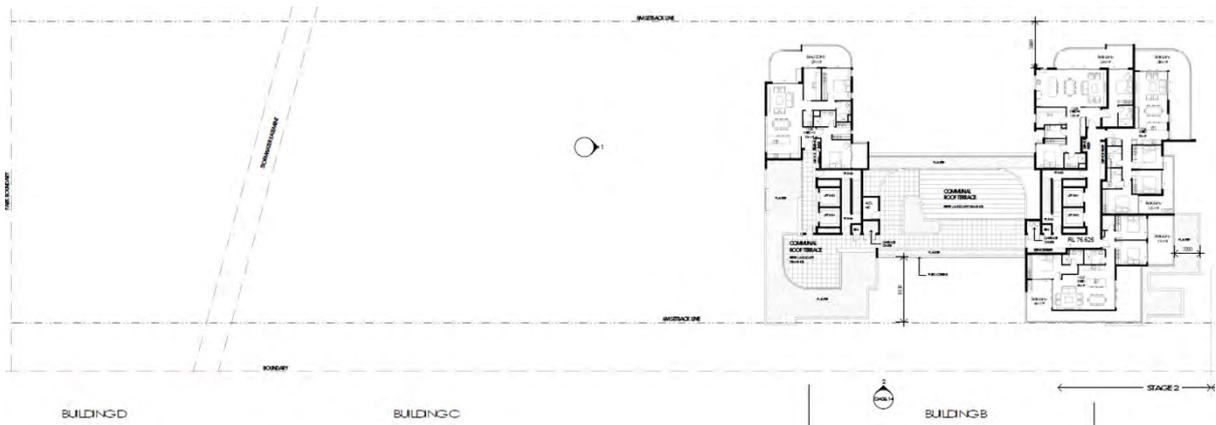
Level 8



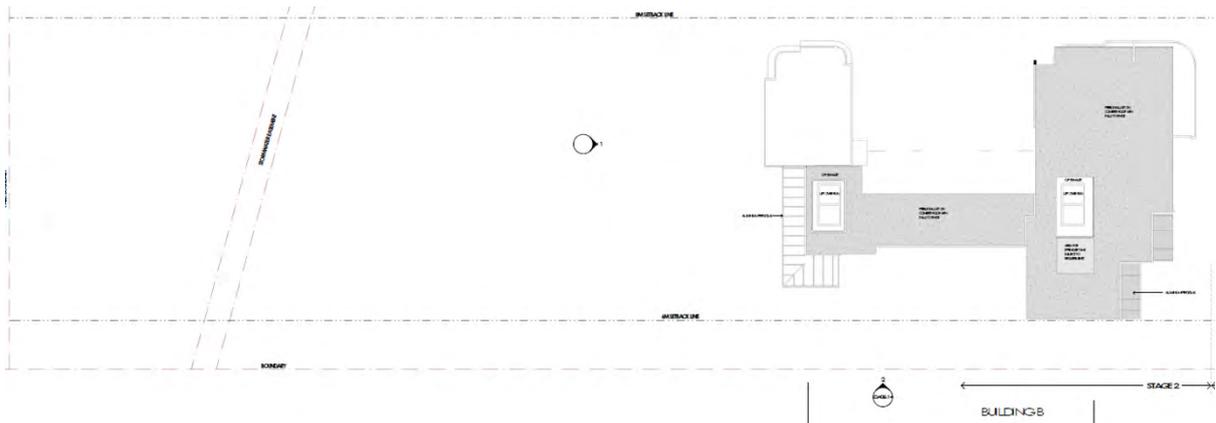
Level 9



Level 10



Level 11

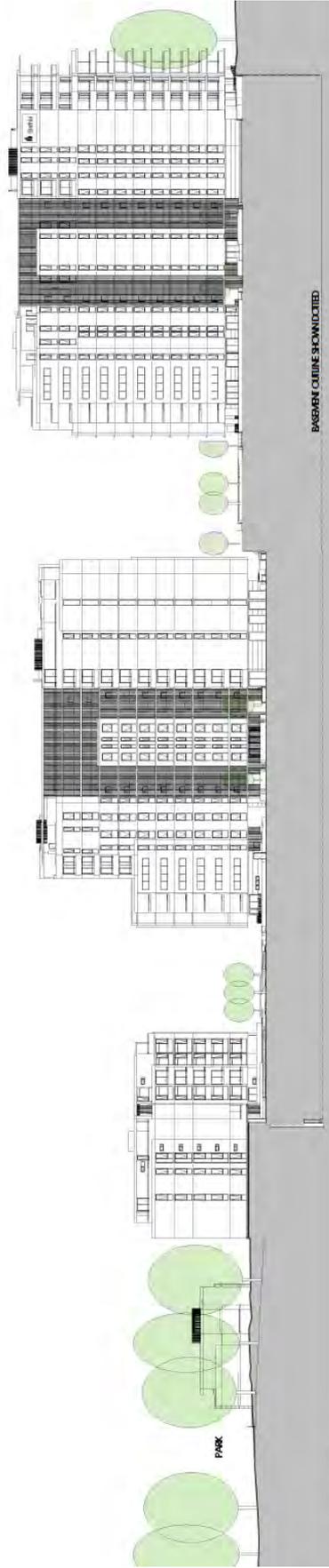


Roof

ATTACHMENT 11 – ELEVATIONS



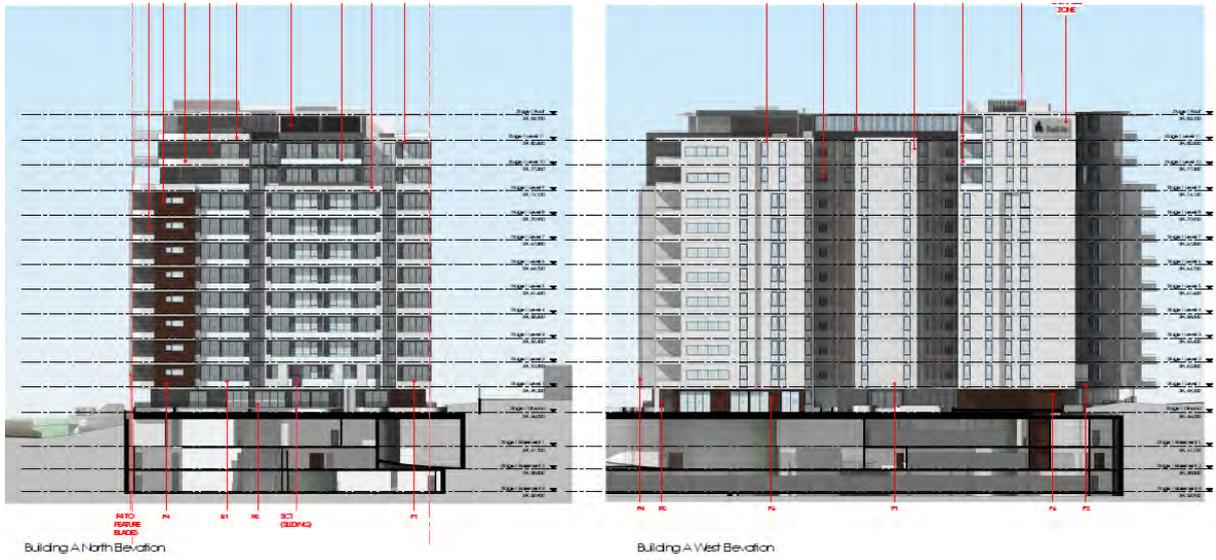
1 East Elevation (Greenhills Drive)
1:500



West Elevation
1:500



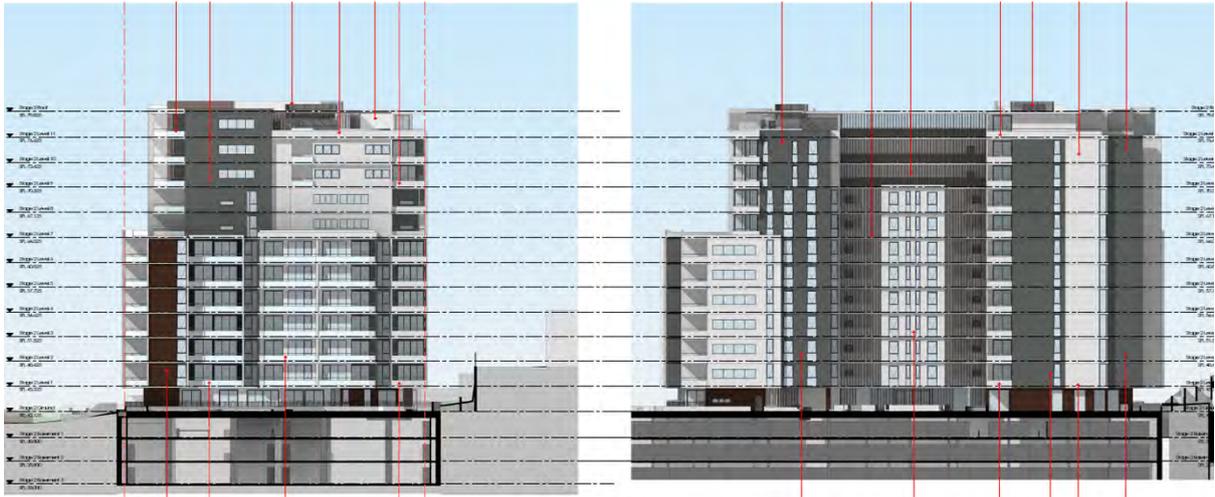
Building A –South (Commercial Road) & East (Green Hills Drive) Elevation



Building A – North and West Elevation



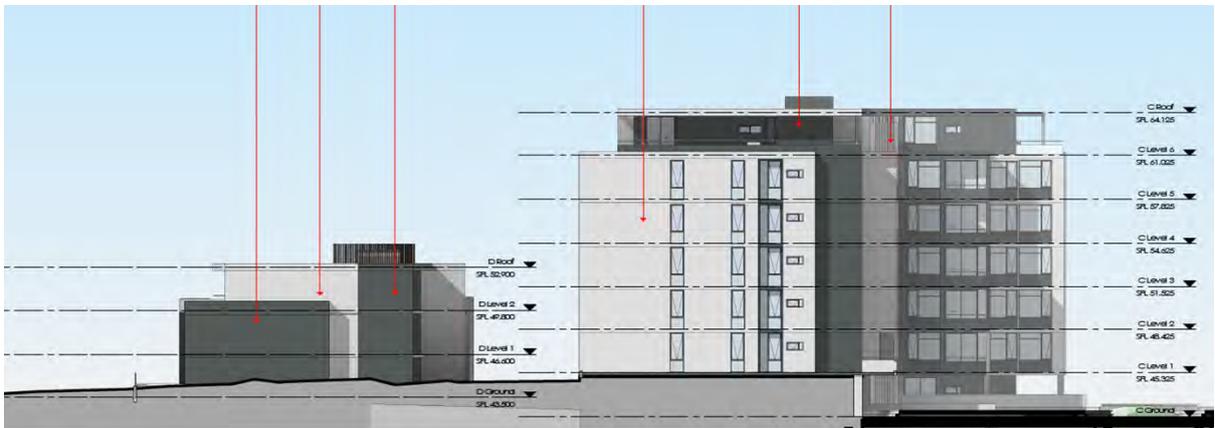
Building B – South and East (Green Hills Drive) Elevation



Building B – North and West Elevation



Buildings C & D East Elevation (Green Hills Drive Frontage)



Building C & D West Elevation



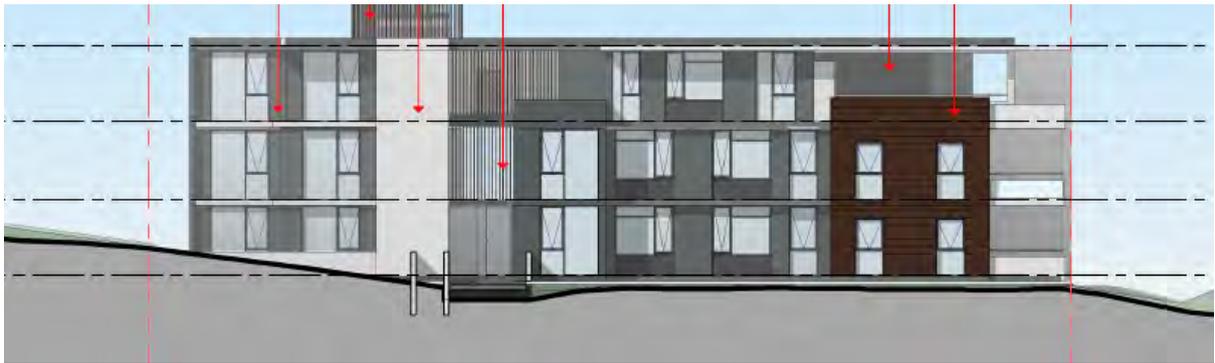
Building C North Elevation



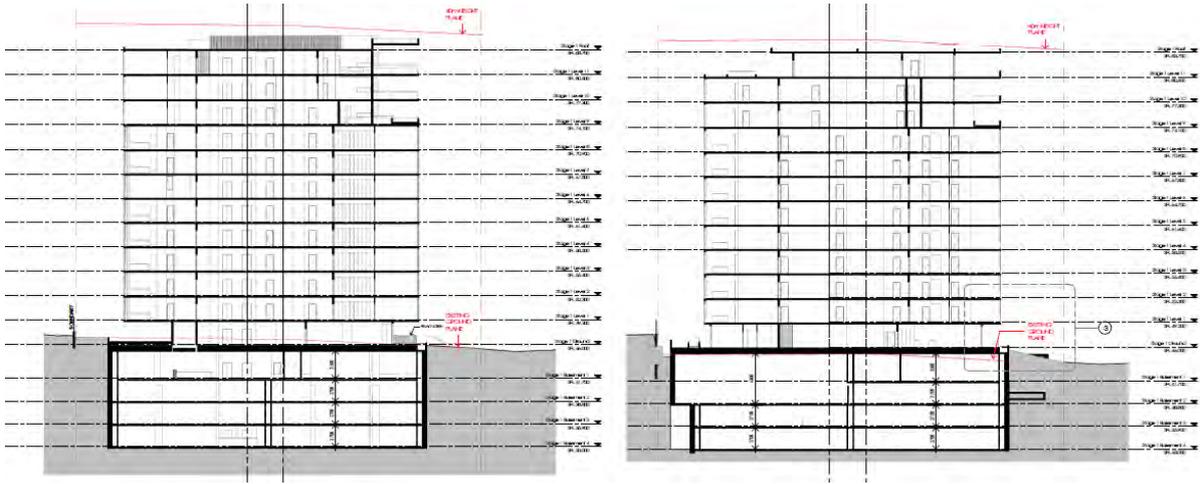
Building C South Elevation



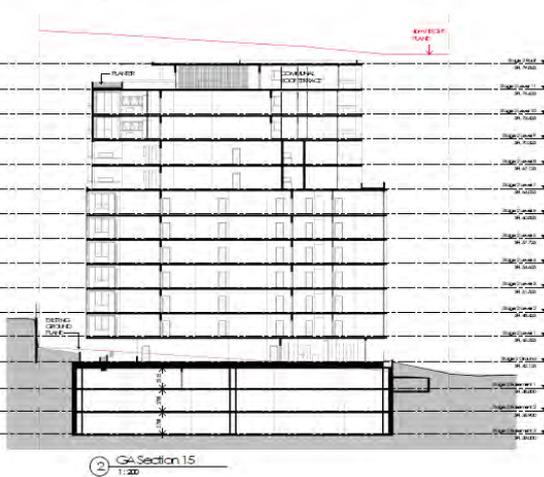
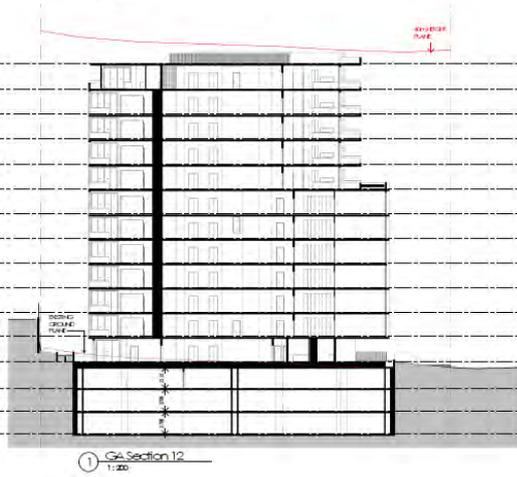
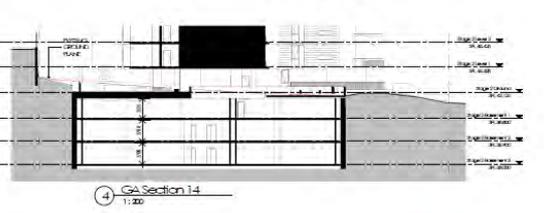
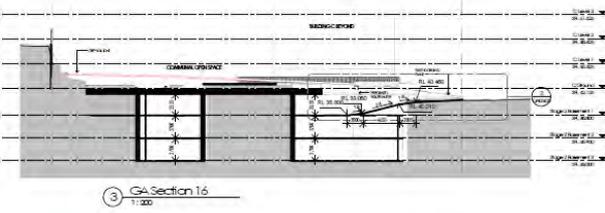
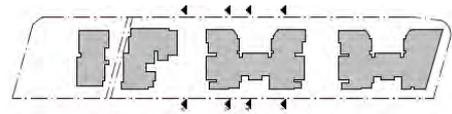
Building D North Elevation (facing Pocket Park)



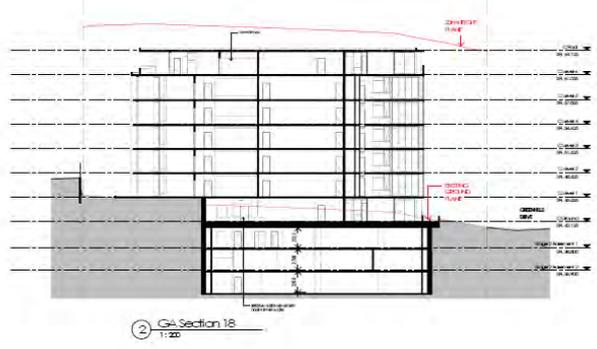
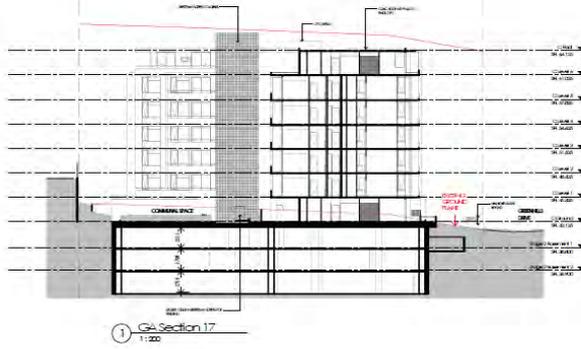
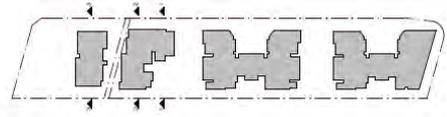
Building D South Elevation



Building A

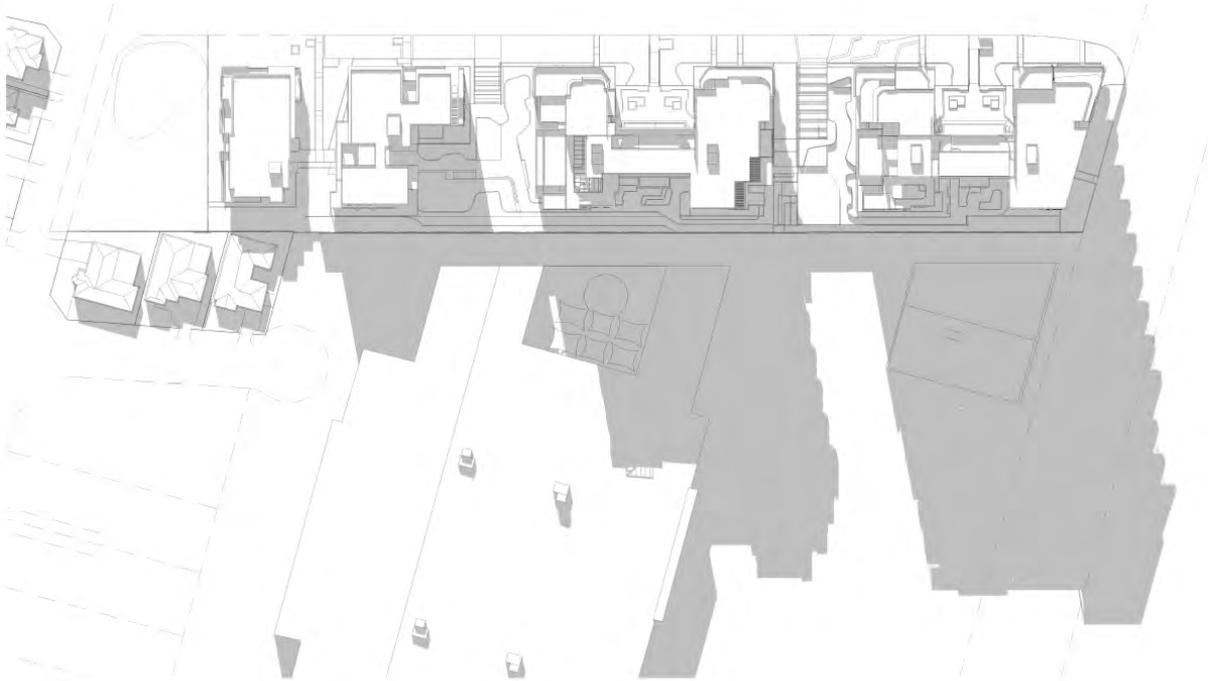


Building B

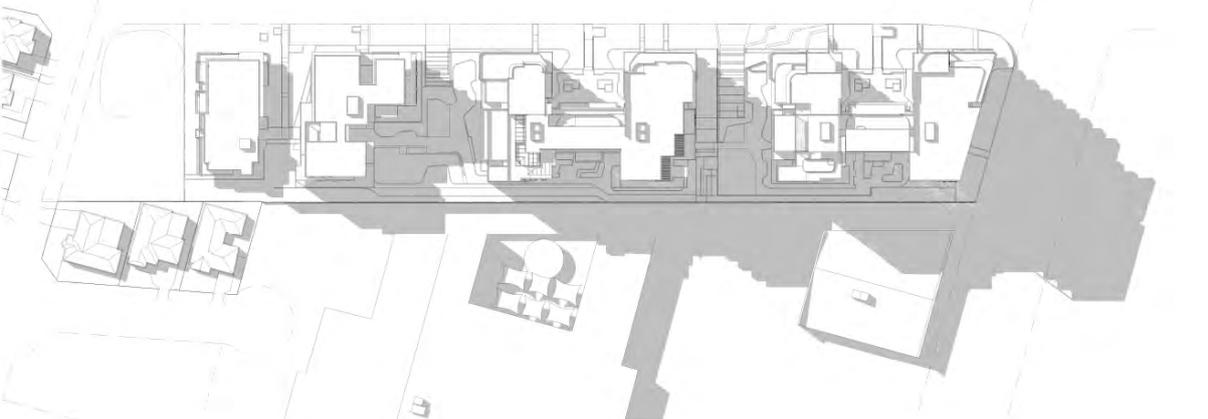


Building C & D

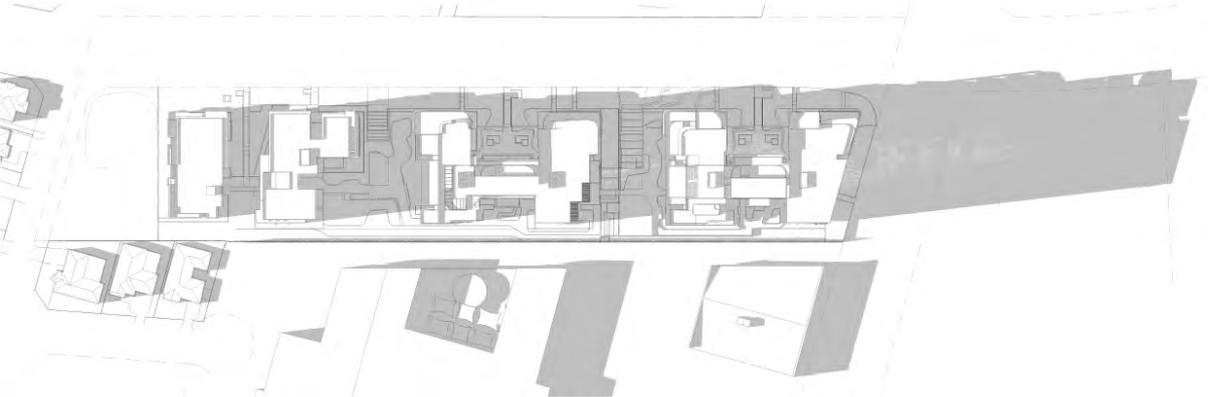
ATTACHMENT 13 – SHADOW DIAGRAMS



9am

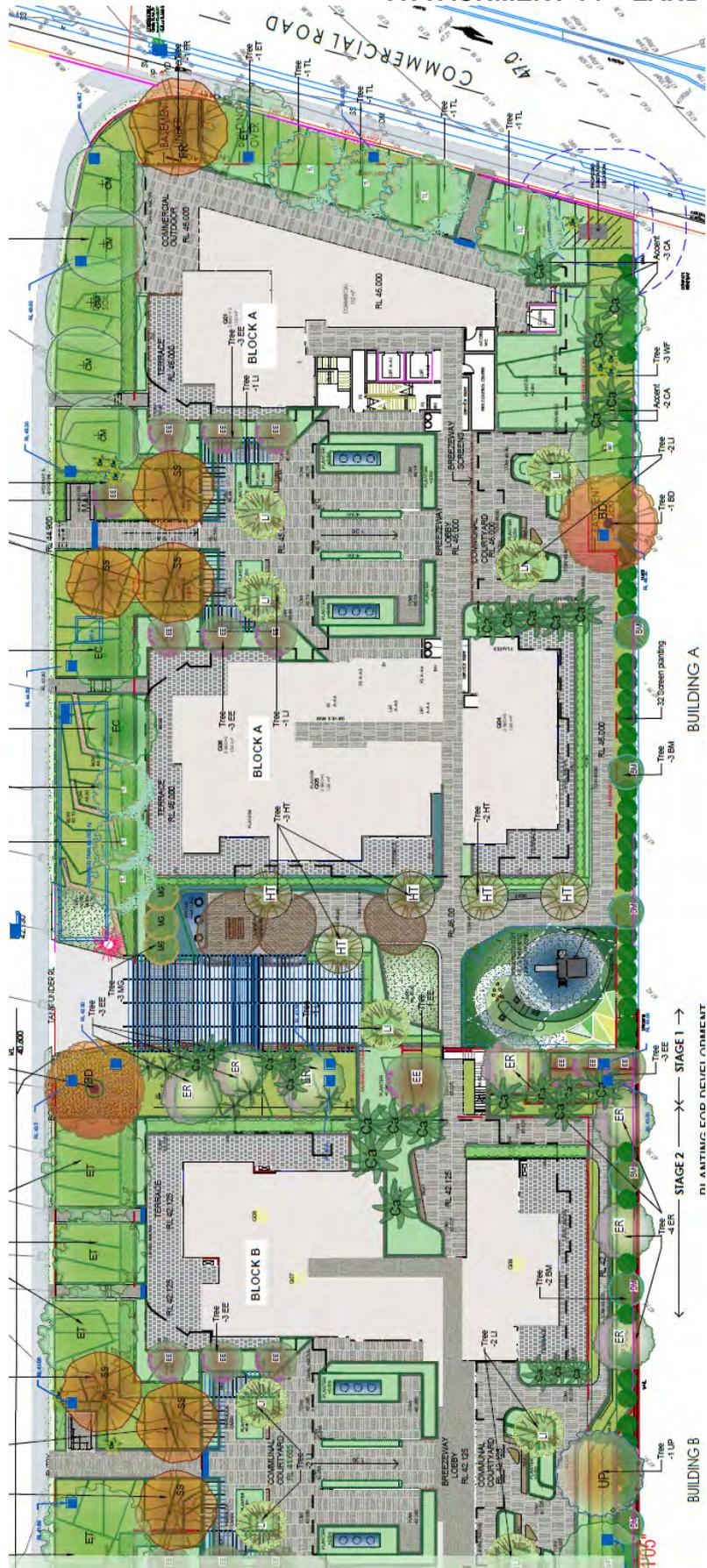


12pm



3pm

ATTACHMENT 14 – LANDSCAPE PLANS



ATTACHMENT 15 – PERSPECTIVES



Building C and D - Green Hills Drive



Building B Green Hills Drive



Building A Green Hills Drive



Building A – Corner of Green Hills Drive and Commercial Road

ATTACHMENT 16 – DESIGN EXCELLENCE PANEL MEETING REPORT

MEETING REPORT DESIGN EXCELLENCE PANEL

Date:	14/04/21	Time:	10.30am
Location of Meeting:	Electronic video conference meeting		
Panel Members:	Chairperson – Nicholas Carlton, Manager Forward Planning, THSC Panel Member – David Reynolds, Group Manager THSC Panel Member – Tony Caro, Independent Design Expert Panel Member – Oi Choong, Independent Design Expert		
Councillors:	None Present		
Council Staff:	Cameron McKenzie, Myone Webber, Harrison Depczynski, Marika Hahn, Jen Lai		
Guests:	Rahina Wahid – Kann Finch Group Kean Lim - UPG		

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 requirements for a development to achieve design excellence are found in Clause 7.7 'Design Excellence' of Local Environmental Plan 2019.

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".

It is noted that the Design Excellence Panel does not determine or endorse applications. Rather, it is responsible for providing advice to Applicants and the consent authority to assist in the assessment of the Proposal against the design excellence criteria in Clause 7.7 of LEP 2019.

2. Declaration of interest

"Nil"

3. Confirmation of previous minutes

Confirmed by email

4. Presentations

Item 4.1	10.30pm – 11.40pm
DA Number	270/2021/JP
Property Address	Lot 5, Commercial Road, Rouse Hill
Proposal	 <p>Four residential blocks comprising 332 dwellings over structured basement car parking.</p>
Applicant representative addressing the Panel	Rahina Wahid – Senior Architect, Kann Finch Group

DOCUMENTATION

The Design Excellence Panel reviewed the following drawings provided to Council by the applicant for the 14/04/21 meeting:

- *Amended Architectural Plans DA issue, Rev (varies), dated 11/03/21, by Kann Finch Group*
- *CGI images sheets 1 & 3, provided April 14 2021, by Kann Finch Group*
- *Amended Landscape Plans for Development Application, dated March 23 2021, Rev B, by Concept Landscape Architects*
- *Amended Statement of Environmental Effects, provided April 12 2021, by Universal Property Group*

PANEL COMMENTS

This is the fourth presentation of the scheme to the Panel. The applicant has now presented the Pre-DA plans to the Panel twice and the DA application twice. Previous Panel minutes identified a wide range of design quality issues in relation to scale, built form, amenity, landscape and aesthetics, some of which have been addressed in the amended scheme. The Panel notes the changes to the scheme include a reduction in the number of apartments, amendments to building heights, the addition of a fourth building and greater articulation in the plans and facades to reduce the development's overall bulk and scale.

Despite these amendments, the Panel is of the opinion that there are still outstanding issues to be resolved, and that further improvements are required in relation to built form, site integration, amenity, landscaping and the public domain. The Panel is also of the opinion that the drawing set provided does not meet the required level of detail or co-ordinated documentation for a DA application. These include the amended landscape plans, which are difficult to decipher and do not contain adequate information for a project of this scale and significance. Certain required documents had not been provided by the submission due date and when provided, did not accurately reflect the design presented to the Panel.

The Panel is advised that the applicant applied to attend the April DEP meeting and was advised of the meeting date by Council officers on 18 March 2021. Council's planning officer received amended DA drawings from the applicant for consideration by the Panel, and these were provided to the Panel prior to the scheduled meeting. The Applicant advised, during the meeting, that it did not receive

advanced notice of the meeting and as such the supporting team of consultants could not attend. The Panel enquired as to whether the applicant would prefer to have the meeting postponed to an alternative date when all participating consultants could be present, however the applicant elected to proceed with the meeting and confirmed they felt they were in a position to adequately present the proposal to the Panel and respond to any subsequent questions.

For clarity, the following minutes include the Panel's comments in the previous minutes dated 13 March 2020, 13 May 2020 and 14 October 2020 (*repeated below in italics*). New comments do not necessarily supersede previous advice and as such should be read in conjunction with the previous DEP report/minutes. New comments from the meeting on 14 April 2021 are indicated in blue.

Response to Context

1. *13/03/20 Comment: The Panel acknowledges that this is pre-DA submission, and it is understood that ongoing design work will be taking place. However, the submitted documents do not adequately demonstrate how the proposal integrates with development outcomes in the immediate surrounds of the site and broader locality.*

13/05/20 Comment: This comment remains relevant. It was noted that the future context will be markedly different to that depicted in the photo-montages, which suggest that the site opposite is a park. Similarly the streets are likely to be activated by pedestrians in this Transport Oriented Development site, resulting in a lively urban context. The Panel noted that the building footprint followed a strict orthogonal plan arrangement, in lieu of aligning with and reinforcing the street edge to Commercial Road.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal. The Panel notes and supports development block A now being aligned with Commercial Road however the scale, bulk and architectural expression of the proposed built form departs from existing established DCP controls, and in doing so is unlikely to successfully integrate with the growing Rouse Hill Town Centre.

New Comment: The above comments from 13/05/20 and 14/10/20 remain relevant. The Panel considers that the submitted documents do not adequately demonstrate how the proposal achieves design excellence or responds to the scale and character of the immediate surrounds of the site or the wider urban context of Rouse Hill Town Centre.

The application does not demonstrate an acceptable response to the existing local landscape setting or the natural features of the site, and fails to address the topography or retain any remnant vegetation (refer to *Better Placed Objective 1 – Better fit: Contextual and of it's Place*).

The application does not adequately address the local context of the nearby small lot residential in its height and scale. The opportunities for the landscape design to ameliorate some of these impacts and to elevate the development as a model for the 'Garden Shire' have not been fully explored.

2. *13/03/20 Comment: The proposal adopts a relatively generic architectural aesthetic common to many high-density precincts emerging across Sydney. This does not capitalise on the opportunity for a design that responds to the particular characteristics of the region, including the 'Garden Shire' character, particular climatic challenges, the natural landscape (including links to nearby environmental/riparian land), the social demography or the culture of the LGA.*

13/05/20 Comment: This comment remains and should be further addressed in future designs.

14/10/20 Comment: Whilst shrub planter boxes have been added to some terrace edges, the above comments remain relevant as they have not been adequately addressed in the updated proposal.

New Comment: The above comments remain relevant. Apart from the planted perimeter embankments addressing Green Hills Drive, landscaping is applied over a concrete slab structure featuring large areas of synthetic turf. Consideration of additional landscape features such as

appropriately scaled flowering native and exotic tree plantings in the indentations to development blocks A & B would contribute a softer, more welcoming character and visual presentation to the street.

3. *13/03/20 Comment: The applicant presented imagery of proposed outcomes within the Rouse Hill Town Centre (RHTC) as a relevant precedent for their proposal. The Panel noted that this was not an approved project and furthermore, that the subject proposal took a different form to that proposed for the Rouse Hill Town Centre, which comprises a broader mix of housing typologies, lower podium levels and well-spaced towers of varying heights.*

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The above comments remain relevant.

New Comment: The above comments remain relevant. The proposal should be more reflective of the principles that inform contemporary transit oriented urban development, as this is the planning mechanism that provides for the significant uplift on this site. The proposal as currently designed is still that of a large, bulky and visually dominating development of homogeneous character that is not successful in integrating with its surrounds. Built form in the station precincts is required to demonstrate diversity, fine grain and human scale that is appropriate to the anticipated urban character and the wider character of the region and the Garden Shire.

Bulk, Scale and Massing

4. *13/03/20 Comment: The DCP illustrates built form options that are modulated to break up the perceived scale and mass of the development. The proposed arrangement of the built form and similar building heights across the site departs from this objective and outcome. The DCP envisages greater variation in height, façade setbacks, articulation and architectural expression.*

13/05/20 Comment: This comment remains relevant. The Panel notes the third lower building block presents a different architectural expression and massing more in keeping with the DCP objectives, and the scheme offers an improved outcome because of this. The visual scale of the built form has also been somewhat improved through articulation of the previous "ground to roof" façade treatment into smaller elements, and this is accepted by the Panel.

However, the proposal continues to present a relatively bulky, homogenous addition to the local context, primarily because the two larger buildings continue to present a strong visual homogeneity that reinforces the substantial bulk and scale of the proposal.

New Comment: The above comments remain relevant, whilst acknowledging the inclusion of a fourth building as indicated in the DCP. The Panel notes that the planning of Blocks A and B has been adjusted to an H-shaped plan that provides north facing courtyards and a consequential reduction in perceived bulk to the street frontage.

However, the over-arching development objective of achieving maximum yield continues to drive detailed planning decisions that restrict potential for achieving quality design outcomes, including:

- Buildings A and B continue to be over-scaled, bulky structures in excess of 50m in length with little variation in height and poor scale relationships with the surrounding context.
- Over-dependence on large areas of painted render/concrete.
- Carparking entries occurring within the open spaces between buildings instead of being integrated within the development envelopes.
- Public and communal areas comprising largely of hard paving and significant, abrupt level changes driven by staging rather than being informed by the topography of the site.
- Provision of basement car parking that covers the extent of the site and encroaches into building setback areas.
- Lack of substantial landscaping or provision of tall canopy trees within the communal open areas between the development blocks and within the setbacks. The site is a full block in

length and the spaces between the buildings should be treated as generous landscaped zones between developments.

The above matters have adversely impacted upon design quality and useability of the public domain, acoustic and environmental amenity, visual amenity and quality of the streetscape, and deep soil and landscape provision.

It is noted that the maximum yield is a theoretical capacity of the site, not an entitlement. The current design has not demonstrated that the proposed yield can be accommodated in a built form and urban design outcome that achieves design excellence.

14/10/20 Comment: The above comments remain relevant, as they are not adequately addressed in the updated proposal. The Panel's concerns with scale, bulk and massing remain, as the design changes now proposed are relatively minor. The length of the development block exceeds the DCP control maximum of 50m block length (Block A = 66m, Block B = 65m).

The Panel also noted that certain areas of each floor (common corridors with open ends) have been excluded from the GFA calculations. This contributes to the excessive bulk and massing of the development. The Panel recommends the applicant review this with Council's planning officer and revise the GFA calculations to satisfy their requirements.

New Comment: The Panel is advised that the applicant has discussed the method of GFA calculation with Council's planning officer, and that it is considered to be in keeping with current Land and Environment court rulings. The Panel acknowledges this advice, however its comments in relation to design quality remain relevant.

DEP March 2020



Elevation to Green Hills Drive

DEP May 2020



Elevation to Greenhills Drive

DEP October 2020



Elevation to Green Hills Drive



Elevation to Green Hills Drive block A



Elevation to Green Hills Drive block B



Elevation to pocket park block C

DEP April 2021



Elevation to Green Hills Drive



Perspective elevation north west Greenhills Drive
Blocks A and B



Perspective elevation south east Greenhills Drive
Blocks C and D

5. *13/03/20 Comment: Whilst the Panel notes (and supports in principle) a proposed increase in the area of the new western park, greater consideration should be given to the consequences of this with respect to outcomes and amenity on the remainder of the site. Relocation of GFA from the development site adjacent to the park onto the remaining residential blocks appears to have greatly contributed to the bulk and scale of the proposed development.*

13/05/20 Comment: This comment remains relevant. Whilst supportive of the larger park, the reallocation of floor space to the remaining three buildings has created built form and scale outcomes that may not be contextually sympathetic with existing and proposed future development. The applicant should consider modelling development envelopes for adjacent and future development to test these relationships.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal. It is now proposed that a significant portion of this new park is to be identified as communal open space. Any demarcation between public and private open space across the proposed park is not evident on the drawings. However, the Panel does not support this arrangement in principle, as it is contributing to the overly bulky built form of buildings A and B.

New Comment: The Panel notes that the applicant has reduced the size of the park to the minimum area required under the VPA and has included a fourth building within the development as per the DCP. This has resulted in some positive reduction in height and in perceived bulk and scale to the street. The visual bulk of roof elements adds to the visual impact of the scale of the development blocks however, and should be re-considered.

The Panel suggested that the bulk of buildings A and B could be improved by removal of two lower and two upper two levels of the indented central section. This would have the effect of articulating each large building form into two slightly higher side wings and a lower central/horizontally expressed element, with strong visual connection opening up into the rear courtyard. The planning proposal that generated the DCP and the DCP diagrams illustrate the intention for a diversity of built form to be achieved in a project site of this scale and density.

6. *13/03/20 Comment: The Panel suggested that the architect may wish to test an alternate design which orients the central communal open spaces and units towards the north east, in order to improve solar access during winter, residential amenity and presentation to the Green Hills Drive frontage. It is noted that this outcome would also represent a variance to the DCP diagram and the onus would be on the applicant to justify any such variation and demonstrate compliance with the objectives and outcomes of the DCP.*

13/05/20 Comment: This comment remains relevant. While the applicant noted that this outcome was tested and was not suitable, no evidence of testing this alternative layout was provided and it was not demonstrated that the current proposal offers a superior outcome.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed or tested in the updated proposal or material submitted to the Panel. The Panel is yet to be satisfied that the proposed built form outcome offers a superior design outcome to the DCP envelopes or the alternative layout suggested at the meeting of 13/03/2020.

New Comment: The Panel supports the alternative layout provided by the applicant to building blocks A and B. It is noted this has improved the solar access provision to the ground plane common open space and private living areas, and partially mitigates the bulk and scale of the development as noted above.

Site Coverage/ Landscaped Open Space

7. *13/03/20 Comment: The Panel questioned the provision of a single basement across the site as this precludes deep soil planting opportunities. Other developments within the Hills LGA (notably in the Showground Station Precinct) have been able to demonstrate how basement car parking can be contained to within the building block footprint. This should be investigated to create deep soil opportunities within this large site.*

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The allocation of residential communal open space to be contiguous with the public park (as noted above) increases site coverage across the built areas of the site, and in doing so creates congested outdoor spaces and limits opportunities for deep soil planting.

The purpose of communal open space in an ADG residential flat development is to provide convenient, safe outdoor open spaces for building residents to enjoy a variety of passive and active recreational activities. In proposing to move a large component of this ADG required space away from the buildings and to amalgamate it with a public open space, this key amenity requirement is not achieved and nor is the size of the public park increased (refer to comments above regarding demarcation between public and private open space).

New Comment: The above comments remain relevant. The provision of a single basement across the site should be reviewed, in order to ensure adequate deep soil planting opportunities are provided. The applicant may wish to reconsider the proposed parking provision (approximately 150 spaces in excess of the minimum requirement) as this may allow for some reduction to the area of basement parking and better align with TOD principles.

8. *13/03/20 Comment: The site coverage appears to be greater than 50%. All calculations should be confirmed with the Council's assessing officer.*

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal. All calculations to be confirmed to the satisfaction of Council's Landscape and Planning officers.

New Comment: The above comments remain relevant. As previously noted, the landscape drawings lack clarity and are not of an acceptable standard for DA submission and therefore Design Excellence Panel review. The applicant has been provided with comments by Council's landscape officer in addition to the comments provided by the Panel. It is noted that over a year ago the Panel requested the site coverage be confirmed to the Landscape Officers satisfaction and that this is still unresolved.

Height and Density

9. *13/03/20 Comment: The Panel suggests that an appropriate design could be accommodated on the site, without the need for LEP height non-compliance. Any exceedance to the recently amended height limit needs to be supported by a strong argument and/or exceptional design outcome.*

13/05/20 Comment: This comment remains relevant although it is noted that the amended proposal now appears to largely comply with the height limit.

14/10/20 Comment: Whilst heights are largely compliant, the proposed bulk and scale of buildings A and B is a consequence of the applicants departure from the DCP, resulting in the intensification of the scale and bulk of these two buildings.

New Comment: The above comments in relation to height and bulk remain relevant, although the partial reduction in bulk and scale arising from the inclusion of a fourth building block is noted.

10. *13/03/20 Comment: The density and floor space ratio prescribed by the LEP is a maximum limit, which can only be achieved where other relevant controls can be complied with and excellent residential amenity and design outcomes are achieved.*

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal. LEP density (FSR) and ADG solar and ventilation compliance should be demonstrated to the satisfaction of the planning officer.

New Comment: The above comments remain relevant.

Setbacks

11. *13/03/20 Comment: Whilst the DCP specifies setback distances, the ADG takes precedence when greater distances are required. All ADG minimum separations and DCP boundary setbacks should be complied with and clearly dimensioned on the plans. The public domain treatments at the street edge (and in general) should also be clearly documented so that the design intent is clearly expressed.*

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The Panel notes setback encroachments of private courtyards in the street setback to Green Hills Drive. Any encroachment into street setbacks by ground level courtyards and/or upper level enclosures or balconies is not supported.

New Comment: The above comments remain relevant.

Apartment Mix and Size

12. *13/03/20 Comment: The drawings presented indicate a higher efficiency (GFA per dwelling) than would typically be expected for a development which complies with the housing diversity*

requirements of Clause 7.11 of LEP 2019. The Panel recommends that the applicant review this and confirm compliance with Council's assessing officer.

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal.

New Comment: The Panel recommends that this matter is resolved to the Planning Officer's satisfaction.

Landscape Design

13. 13/03/20 Comment: The Panel recommends that the applicant engage an experienced Landscape Architect to review the proposal, provide design advice and document all public domain and private communal open space provisions for DA submission. Input from a Landscape Architect would assist at future Design Excellence Panel meetings.

13/05/20 Comment: This comment remains relevant. The Panel acknowledges that a Landscape Architect attended the meeting, however the landscape proposal showed little significant change from the plan previously presented prior to the engagement of the Landscape Architect.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal. The drawings are relatively formulaic and the landscape design is unimaginative. It does not appear to engage positively with its indigenous horticultural context, or provide enough space within the site for large trees that would assist in screening the large buildings and providing canopy shade.

There are no street edge sections or details provided in the Landscape documentation, which should be provided for a development of this size.

Communal open spaces are cramped due to the congestion of built form and are overshadowed by being located to the south-west of the 'U-shaped' plan forms.

Children's play areas are in cramped locations between the buildings adjacent to car ramps and are not easily surveilled by parents.

On slab balcony edge planters are long and narrow with regularly spaced plantings of small shrubs that are overwhelmed by the scale of the buildings. The applicant should provide details of how these are to be maintained by building management, and construction/drainage requirements (spitters not supported).

It is not clear what is meant by "Terrace finishes are shown green". Turf or astro-turf would not be supported in these areas.

The interface between building C and the stormwater channel along the park edge is unresolved and appears to present privacy, amenity and safety concerns.

New Comment: The above comments remain relevant. The updated landscape drawings were not deemed adequate for this presentation and it is noted that Council has requested additional information and documentation. This has not yet been provided. Notwithstanding the above, the Panel makes the following observations in relation to the current design:

- The Panel agrees with Council officers in relation to the sub-standard presentation of the landscape plans, the lack of details, site cross sections and levels and the compromised resolution of the communal open spaces.
- Rather than the Landscape acting as a catalyst for creating a great legacy, an invigorating open space network and a strong sense of community for the development, it would appear that the landscape and public domain have been relegated to the "leftover spaces" at the

perimeter and between the buildings. This is a missed opportunity which should be reconsidered for such a landmark project.

- The open spaces appear cramped, with a substantial portion given over to circulation and paved areas, leaving little room for softer surfaces and landscape features that would improve residential amenity and enjoyment.
- There is very little detail on how the level changes will be resolved between the buildings and this could be improved with more informed cross sections and details.
- The treatment and interface between the public and private areas is not entirely clear and should be more clearly illustrated.
- Pedestrian movement needs to be simplified, clear and accessible across the site.
- There should be a pathway provided to connect residents with the new park from within the development
- There is little evidence that the Landscape architectural and engineering drawing sets are coordinated. On a site of this large size it is important to ensure thorough coordination between different plans before consent is granted.
- Services and OSD tanks are currently located within the deep soil zones otherwise intended for the planting of substantial trees. These should be relocated to areas such as beneath the basement car parking.
- The stormwater easement appears as a 'slash' across the site, and could be more imaginatively integrated into the design of the landscape between Buildings C and D.

The Panel recommends that updated Landscape Plans be prepared to include a vision statement and design principles illustrating the function and character of the public domain and communal open spaces, and how the design has responded to context, amenity, sustainability and staging objectives of the development

Public Domain and Streetscape

14. *13/03/20 Comment: It is not clear that proposed landscape treatments will be achievable. For example, the drawings indicate substantial tree planting over basement parking, where there may be insufficient soil volumes. Consideration should also be given to appropriate waterproofing, drainage and irrigation provision.*

13/05/20 Comment: This comment remains relevant. The Panel noted that the proposal was not presented in its future urban context and that the public domain interface has not progressed since the last meeting, with insufficient detail provided for the Panel to make meaningful comment on this matter.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal. The Panel reiterates the above comments in relation to the proposed park, where an oval (turfed form) is indicated with trees in the centre and no indication is provided of where the proposed secure residential communal open space is to be accommodated.

New Comment: Whilst not discussed at the meeting on 14/4/21, a number of areas indicated as "deep soil" do not comply with the ADG definition. For example, areas which include underground services cannot be included. All utility services elements in the public domain are to be suitably screened and integrated into the building fabric. Detailing of services screening should be a DA condition or resolved prior to any consent, subject to DA officer requirements.

It is unclear as to why a bin enclosure occurs on the street for Building D when underground basement car parking and waste removal is provided.

15. *13/03/20 Comment: Coordination between stormwater services and landscaping is expected at the DA stage, in addition to wayfinding and planting details. The Panel recommends a co-ordinated resolution of the landscape design proposal before presenting to the Panel at DA stage.*

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The applicant appeared unsure regarding design and ground levels between the stormwater easement and the floor levels of the adjacent development block C. The Panel recommends that resolution of levels be undertaken to ensure suitable amenity for the residents. Apartments below natural ground level are not supported.

New Comment: The above comments remain relevant, in particular the comment dated 13/03/20.

16. *13/03/20 Comment: The proposed terrace apartment interface with the street edge has potential to offer a successful design outcome that activates the adjacent public domain with good surveillance and generous landscaping. Sections (1:50) through the building frontage illustrating the relationship between the public and private interface should be provided.*

13/05/20 Comment: This comment remains relevant. The Panel notes that details requested have not yet been provided.

It is noted that Clause 7.7 Design Excellence states that;

(4) In considering whether the development exhibits design excellence, the consent authority

must have regard to the following matters:

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

(f) how the development addresses the following matters:

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

The Panel notes that some parts of the proposed scheme appear to be relatively fixed, prior to the resolution of matters relating to the public domain interface. In an area which is to become highly urbanised this is an aspect of the design that the Panel recommends should be resolved expeditiously.

14/10/20 Comment: The applicant presented a number of cross sections in the Design Report (pp.17-19). Panel is concerned that a number of interfaces along north and west boundaries present apartment levels below the existing ground level. The Panel does not consider apartments that are subterranean as meeting the requirements of design excellence.

New Comment: The public domain and adjoining deep soil zones requires more substantive tree planting and naturalised soft landscaping in comparison to the outcomes shown. This should be to the approval of Council's Landscape officer and conditioned appropriately in any consent issued.

Park edge interface

17. *13/03/20 Comment: Further design and documentation would be required to illustrate the design intent for the proposed building interface to the new park.*

13/05/20 Comment: This comment remains relevant. Whilst the applicant mentioned that this was now addressed there were no elevations or sections provided to substantiate this comment.

14/10/20 Comment: The design intent for the proposed building interface to the new park has yet to be adequately communicated or resolved.

New Comment: The above comments remain relevant, although this was not discussed at the meeting on 14/04/21.

Private Domain

18. *13/03/20 Comment: Landscape provisions for private courtyards within the proposed development are not yet clear.*

13/05/20 Comment: This comment remains relevant. The Landscape plan submitted at this Panel meeting appears to be largely the same as the previously submitted landscape plan.

14/10/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal. The landscape comments above also apply to the front courtyard, where a formulaic diagram of turf and shrubs (Mix 1) is proposed for the entire frontage to Green Hills Drive. Planting schedules are not specific, with no specification other than lists of species that the contractor will presumably select from, and quantities/plant minimum sizes absent.

New Comment: The above comments remain relevant. For a proposal of this size, high quality communal open space design is essential, in keeping with the place-making principles of generous and quality places.

SEPP 65 Comments

19. 13/03/20 Comment: *Compliance with a range of ADG objectives should be further clarified in DA documentation:*

- *3C Public Domain Interface – as per comments above*
- *3D Communal and Public Open Space – notate clearly on plans, including amenities, children’s play facilities and landscaping.*
- *3E Deep Soil Zones – minimum width for deep soil zone is 6m. Revised calculations should be prepared.*
- *3F Visual Privacy – dimension all distance separations between buildings and ensure that internal courtyard apartments are designed to ensure cross privacy from other residents.*
- *3H Vehicle Access - the Panel recommends that access to basements is constrained to within the building footprints, so that spaces between buildings can be appropriately landscaped with significant and generous vegetation.*
- *4A Solar and Daylight –shadow diagrams and sun eye views at ½ hourly intervals between the hours on 9am to 3pm on June 21st should be provided for each building. The Panel notes there are a number of apartments indicated as receiving solar access into the main living area that may not meet ADG criteria.*
- *4B Natural Ventilation – it should be clearly indicated how compliance will be achieved on legible floor plans for each level. As per New Comment*
- *4H Acoustic Privacy and 4J Noise and Pollution - in particular for dwellings adjacent to car park entries and adjacent Commercial Road.*
- *4O Landscape Design – clearly indicate open space provision, shadow impacts and deep soil areas (as per ADG definition).*
- *4P Planting on Structures – provide suitable documentation per Landscape officer requirements*
- *4M Facades - Building facades provide visual interest along the street while respecting the character of the local area.*

13/05/20 Comment: The above comments remain relevant, as they have not been adequately addressed in the updated proposal.

14/10/20 Comment: This comment remains relevant. The Panel notes the applicant has stated that 20% of the apartments receive no solar access between the hours of 9am to 3pm on June 21st, which is not ADG compliant.

The Panel recommends that the development is independently reviewed by an energy consultant with expertise in this area to verify ADG compliance across all design objectives as stated by the applicant. Evidence to be supplied to satisfaction of Council officer.

New Comment: The above comments remain relevant (please note additional blue text within the original comments from 13/03/20).

Sustainability and Environmental Amenity

20. 13/03/20 Comment: *Achieving a high level of environmental sustainability and amenity in an increasingly dense and hotter western Sydney is a key challenge for all developments. The Panel recommends further consideration of how increasing summer temperatures in Western Sydney will be addressed. Innovative environmental design strategies should be clearly demonstrated to satisfy the intent of the Design Excellence clause. All ADG sustainability objectives such as 4A Solar and Daylight and 4B Natural Ventilation should be in compliance with the ADG Design Criteria.*

13/05/20 Comment: *This comment remains relevant.*

14/10/20 Comment: *The above comments remain relevant. It is not acceptable that a relatively unconstrained site in the north-west of metropolitan Sydney is unable to achieve minimum ADG design objectives and criteria.*

New Comment: *The above comments remain relevant.*

Architecture and Aesthetics

21. 13/03/20 Comment: *Consideration should be given to the inclusion of podiums, with greater articulation and a richer materiality. Upper levels could offer a more restrained architectural expression and simpler materiality.*

13/05/20 Comment: *This comment remains relevant. More genuine design diversity between the development blocks would improve the proposal by providing a more diverse urban form and improved human scale. A markedly different design aesthetic between buildings could assist in achieving this.*

14/10/20 Comment: *The above comments remain relevant, as they have not been adequately addressed in the updated proposal. As previously noted in the last two DEP meetings, the development proposal put forward by the applicant is divergent to the objectives of the DCP that aims to present a series of smaller scaled, slender tower type elements with a diversity of heights and architectural articulation.*

New Comment: *The above comments remain relevant.*

22. 13/03/20 Comment: *The applicant alluded to the use of breezeways in the design, which was not apparent in the documentation submitted. The Panel recommends any such design features be properly documented and notated in the DA documentation. Detailed sections will provide clarity in these areas.*

13/05/20 Comment: *This comment remains relevant.*

14/10/20 Comment: *The Panel noted that the GFA calculations excluded common circulation areas designated as breezeways on typical floors, which in fact are substantially enclosed. Further clarification of the/ GFA calculation methodology is to be confirmed with the DA officer.*

New Comment: *The screening material notated as BCS proposed by the applicant is not considered to be of high quality or low maintenance and will likely degrade the overall appearance of the development. With respect to the Design Excellence Clause 7.11 Part 4(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, the material choice and selection does not achieve this objective.*

23. 13/03/20 Comment: *The Panel notes that apartment planning appears to be generally efficient. Where larger dwellings are provided to meet the needs of the anticipated market, ensure that these are designed to increase liveability and amenity with spaces such as secondary living spaces (children's play, workspace, media and television), dedicated laundries with sorting space and adequate storage and larger kitchens with additional pantry space (as opposed to simply increasing the dimensions of each room).*

13/05/20 Comment: This comment remains relevant.

14/10/20 Comment: The above comments remain relevant. It is noted that there was limited discussion on this particular matter at the meeting on 14/10/2020.

New Comment: The above comments remain relevant.

Additional Comments

24. *13/05/20 Comment: The applicant presented additional imagery in the meeting that had not been provided to the Panel. The corner and street treatment to Commercial Road should be reflective of an urban setting compatible with the proposed expansion of the Rouse Hill Town Centre whilst still providing for a transition to the lower built form development to the North. While it is acknowledged that the proposal does not include a retail/commercial component, the DCP identifies active frontages at this corner location fronting Commercial Road and Green Hills Drive as a desired outcome in order to promote activation of the streetscape and public domain.*

14/04/21 Comment: The treatment of the Commercial Road interface was discussed at some length. The Panel notes that the expectation was for commercial uses at this location and this is clearly indicated in the additional uses definition in the LEP and identified in the indicative layout plan for the site within the DCP. Provision of commercial uses as anticipated would allow for an activated street frontage in this location. The applicant continues to propose a residential use however, with a subterranean apartment that does not positively engage with this busy road frontage that may also be subject to additional acoustic compliance requirements via BCA Section 4J and Infrastructure SEPP.

New Comment: The change in ground level land use to Commercial Road is acknowledged. The Panel supports this amendment.

25. *13/05/20 Comment: The Panel considers that subterranean apartments are an unacceptable design solution and all apartment floor levels should be above the existing ground plane, particularly where fronting a public street.*

14/10/20 Comment: This was discussed at great length during the Panel meeting. It is noted that a number of these apartments are compromised for amenity reasons including acoustics, solar access, visual privacy and personal safety.

New Comment: The above comments remain relevant. While the applicant has cited LEP definitions of what comprises below ground, it is important that consideration be given to the site specific design and amenity outcomes, in particular the interfaces where a 4 metre change in grade is proposed between stages of the development. It is noted that a number of apartments continue to be situated below ground level.

26. **New Comment:** The submitted materials palette does not satisfy the criteria for design excellence. For this scheme, the Panel recommends closer adherence to the materials strategy and palette illustrated in the DCP. Final selection of materials should be clear and definitive.

PANEL CONCLUSION

13/05/2020 Conclusion: The Panel acknowledges the work to date and is appreciative of the opportunity to review the proposal at an early stage.

The Panel does not support the proposal in its current form as it does not meet the requirements of design excellence. It is recommended that the applicant revise the proposal to address the issues identified in this report and present a revised proposal to the Panel.

The Panel's conclusion remains unchanged from the previous Panel meeting. The Panel would welcome an opportunity to consider a revised scheme that more substantially addresses the comments raised in the March 2020 and May 2020 Panel Reports.

14/10/20 Conclusion: The Panel's conclusion remains consistent with the two previous Panel meetings. It is acknowledged that the applicant presentation to this meeting provided a detailed schedule of responses to each previous Panel comment, however many of these responses did not adequately address the identified issues and there have been no significant changes to the overall scheme in response to comments provided by the Panel to date.

The Panel does not support the proposal in its current form as it does not yet meet the requirements of design excellence. The Panel's role is advisory only and the applicant may choose to proceed with the DA in its current form. The Panel would welcome the opportunity to comment on the proposal again following more meaningful consideration of the Panel's comments by the applicant and substantial revision of this proposal in response, to resolve the fundamental built form, amenity and urban design issues which are articulated within this report.

New Comment: The documentation provided to the Panel was incomplete, and does not adequately describe the development application. Whilst there have been some positive changes (distribution of yield and density to a fourth building and revised planning for Blocks A and B), the Panel does not support the proposal in its current form as it does not yet meet the requirements of design excellence. The Panel notes that its role is advisory only and the applicant may nonetheless elect to proceed with the DA assessment in its current form.

ATTACHMENT 17 – APPLICANTS RESPONSE TO DESIGN EXCELLENCE PANEL MEETING REPORT

1.1 Table 2: Response to Design Excellence Panel Meeting Notes dated 14 April 2021

The following table is provided in response to The Hills Council Design Excellence Panel Meeting dated 14 April 2021.

Item	Council Comment (Summary)	Response
Response to Context		
1.	<p>The above comments from 13/05/20 and 14/10/20 remain relevant. The Panel considers that the submitted documents do not adequately demonstrate how the proposal achieves design excellence or responds to the scale and character of the immediate surrounds of the site or the wider urban context of Rouse Hill Town Centre.</p> <p>The application does not demonstrate an acceptable response to the existing local landscape setting or the natural features of the site, and fails to address the topography or retain any remnant vegetation (refer to Better Placed Objective 1 – Better fit: Contextual and of its Place).</p> <p>The application does not adequately address the local context of the nearby small lot residential in its height and scale. The opportunities for the landscape design to ameliorate some of these impacts and to elevate the development as a model for the 'Garden Shire' have not been fully explored.</p>	<p>The amended plans now demonstrate a closer relationship to the DCP control plan with the reduction in scale and bulk presented to Greenhills Drive for all the three buildings 'A', 'B' and 'C' and the placement of a small 3 storey fourth Building 'D' to the north fronting the park. The evident stepping down of the building height towards the park is a positive outcome helping to achieve the desired outcome for this important transition site situated between the town centre to the south and low-rise residential area to the north. The amended plans include a portion of commercial space fronting Commercial Road which will provide additional amenity to the local residents.</p>
2.	<p>The above comments remain relevant. Apart from the planted perimeter embankments addressing Green Hills Drive, landscaping is applied over a concrete slab structure featuring large areas of synthetic turf. Consideration of additional landscape features such as appropriately scaled flowering native and exotic tree plantings in the indentations to development blocks A & B would contribute a softer, more welcoming character and visual presentation to the street.</p>	<p>Amended Landscape address Council's comments by providing additional planting of native and exotic species between Buildings A and B. Refer to the Planting Schedule within the Landscape Plans for additional details.</p>
3.	<p>The proposal should be more reflective of the principles that inform contemporary transit oriented urban development, as this is the planning mechanism that provides for the significant uplift on this site. The proposal as currently designed is still that of a large, bulky and visually dominating development of homogeneous character that is not successful in integrating with its surrounds. Built form in the station precincts is required to demonstrate diversity, fine grain and human scale that is appropriate to the anticipated urban</p>	<p>Further, the landscaping strategy for the site has been designed to soften the proposed buildings with a mix of native and exotic species. Native ground cover is proposed to be included within all road frontages, strengthened by significant replacement planting.</p>

	character and the wider character of the region and the Garden Shire.	
Bulk, Scale and Massing		
4.	<p>The above comments remain relevant, whilst acknowledging the inclusion of a fourth building as indicated in the DCP. The Panel notes that the planning of Blocks A and B has been adjusted to an H-shaped plan that provides north facing courtyards and a consequential reduction in perceived bulk to the street frontage. However, the over-arching development objective of achieving maximum yield continues to drive detailed planning decisions that restrict potential for achieving quality design outcomes, including:</p> <ul style="list-style-type: none"> • Buildings A and B continue to be over-scaled, bulky structures in excess of 50m in length with little variation in height and poor scale relationships with the surrounding context. • Over-dependence on large areas of painted render/concrete. • Carparking entries occurring within the open spaces between buildings instead of being integrated within the development envelopes. • Public and communal areas comprising largely of hard paving and significant, abrupt level changes driven by staging rather than being informed by the topography of the site. • Provision of basement car parking that covers the extent of the site and encroaches into building setback areas. • Lack of substantial landscaping or provision of tall canopy trees within the communal open areas between the development blocks and within the setbacks. The site is a full block in length and the spaces between the buildings should be treated as generous landscape zones between developments. <p>The above matters have adversely impacted upon design quality and useability of the public domain, acoustic and environmental amenity, visual amenity and quality of the streetscape, and deep soil and landscape provision.</p> <p>It is noted that the maximum yield is a theoretical capacity of the site, not an entitlement. The current design has not demonstrated that the proposed yield can be accommodated in a built form and urban design outcome that achieves design excellence.</p>	<p>The amended Architectural Plans demonstrate the greater articulation of the proposed building massing through the utilisation of the deep soil landscaped recesses, which have the effect of visually minimising the building length.</p> <p>The amended Landscape Plans demonstrate increased planting between Buildings A and B as well as within the proposed stormwater easement between Buildings C and D.</p> <p>The inclusion of planters within the communal open spaces helps to soften the area. The southern walls of Building A and B have been treated with significant landscaping to soften the concrete walls as well as screen from the adjoining development. Tall canopy trees (75L) are included within the Communal Courtyard between Buildings B and C. Refer to the amended Landscape Plans for additional detail.</p> <p>The car park entries have been designed to be located between the buildings to increase efficiency and preserve the main building frontage for landscaping and pedestrian access.</p>
5.	The Panel notes that the applicant has reduced the size of the park to the minimum area required under the VPA and has included a fourth building within the development as per the DCP. This has	The layout of Buildings A and B have been revised to enable a more open courtyard, which enhances solar access

	<p>resulted in some positive reduction in height and in perceived bulk and scale to the street. The visual bulk of roof elements adds to the visual impact of the scale of the development blocks however and should be re-considered.</p> <p>The Panel suggested that the bulk of buildings A and B could be improved by removal of two lower and two upper two levels of the indented central section. This would have the effect of articulating each large building form into two slightly higher side wings and a lower central/horizontally expressed element, with strong visual connection opening up into the rear courtyard. The planning proposal that generated the DCP and the DCP diagrams illustrate the intention for a diversity of built form to be achieved in a project site of this scale and density.</p>	to the buildings. Refer to the revised Architectural Plans for further details.
Site Coverage and Landscaped Open Space		
7.	The above comments remain relevant. The provision of a single basement across the site should be reviewed, in order to ensure adequate deep soil planting opportunities are provided. The applicant may wish to reconsider the proposed parking provision (approximately 150 spaces in excess of the minimum requirement) as this may allow for some reduction to the area of basement parking and better align with TOD principles.	The proposed basement carparking has been revised and is no longer provided in a single basement as the potential for deep soil areas to be provided between buildings A and B has been incorporated
8.	The above comments remain relevant. As previously noted, the landscape drawings lack clarity and are not of an acceptable standard for DA submission and therefore Design Excellence Panel review. The applicant has been provided with comments by Council's landscape officer in addition to the comments provided by the Panel. It is noted that over a year ago the Panel requested the site coverage be confirmed to the Landscape Officers satisfaction and that this is still unresolved.	The Landscape Plans have been revised to offer greater clarity of the proposed landscape design and have responded to the items raised by Council's Landscape Officers in their Request for Information. Refer to Table 1 for responses to these matters. A site coverage diagram is included within the amended Architectural Plans.
Height and Density		
9.	The above comments in relation to height and bulk remain relevant, although the partial reduction in bulk and scale arising from the inclusion of a fourth building block is noted.	The Architectural Plans have been amended to reflect the bulk and scale of the buildings. Refer to the plans for additional detail.
10.	<p>The below comments remain relevant.</p> <p>The density and floor space ratio prescribed by the LEP is a maximum limit, which can only be achieved where other relevant controls can be complied with and excellent residential amenity and design outcomes are achieved.</p> <p>The above comments remain relevant, as they have not been adequately addressed in the updated proposal. LEP density (FSR) and ADG solar and ventilation compliance should be demonstrated to the satisfaction of the planning officer.]</p>	The amended Architectural Plans demonstrate compliance with the ADG Solar Access and Ventilation Controls and is supported by a report prepared by SLR which further details how compliance was achieved.
Setbacks		
11.	<p>The comments below remain relevant</p> <p>Whilst the DCP specifies setback distances, the ADG takes precedence when greater distances are required. All ADG minimum separations and DCP boundary setbacks should be complied with and clearly dimensioned on the plans. The public domain treatments at the street edge (and in general) should also be clearly documented so that the design intent is clearly expressed.</p> <p>This comment remains relevant.</p>	The amended Architectural Plans generally demonstrate compliance with the DCP setback controls. The building elements including the private terraces have been amended to be within the 8m setback to Green Hills Drive. The western frontage of Buildings A and B encroach into the 6m setback by 200-350mm which is seen as minor in comparison to the scale of the development. Full compliance with the setback control is not

	<p>The Panel notes setback encroachments of private courtyards in the street setback to Green Hills Drive. Any encroachment into street setbacks by ground level courtyards and/or upper level enclosures or balconies is not supported.</p>	<p>achievable as it would result in non-compliance of the ADG internal unit dimensions. The minor setback encroachment does not impact on the amenity of the neighbouring properties. The objectives of the control are still met.</p> <p>Additional 1:50 Section drawings have been provided within the amended Architectural Plans to demonstrate the high-quality relationship between the proposed buildings, their environments, and the public domain. The proposed buildings are compliant with the objectives of the DCP setback Clause 3.3 – THDCP Part B Section 5.</p>
<p>Apartment Mix and Size</p>		
<p>12.</p>	<p>The drawings presented indicate a higher efficiency (GFA per dwelling) than would typically be expected for a development which complies with the housing diversity The Panel recommends that this matter is resolved to the Planning Officer's satisfaction.</p>	<p>The GFA diagrams and FSR calculations have been included within the amended Architectural Plans. The GFA calculation has been done in accordance with the Land and Environment Court's direction.</p>
<p>Landscape Design</p>		
<p>13.</p>	<p>The below comments remain relevant. The updated landscape drawings were not deemed adequate for this presentation and it is noted that Council has requested additional information and documentation. This has not yet been provided. Notwithstanding the above, the Panel makes the following observations in relation to the current design:</p> <ul style="list-style-type: none"> • The Panel agrees with Council officers in relation to the sub-standard presentation of the landscape plans, the lack of details, site cross sections and levels and the compromised resolution of the communal open spaces. • Rather than the Landscape acting as a catalyst for creating a great legacy, an invigorating open space network and a strong sense of community for the development, it would appear that the landscape and public domain have been relegated to the "leftover spaces" at the perimeter and between the buildings. This is a missed opportunity which should be reconsidered for such a landmark project. • The open spaces appear cramped, with a substantial portion given over to circulation and paved areas, leaving little room for softer surfaces and landscape features that would improve residential amenity and enjoyment. • There is very little detail on how the level changes will be resolved between the buildings and this could be improved with more informed cross sections and details. • The treatment and interface between the public and private areas is not entirely clear and should be more clearly illustrated. • Pedestrian movement needs to be simplified, clear and accessible across the site. • There should be a pathway provided to connect residents with the new park from within the development • There is little evidence that the Landscape architectural and engineering drawing sets are coordinated. On a site of this large size it is important to ensure thorough coordination between different plans before consent is 	<p>Amended Landscape Plans have been provided which address the comments provided by Council in the Request for Information.</p> <p>Site cross sections and the levels of the communal open spaces have been detailed on the amended landscape plans.</p> <p>Pedestrian movements have been outlined within the amended plans with pedestrian access to the local park being demonstrated. Refer to Drawing No. L102 in the Landscape Plans.</p> <p>The proposed OSD has been relocated out of the deep soil zone. Refer to the amended plans for further detail.</p> <p>The amended Landscape Plans accurately and clearly depict the proposed Landscaping strategy, clearly demonstrating the proposed planting schedule.</p>

	<p>granted.</p> <ul style="list-style-type: none"> Services and OSD tanks are currently located within the deep soil zones otherwise intended for the planting of substantial trees. These should be relocated to areas such as beneath the basement car parking. The stormwater easement appears as a 'slash' across the site, and could be more imaginatively integrated into the design of the landscape between Buildings C and D. <p>The Panel recommends that updated Landscape Plans be prepared to include a vision statement and design principles illustrating the function and character of the public domain and communal open spaces, and how the design has responded to context, amenity, sustainability and staging objectives of the development.</p>	
Public Domain and Streetscape		
14.	<p>Whilst not discussed at the meeting on 14/4/21, a number of areas indicated as deep soil* do not comply with the ADG definition. For example, areas which include underground services cannot be included. All utility services elements in the public domain are to be suitably screened and integrated into the building fabric. Detailing of services screening should be a DA condition or resolved prior to any consent, subject to DA officer requirements.</p> <p>It is unclear as to why a bin enclosure occurs on the street for Building D when underground basement car parking and waste removal is provided.</p>	<p>All proposed deep soil areas have been revised to comply with the ADG definition, which are a minimum of 6m in width and exclude areas which include underground services.</p> <p>Suitable screening of utility services has been included within the amended Landscape Plans.</p> <p>The bin enclosure areas have been removed from the Landscape Plans and are contained within the basement car parking.</p>
15.	<p>Coordination between stormwater services and landscaping is expected at the DA stage, in addition to wayfinding and planting details. The Panel recommends a co-ordinated resolution of the landscape design proposal before presenting to the Panel at DA stage.</p> <p>The applicant appeared unsure regarding design and ground levels between the stormwater easement and the floor levels of the adjacent development block C. The Panel recommends that resolution of levels be undertaken to ensure suitable amenity for the residents. Apartments below natural ground level are not supported</p>	<p>Amended Landscape and Stormwater Plans have been provided which address the comments raised by Council.</p> <p>The 'subterranean' ground floor apartments in the western side of Building C have been removed in the amended plans.</p>
16.	<p>The public domain and adjoining deep soil zones require more substantive tree planting and naturalised soft landscaping in comparison to the outcomes shown. This should be to the approval of Council's Landscape officer and conditioned appropriately in any consent issued.</p>	<p>The landscaping planting schedule for the public domain and deep soil planting areas have been revised to include additional planting with a minimum of 75L exotic and native trees as well as substantial soft landscaping such as ground cover and small shrubs. Refer to the proposed planting schedule in Drawing No. L300 - L302 for additional detail.</p>
Park Edge Interface		
17.	<p>Further design and documentation would be required to illustrate the design intent for the proposed building interface to the new park.</p>	<p>The design intent for the proposed pocket park has been detailed in the amended</p>

	<p>The design intent for the proposed building interface to the new park has yet to be adequately communicated or resolved.</p>	<p>Landscape Plans, which proposes to retain existing vegetation along the boundary and additional planting. Additional 1:50 Section drawings have been provided demonstrating a high-quality relationship between Building 'D' and the public park. Planting along the external wall of Building D which faces the public park is proposed to offer screening and privacy. Refer to Drawing No. L305 and L400.</p>
<p>18.</p>	<p>For a proposal of this size, high quality communal open space design is essential, in keeping with the place-making principles of generous and quality places.</p> <p>The above comments remain relevant, as they have not been adequately addressed in the updated proposal. The landscape comments above also apply to the front courtyard, where a formulaic diagram of turf and shrubs (Mix 1) is proposed for the entire frontage to Green Hills Drive. Planting schedules are not specific, with no specification other than lists of species that the contractor will presumably select from, and quantities/plant minimum sizes absent.</p>	<p>Revised Landscape Plans have been prepared which shows a variety of proposed planting along Green Hills Drive. Detailed Planting schedules with minimum sizes have been provided within the amended plans. Refer to the amended Landscape Plans - Drawing No. L300-L302 for additional details of the planting schedule.</p> <p>Additional 1:50 sections have been provided demonstrating a high-quality relationship between the proposed buildings and their environments along with the public domain.</p>
<p>SEPP 65 Comments</p>		
<p>19.</p>	<p>Compliance with a range of ADG objectives should be further clarified in DA documentation:</p> <ul style="list-style-type: none"> • 3C Public Domain Interface – as per comments above • 3D Communal and Public Open Space – notate clearly on plans, including amenities, children's play facilities and landscaping. • 3E Deep Soil Zones – minimum width for deep soil zone is 8m. Revised calculations should be prepared. • 3F Visual Privacy – dimension all distance separations between buildings and ensure that internal courtyard apartments are designed to ensure cross privacy from other residents. • 3H Vehicle Access - the Panel recommends that access to basements is constrained to within the building footprints, so that spaces between buildings can be appropriately landscaped with significant and generous vegetation. • 4A Solar and Daylight –shadow diagrams and sun eye views at ½ hourly intervals between the hours on 9am to 3pm on June 21st should be provided for each building. The Panel notes there are a number of apartments indicated as receiving solar access into the main living area that may not meet ADG criteria. • 4B Natural Ventilation – it should be clearly indicated how compliance will be achieved on legible floor plans for each level. As per New Comment • 4H Acoustic Privacy and 4J Noise and Pollution - in particular for dwellings adjacent to car park entries and adjacent Commercial Road. • 4O Landscape Design – clearly indicate open space provision, shadow impacts and deep soil areas (as per ADG definition). • 4P Planting on Structures – provide suitable 	<p>The proposed public domain interface complies with the ADG. Refer to the amended architectural plans.</p> <p>Communal and Public Open Space has been clearly notated on the amended Landscape Plans, with details regarding amenities, children's play facilities and landscaping detailed.</p> <p>Deep Soil Zones have been revised to adhere to the 8m wide dimensions. Refer to the amended Landscape Plans.</p> <p>Amended Architectural Plans demonstrate the distance separations between buildings, with internal courtyards having cross privacy.</p> <p>Refer to the amended architectural plans for revised car-parking layout.</p> <p>A solar access study has been conducted by SLR which reveals that 70% of the proposed buildings received solar access between the hours of 9am-3pm on June 21st. Refer to this report and accompanying shadow diagrams within the revised Architectural Plans.</p> <p>Refer to the submitted Acoustic Report which details acoustic compliance for dwellings adjacent to car park entries and Commercial Road.</p>

	<p>documentation per Landscape officer requirements</p> <ul style="list-style-type: none"> 4M Facades - Building facades provide visual interest along the street while respecting the character of the local area. <p>The Panel recommends that the development is independently reviewed by an energy consultant with expertise in this area to verify ADG compliance across all design objectives as stated by the applicant. Evidence to be supplied to satisfaction of Council officer.</p>	<p>The amended Landscape Plans indicate the open space provision, deep soil areas and shadow impacts.</p> <p>In line with the Panel's comments, the development was independently reviewed by SLR, who prepared a Solar Access and Natural Ventilation assessment, which determined that the proposed development complies with the ADG requirements. SLR's findings are attached.</p>
Sustainability and Environmental Amenity		
20.	<p>Achieving a high level of environmental sustainability and amenity in an increasingly dense and hotter western Sydney is a key challenge for all developments. The Panel recommends further consideration of how increasing summer temperatures in Western Sydney will be addressed. Innovative environmental design strategies should be clearly demonstrated to satisfy the intent of the Design Excellence clause. All ADG sustainability objectives such as 4A Solar and Daylight and 4B Natural Ventilation should be in compliance with the ADG Design Criteria.</p>	<p>The proposed development complies with the ADG controls for Solar and Daylight and Natural Ventilation. The amended plans demonstrate that the minimum ADG sustainability objectives are achieved.</p>
Architecture and Aesthetics		
21.	<p>Consideration should be given to the inclusion of podiums, with greater articulation and a richer materiality. Upper levels could offer a more restrained architectural expression and simpler materiality.</p> <p>More genuine design diversity between the development blocks would improve the proposal by providing a more diverse urban form and improved human scale. A markedly different design aesthetic between buildings could assist in achieving this.</p> <p>The development proposal put forward by the applicant is divergent to the objectives of the DCP that aims to present a series of smaller scaled, slender tower type elements with a diversity of heights and architectural articulation.</p>	<p>The amended plans present more suitably articulate building forms with variation to the height and massing. The central landscaped area with recessed elements results in breaking up the massing of the building into two separate 'wings' which more closely resembles a tower architectural typology when expressed from Green Hills Drive. Refer to the Section and Elevation drawings within the amended Architectural Plans for further reference.</p>
22.	<p>The screening material notated as BCS proposed by the applicant is not considered to be of high quality or low maintenance and will likely degrade the overall appearance of the development. With respect to the Design Excellence Clause 7.11 Part 4(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, the material choice and selection does not achieve this objective.</p>	<p>The screening material proposed is powder coated steel grating panels that have been used on other projects which has responded adequately to.</p>
23.	<p>The Panel notes that apartment planning appears to be generally efficient. Where larger dwellings are provided to meet the needs of the anticipated market, ensure that these are designed to increase liveability and amenity with spaces such as secondary living spaces (children's play, workspace, media and television), dedicated laundries with sorting space and adequate storage and larger kitchens with additional pantry space (as opposed to simply increasing the dimensions of each room).</p>	<p>The proposed unit plans are high quality, efficient and of comfortable proportions with well- proportionated private open spaces available.</p>
Additional Comments		
26.	<p>The submitted materials palette does not satisfy the criteria for design excellence. For this scheme, the Panel recommends closer adherence to the materials strategy and palette illustrated in the DCP. Final selection of materials should be clear and definitive.</p>	<p>Refer to the Amended Architectural Plans for further details.</p>

ATTACHMENT 18 – PLANNING AGREEMENT LOT 5 COMMERCIAL RD ROUSE HILL



Deed

**Lot 5 Commercial Road, Rouse Hill
Planning Agreement**

Under s93F of the *Environmental Planning and Assessment Act 1979*

**The Hills Shire Council
Norlex Holdings Pty Ltd**

Date:

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Lot 5 Commercial Road, Rouse Hill Planning Agreement

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Lot 5 Commercial Road, Rouse Hill Planning Agreement

Summary Sheet

Council:

Name: The Hills Shire Council ABN 25 034 494 656
Address: 3 Columbia Court, Baulkham Hills NSW 2153
Telephone: (02) 9843 0555
Facsimile: (02) 9843 0409
Email: council@thehills.nsw.gov.au
Representative: Dave Walker, General Manager

Developer:

Name: Norlex Holdings Pty Ltd ABN 58 002 073 145
Address: 35 Glenhope Road, West Pennant Hills NSW 2125
Telephone: 0413 597 295
Facsimile: not applicable
Email: caladines@optusnet.com.au
Representative: Allan Caladine

Land:

See definition of *Land* in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See Clause 9 and Schedule 1.



Application of s94, s94A and s94EF of the Act:

See clause 8.

Security:

See Part 4.

Registration:

See clause 30.

Restriction on dealings:

See clause 31.

Dispute Resolution:

See Part 3.



Lot 5 Commercial Road, Rouse Hill

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

The Hills Shire Council ABN 25 034 494 656 of 3 Columbia Court, Baulkham Hills NSW 2153 (**Council**)

and

Norlex Holdings Pty Ltd ABN 58 002 073 145 of 35 Glenhope Road, West Pennant Hills NSW 2125 (**Developer**)

Background

- A The Developer is the owner of the Land the subject of the Planning Proposal.
- B The Developer is prepared to make Development Contributions to the Council in conjunction with the carrying out of the Development as described in this Deed.

Operative provisions

Part 1 - Preliminary

1 Interpretation

- 1.1 In this Deed the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Approval includes approval, consent, licence, permission or the like.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.



Construction Certificate has the same meaning as in the Act.

Contribution Values means the contribution values specified for the Works in Part C of Schedule 1 as indexed in accordance with clause 27.8.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Defect means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work Item or any part of a Work Item.

Defects Liability Period means the period of 1 year commencing on the day immediately after a Work Item is completed for the purposes of this Deed.

Development means the mixed use commercial and high density residential development on the Land comprising approximately 333 dwellings and up to 1,700m² of retail floor space generally in accordance with, but subject to the Planning Proposal.

Development Application has the same meaning as in the Act.

Development Concept means the development concept for the Land prepared by Architectus and included in the Planning Proposal.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose, but does not include any other benefit provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s93F(3)(g) of the Act.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Encumbrances means an interest or power:

- (a) reserved in or over an interest in any asset;
- (b) created or otherwise arising in or over any interest in any asset under any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, title retention, conditional sale agreement, hire or hire purchase agreement, option, restriction as to transfer, use or possession, easement, subordination to any right of any other person and any other encumbrance or security interest, trust or bill of sale; or
- (c) by way of security for the payment of a debt or other monetary obligation or the performance of any obligation.

Equipment means any equipment, apparatus, vehicle or other equipment or thing to be used by or on behalf of the Developer in connection with the performance of its obligations under this Deed.

Final Lot means:

- (a) a lot (including a community title lot or a strata title lot) created in the Development for separate residential occupation and disposition



- which is not intended to be further subdivided (by any means including strata subdivision);
- (b) any distinct part of a lot intended to be used for separate residential occupation (for example, as part of a seniors living complex); or
 - (c) a lot of a kind or created for a purpose that is otherwise agreed by the Parties, not being a lot created by a subdivision of the Land:
 - (i) that is to be dedicated or otherwise transferred to the Council, or
 - (ii) on which is situated a dwelling-house that was in existence on the date of this Deed.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Item means an Item specified in Column 1 of Schedule 1.

Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land means Lot 5 in DP 30916 having an area of approximately 20,242 square metres.

LEP means the local environmental plan proposed by the Planning Proposal.

Maintain, in relation to a Work Item, means keep in a good state of repair and working order, and includes repair of any damage to the Work Item.

Median Strip means a median strip on the extension of Greenhills Drive (forming part of the Works specified as Item C1 in Part C of **Schedule 1**).

Occupation Certificate has the same meaning as in the Act.

Party means a party to this Deed.

Planning Proposal means planning proposal PP_2016_THILL_004_00 the subject of a gateway determination on 2 November 2016.

Rectification Notice means a notice in writing:

- (a) identifying the nature and extent of a Defect,
- (b) specifying the works or actions that are required to Rectify the Defect,
- (c) specifying the date by which or the period within which the Defect is to be rectified.

Rectify means rectify, remedy or correct.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Stage means a stage of the Development approved by a Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Subdivision Certificate has the same meaning as in the Act.

Work means the physical result of any building, engineering or construction work in, on, over or under land.

Work Item means any of the works set out in Part C of **Schedule 1**.



- 1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - 1.2.2 A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
 - 1.2.5 A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - 1.2.6 A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 1.2.7 A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.
 - 1.2.13 A reference to this Deed includes the agreement recorded in this Deed.
 - 1.2.14 A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
 - 1.2.15 A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
 - 1.2.16 Any schedules, appendices and attachments form part of this Deed.
 - 1.2.17 Notes appearing in this Deed are operative provisions of this Deed.



2 Status of this Deed

- 2.1 This Deed is a planning agreement within the meaning of s93F(1) of the Act.

3 Commencement

- 3.1 This Deed commences and has force and effect on and from the date when the Parties have:
- 3.1.1 both executed the same copy of this Deed, or
 - 3.1.2 each executed separate counterparts of this Deed and exchanged the counterparts.
- 3.2 The Parties are to insert the date when this Deed commences on the front page and on the execution page.

4 Application of this Deed

- 4.1 This Deed applies to the Land and to the Development.

5 Warranties

- 5.1 The Parties warrant to each other that they:
- 5.1.1 have full capacity to enter into this Deed, and
 - 5.1.2 are able to fully comply with their obligations under this Deed.

6 Further agreements

- 6.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

7 Surrender of right of appeal, etc.

- 7.1 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development in so far as the subject-matter of the proceedings relates to this Deed.

8 Application of s94, s94A and s94EF of the Act to the Development

- 8.1 This Deed excludes the application of s94 and 94A to the Development.
- 8.2 This Deed does not exclude the application of s94EF to the Development.



Part 2 – Development Contributions

9 Provision of Development Contributions

- 9.1 The Developer is to make Development Contributions to the Council in accordance with Schedule 1, any other provision of this Deed relating to the making of Development Contributions and otherwise to the satisfaction of the Council.
- 9.2 The Council is to apply each Development Contribution made by the Developer under this Deed towards the public purpose for which it is made and otherwise in accordance with this Deed.

10 Payment of monetary Development Contributions

- 10.1 A monetary Development Contribution is made for the purposes of this Deed when the Council receives the full amount of the contribution payable under this Deed in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.

11 Dedication of land

- 11.1 The Developer must dedicate the land specified in Part B of Schedule 1 to Council free of any trusts, estates, interests, covenants and Encumbrances by the time specified in that Schedule.
- 11.2 A Development Contribution comprising the dedication of land is made for the purposes of this Deed when:
- 11.2.1 a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the *Local Government Act 1993*, or
- 11.2.2 the Council is given:
- (a) an instrument in registrable form under the *Real Property Act 1900* duly executed by the Developer as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
 - (b) any document in registrable form which, when registered, will remove any Encumbrances registered on the title of that land,
 - (c) the written consent to the registration of the transfer of any person whose consent is required to that registration, and
 - (d) the original certificate of title for the land being transferred.
- 11.3 The Developer is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.
- 11.4 Despite any other provision of this Deed, if the Developer is required to dedicate land to the Council on which the Developer is also required to carry out a Work Item under this Deed, the Developer is to comply with clause 11.1



not later than 7 days after the Work Item is completed for the purposes of this Deed.

12 Carrying out of Work Item

- 12.1 Without limiting any other provision of this Deed, any Work Item that is required to be carried out by the Developer under this Deed is to be:
- 12.1.1 carried out in accordance with:
- (a) any design or specification in this Deed, or any design or specification otherwise approved by the Council (as a party to this Deed and not as consent authority);
 - (b) any relevant Approval; and
 - (c) any other applicable law; and
- 12.1.2 completed by the time specified in Part C of **Schedule 1**.

13 Variation to Work Item

- 13.1 The design or specification of any Work Item that is required to be carried out by the Developer under this Deed may be varied by agreement in writing between the Parties, acting reasonably, without the necessity for an amendment to this Deed.
- 13.2 Without limiting clause 13.1, the Developer may make a written request to the Council to approve a variation to the design or specification of a Work Item in order to enable it to comply with the requirements of any Authority imposed in connection with any Approval relating to the carrying out of the Work Item.
- 13.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under clause 13.2.
- 13.4 The Council, acting reasonably, may from time to time give a written direction to the Developer requiring it to vary the design or specification of a Work Item before the Work Item is carried out in a specified manner and submit the variation and any additional costing to the Council for approval.
- 13.5 The Developer is to comply promptly with a direction referred to in clause 13.4 at the cost of the Council.

14 NOT USED

15 Access to land by Council

- 15.1 The Council may enter any land on which a Work Item is being carried out by the Developer under this Deed in order to inspect, examine or test the Work Item, or to remedy any breach by the Developer of its obligations under this Deed relating to the Work Item.
- 15.2 The Council is to give the Developer prior reasonable notice before it enters land under clause 15.1.



16 NOT USED

17 Protection of people, property & utilities

- 17.1 The Developer is to ensure to the fullest extent reasonably practicable in relation to the performance of its obligations under this Deed that:
- 17.1.1 all necessary measures are taken to protect people and property,
 - 17.1.2 unnecessary interference with the passage of people and vehicles is avoided, and
 - 17.1.3 nuisances and unreasonable noise and disturbances are prevented;
 - 17.1.4 it does not obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised in writing by the Council or any relevant Authority.

18 Repair of damage

- 18.1 The Developer is to maintain any Work Item required to be carried out by the Developer under this Deed until the Work Item is completed for the purposes of this Deed or such later time as agreed between the Parties.
- 18.2 The Developer is to carry out its obligation under clause 18.1 at its own cost and to the satisfaction of the Council.

19 Completion of Work Item

- 19.1 If the Developer considers that any particular Work Item is complete it must, within fourteen (14) days after completion of that item, serve a notice on Council which:
- 19.1.1 is in writing;
 - 19.1.2 identifies the particular Work Item to which it relates; and
 - 19.1.3 specifies the date on which the Developer believes the Work Item was completed,
- 19.2 The Council is to inspect the Work Item the subject of the notice referred to in clause 19.1 within 14 days of the date of receipt of the notice.
- 19.3 A Work Item required to be carried out by the Developer under this Deed is completed for the purposes of this Deed when the Council gives a written notice to the Developer to that effect.
- 19.4 If the Council is the owner of the land on which the Work Item the subject of a notice referred to in clause 19.1.3 is issued, the Council assumes responsibility for the Work Item upon the issuing of the notice, but if it is not the owner at that time, it assumes that responsibility if and when it later becomes the owner.
- 19.5 Before the Council gives the Developer a notice referred to in clause 19.3, it may give the Developer a written direction to complete, rectify or repair within



a reasonable period of time any specified part of the Work Item to the reasonable satisfaction of the Council.

- 19.6 The Developer, at its own cost, is to promptly comply with a direction referred to in clause 19.5.

20 Median Strip and Roadworks Reimbursement

- 20.1 Within twenty one (21) days of issuing a completion notice in respect of the Median Strip under clause 19.3, the Council will reimburse the Developer in an amount of \$306,000.00 (**Median Strip Reimbursement**).
- 20.2 In the event that the total costs incurred by the Developer in respect of constructing the Median Strip exceed the Median Strip Reimbursement, the Developer will be responsible for those costs.
- 20.3 The Parties acknowledge that Transport for NSW has previously confirmed its '*in principle intention*' to contribute \$1 million to the costs of the Work Item being Item C1.
- 20.4 Within twenty one (21) days of Council receiving any contribution from Transport for NSW towards Work Item C1, Council will remit that amount to the Developer. If no such contribution is received, Council is not liable to reimburse the Developer for the contribution.

21 Rectification of defects

- 21.1 The Council may give the Developer a Rectification Notice during the Defects Liability Period.
- 21.2 The Developer, at its own cost, is to comply with a Rectification Notice according to its terms and to the reasonable satisfaction of the Council.
- 21.3 The Council is to do such things as are reasonably necessary to enable the Developer to comply with a Rectification Notice that has been given to it under clause 21.1

22 Works-As-Executed-Plan

- 22.1 No later than 40 days after a Work Item is completed for the purposes of this Deed, the Developer is to submit to the Council:
- 22.1.1 a full works-as-executed-plan in respect of the Work Item; and
- 22.1.2 if in the possession of the Developer, appropriate certificates to verify that the item of Work have been carried out in accordance with relevant standards and specifications specified in this Deed.
- 22.2 The Developer, being the copyright owner in the plan referred to in clause 22.1, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Deed including the public purpose for which the Work Item was required and provided.



23 Removal of Equipment

- 23.1 When a Work Item on any Council owned or controlled land is completed for the purposes of this Deed, the Developer at its cost and without delay, must:
- 23.1.1 remove any Equipment from Land and make good any damage or disturbance to the land as a result of that removal, and
 - 23.1.2 leave the land in a neat and tidy state, clean and free of rubbish.

Part 3 – Dispute Resolution

24 Dispute resolution – expert determination

- 24.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
- 24.1.1 the Parties to the Dispute agree that it can be so determined, or
 - 24.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 24.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 24.3 If a notice is given under clause 24.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 24.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 24.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 24.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 24.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

25 Dispute Resolution - mediation

- 25.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 24 applies.
- 25.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 25.3 If a notice is given under clause 25.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.



- 25.4 If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- 25.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 25.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 25.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part 4 - Enforcement

26 Acquisition of land required to be dedicated

- 26.1 If the Developer does not dedicate land required to be dedicated under this Deed at the time at which it is required to be dedicated, the Developer consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- 26.2 Clause 26.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.
- 26.3 If, as a result of the acquisition referred to in clause 26.1, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council that amount, upon a written request being made by the Council.
- 26.4 The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land concerned except if, and to the extent that, the Claim arises because of the Council's negligence or default.
- 26.5 The Developer is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 26, including without limitation:
 - 26.5.1 signing any documents or forms,
 - 26.5.2 giving land owner's consent for lodgement of any Development Application,
 - 26.5.3 producing certificates of title to the Registrar-General under the *Real Property Act 1900*, and
 - 26.5.4 paying the Council's costs arising under this clause 26.



27 Bank Guarantee

- 27.1 Prior to the issue of a Construction Certificate for a Work Item, the Developer must deliver to the Council an irrevocable and unconditional bank guarantee from an Australian bank in favour of Council and on terms acceptable to Council (**Bank Guarantee**) for the amount equivalent to the Contribution Value of that Work Item (**Primary Security**).
- 27.2 If the Developer commits a breach of this Deed, without limiting any other remedies available to it, Council may call on the Primary Security provided by the Developer.
- 27.3 If the Council calls on the Primary Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the relevant breach.
- 27.4 If Council calls on Primary Security, the Council, by notice in writing to the Developer, may require the Developer to provide a further or replacement Bank Guarantee in an amount that, when added to any unused portion of any Primary Security then held by the Council, does not exceed the amount of the Primary Security the Council is entitled to hold at that time under this Deed.
- 27.5 Unless:
- 27.5.1 the Council has made or intends to make a demand against the Primary Security provided by the Developer;
- 27.5.2 the Development Contributions on account of which that Primary Security was provided have not been made; or
- 27.5.3 the Developer is in breach of this Deed at the relevant time,
- the Council, upon a written request being made by the Developer, must return the Primary Security within ten (10) business days of such a request being made in exchange for a replacement Bank Guarantee for an amount equal to 10% of the Primary Security as defects security (**Defects Security**).
- 27.6 During the Defects Liability Period for a Work Item:
- 27.6.1 without limiting any other remedies available to it, Council may call on the Defects Security provided by the Developer to rectify any breach of a Rectification Notice by the Developer;
- 27.6.2 If the Council calls on the Defects Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the relevant breach;
- 27.6.3 If Council calls on the Defects Security, the Council, by notice in writing to the Developer, may require the Developer to provide a further or replacement Bank Guarantee in an amount that, when added to any unused portion of any Defects Security then held by the Council, does not exceed the amount of the Defects Security the Council is entitled to hold at that time under this Deed.
- 27.7 Unless:
- 27.7.1 the Council has made or intends to make a demand against the Defects Security provided by the Developer;
- 27.7.2 the relevant Defects Liability Period has not expired; or
- 27.7.3 the Developer is in breach of this Deed at the relevant time,



the Council, upon a written request being made by the Developer, must return the Defects Security within ten (10) business days of such a request being made.

27.8 The Contribution Values are to be increased (with the calculation to be made as from the date any Bank Guarantee is due to be provided under this Deed) in accordance with the following formula:

$$A = B \times \frac{C}{D}$$

D

where:

A = the indexed amount;

B = the relevant amount as set out in this Deed;

C = the Consumer Price Index (All Groups - Sydney) as provided by the Australian Bureau of Statistics (**Index**) most recently published before the date that the relevant payment or the calculation with respect to the relevant amount is to be made; and

D = the Index most recently published before the commencement date of this Deed.

If A is less than B, then the amount of the relevant Contribution Value will not change.

27.9 If requested by Council, the Developer must ensure that the Security held by the Council at all times equals the indexed amount of the Contribution Values from time to time.

28 Breach of obligations

28.1 If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:

28.1.1 specifying the nature and extent of the breach,

28.1.2 requiring the Developer to:

(a) rectify the breach if it reasonably considers it is capable of rectification, or

(b) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,

28.1.3 specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.

28.2 If the Developer fails to comply with a notice given under clause 28.1 relating to the carrying out of Work under this Deed, the Council may step-in and remedy the breach and may enter, occupy and use any land owned or controlled by the Developer and any Equipment on such land for that purpose.

28.3 Any costs incurred by the Council in remedying a breach in accordance with clause 28.2 may be recovered by the Council by calling on any relevant Bank Guarantee in accordance with clause 27.



- 28.4 .For the purpose of clause 28.3, the Council's costs of remedying a breach the subject of a notice given under clause 26.1 include, but are not limited to:
- 28.4.1 the costs of the Council's servants, agents and contractors reasonably incurred for that purpose,
 - 28.4.2 all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
 - 28.4.3 all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- 28.5 Nothing in this clause 28 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

29 Enforcement in a court of competent jurisdiction

- 29.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- 29.2 For the avoidance of doubt, nothing in this Deed prevents:
- 29.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
 - 29.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part 5 – Registration & Restriction on Dealings

30 Registration of this Deed

- 30.1 The Parties agree to register this Deed for the purposes of s93H(1) of the Act.
- 30.2 Not later than 10 days after the commencement of this Deed , the Developer is to deliver to the Council in registrable form:
- 30.2.1 an instrument requesting registration of this Deed on the title to the Land duly executed by the Developer, and
 - 30.2.2 the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration.
- 30.3 The Developer is to do such other things as are reasonably necessary to enable registration of this Deed to occur.
- 30.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to any part of the Land:
- 30.4.1 in so far as the part of the Land concerned is a Final Lot,
 - 30.4.2 in relation to any other part of the Land, once the Developer has completed its obligations under this Deed to the reasonable



satisfaction of the Council or this Deed is terminated or otherwise comes to an end for any other reason.

31 Restriction on dealings

- 31.1 The Developer must not:
 - 31.1.1 sell or transfer the Land, other than a Final Lot or land required to be dedicated to the Council under this Deed, or
 - 31.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,to any person unless:
 - 31.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council which includes a requirement by that party to observe and be bound by the Developer's obligations under this Deed, and
 - 31.1.4 the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
 - 31.1.5 the Developer is not in breach of this Deed, and
 - 31.1.6 the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- 31.2 Subject to clause 31.3, the Developer acknowledges and agrees that it remains liable to fully perform its obligations under this Deed unless and until it has complied with its obligations under clause 31.1.
- 31.3 Clause 31.1 does not apply in relation to any sale or transfer of the Land if this Deed is registered on the title to the Land at the time of the sale.

Part 6 – Indemnities & Insurance

32 Risk

- 32.1 The Developer performs this Deed at its own risk and its own cost.

33 Release

- 33.1 The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.



34 Indemnity

- 34.1 The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

35 Insurance

- 35.1 The Developer is to take out and keep current to the satisfaction of the Council the following insurances in relation to a Work Item required to be carried out by the Developer under this Deed up until the time the Work Item is taken to have been completed in accordance with this Deed:
- 35.1.1 contract works insurance, noting the Council as an interested party, for the full replacement value of the Work Item (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the Work Item,
 - 35.1.2 public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party,
 - 35.1.3 workers compensation insurance as required by law, and
 - 35.1.4 any other insurance required by law.
- 35.2 If the Developer fails to comply with clause 35.1, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developer to the Council and may be recovered by the Council as recovery as a debt due in a court of competent jurisdiction. The Developer is not to commence to carry out any Work Item unless it has first provided to the Council satisfactory written evidence of all of the insurances specified in clause 35.1.

Part 7 – Other Provisions

36 Annual report by Developer

- 36.1 The Developer is to provide to the Council by not later than each anniversary of the date on which this Deed is entered into a report detailing the performance of its obligations under this Deed.
- 36.2 The report referred to is to be in such a form and to address such matters as required by the Council from time to time.



37 Review of Deed

- 37.1 The Parties agree to review this Deed every 2 years, and otherwise if either party is of the opinion that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Deed.
- 37.2 For the purposes of clause 37.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.
- 37.3 For the purposes of addressing any matter arising from a review of this Deed referred to in clause 37.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.
- 37.4 If this Deed becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.
- 37.5 A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause 37.1 (but not 37.4) is not a Dispute for the purposes of this Deed and is not a breach of this Deed.

38 Notices

- 38.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
 - 38.1.1 delivered or posted to that Party at its address set out in the Summary Sheet,
 - 38.1.2 faxed to that Party at its fax number (if any) set out in the Summary Sheet, or
 - 38.1.3 emailed to that Party at its email address set out in the Summary Sheet.
- 38.2 If a Party gives the other Party 3 business days' notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.
- 38.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
 - 38.3.1 delivered, when it is left at the relevant address,
 - 38.3.2 sent by post, 2 business days after it is posted,
 - 38.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
 - 38.3.4 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 38.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a



business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

39 Approvals and Consent

- 39.1 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- 39.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

40 Costs

- 40.1 The Developer is to pay to the Council the Council's reasonable costs not exceeding \$10,000 (excluding GST and disbursements) of preparing, negotiating, executing and stamping this Deed, and any document related to this Deed within 7 days of a written demand by the Council for such payment.
- 40.2 The Developer is also to pay to the Council the Council's reasonable costs of enforcing this Deed within 7 days of a written demand by the Council for such payment.

41 Entire agreement

- 41.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 41.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

42 Further Acts

- 42.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

43 Governing Law and Jurisdiction

- 43.1 This Deed is governed by the law of New South Wales.
- 43.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 43.3 The Parties are not to object to the exercise of jurisdiction by those courts on any basis.



44 Joint and Individual Liability and Benefits

- 44.1 Except as otherwise set out in this Deed:
- 44.1.1 any agreement, covenant, representation or warranty under this Deed by 2 or more persons binds them jointly and each of them individually, and
 - 44.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

45 Position of the Council

- 45.1 The parties acknowledge that the Council is a consent authority with statutory rights and obligations pursuant to the terms of the:
- 45.1.1 Act;
 - 45.1.2 *Roads Act 1993* (NSW); and
 - 45.1.3 *Local Government Act 1993* (NSW),
- (collectively referred to as the **Planning Legislation**).
- 45.2 This Deed is not intended to operate to fetter, in any unlawful manner:
- 45.2.1 the power of the Council to make any law; or
 - 45.2.2 the exercise by the Council of any statutory power or discretion, (**Discretion**).
- 45.3 No provision of this Deed is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this Deed is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:
- 45.3.1 they will take all practical steps, including the execution of any further documents, to ensure the objective of the provision held to constitute an unlawful fetter is substantially satisfied;
 - 45.3.2 in the event that clause 45.3.1 cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this Deed has full force and effect; and
 - 45.3.3 to endeavour to satisfy the common objectives of the parties in relation to the provision of this Deed which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.
- 45.4 Where the law permits Council to contract out of a provision of that law or gives Council power to exercise a Discretion, then if Council has in this Deed contracted out of a provision or exercised a Discretion under this Deed, this deed will not be taken to be inconsistent with the law.
- 45.5 Nothing in this Deed will be deemed to impose any obligation on Council to exercise any of its functions under the Act in relation to the Planning Proposal, any Development Consent, the Land or the Development in a certain manner.



46 Illegality

- 46.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

47 Severability

- 47.1 If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 47.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

48 Amendment

- 48.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.

49 Waiver

- 49.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 49.2 A waiver by a Party is only effective if it:
- 49.2.1 is in writing,
 - 49.2.2 is addressed to the Party whose obligation or breach of obligation is the subject of the waiver,
 - 49.2.3 specifies the obligation or breach of obligation the subject of the waiver and the conditions, if any, of the waiver,
 - 49.2.4 is signed and dated by the Party giving the waiver.
- 49.3 Without limitation, a waiver may be expressed to be conditional on the happening of an event, including the doing of a thing by the Party to whom the waiver is given.
- 49.4 A waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given, and is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.
- 49.5 For the purposes of this Deed, an obligation or breach of obligation the subject of a waiver is taken not to have been imposed on, or required to be complied with by, the Party to whom the waiver is given.



50 GST

- 50.1 In this clause:
- Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice** have the meaning given by the GST Law.
- GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.
- GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.
- Taxable Supply** has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.
- 50.2 Subject to clause 50.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 50.3 Clause 50.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 50.4 No additional amount shall be payable by the Council under clause 50.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 50.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
- 50.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
- 50.5.2 that any amounts payable by the Parties in accordance with clause 50.2 (as limited by clause 50.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 50.6 No payment of any amount pursuant to this clause 50, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 50.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 50.8 This clause continues to apply after expiration or termination of this Deed.



Schedule 1

(Clause 9)

Development Contributions

Column 1 Item/ Contribution	Column 2 Public Purpose	Column 3 Manner & Extent	Column 4 Timing
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A. Monetary Contributions

1. Monetary Contribution	Active Open Space	The amount of: <ol style="list-style-type: none"> 1. \$6,000 per Final Lot in the Development which is created for separate residential occupation; or 2. \$6,000.00 per dwelling constructed on a Final Lot in the Development where more than one (1) dwelling is to be constructed on the relevant Final Lot. 	To be paid prior to the first to occur of: <ol style="list-style-type: none"> 1. the issue of an Occupation Certificate for the relevant Final Lot; or 2. the issue of a Subdivision Certificate for a plan which, when registered, will create the relevant Final Lot.
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B. Dedication of Land

1. Extension of Green Hills Drive	Public Road	All of the Land on which Item C1 will be located as shown on the plan in Schedule 2.	Within 7 days of the completion of Work Item C1.
2. Pocket park	Passive Open Space	The land upon which Work Item C2 is carried out as shown on the plan in Schedule 2.	Within 7 days of the completion of Work Item C2.

C. Carrying out of Work Item

1. Extension of Green Hills Drive (Contribution Value of \$3,500,000)	Public Road	Construction of an extension of Green Hills Drive (including the Median Strip) in accordance with design and specifications approved by the Council, and generally in accordance with the Concept Plan in Schedule 3	Prior to the first to occur of: <ol style="list-style-type: none"> 1. the issue of an Occupation Certificate for any part of the Development; and 2. the issue of a Subdivision Certificate for a plan which, when registered, would create the first Final Lot within the Development
2. Pocket Park	Passive Open Space	Source and deliver turf to the Council for the 1,500m ² pocket park to such location as the Council reasonably directs	As reasonably directed by the Council



Schedule 2
Plan of Land to be dedicated

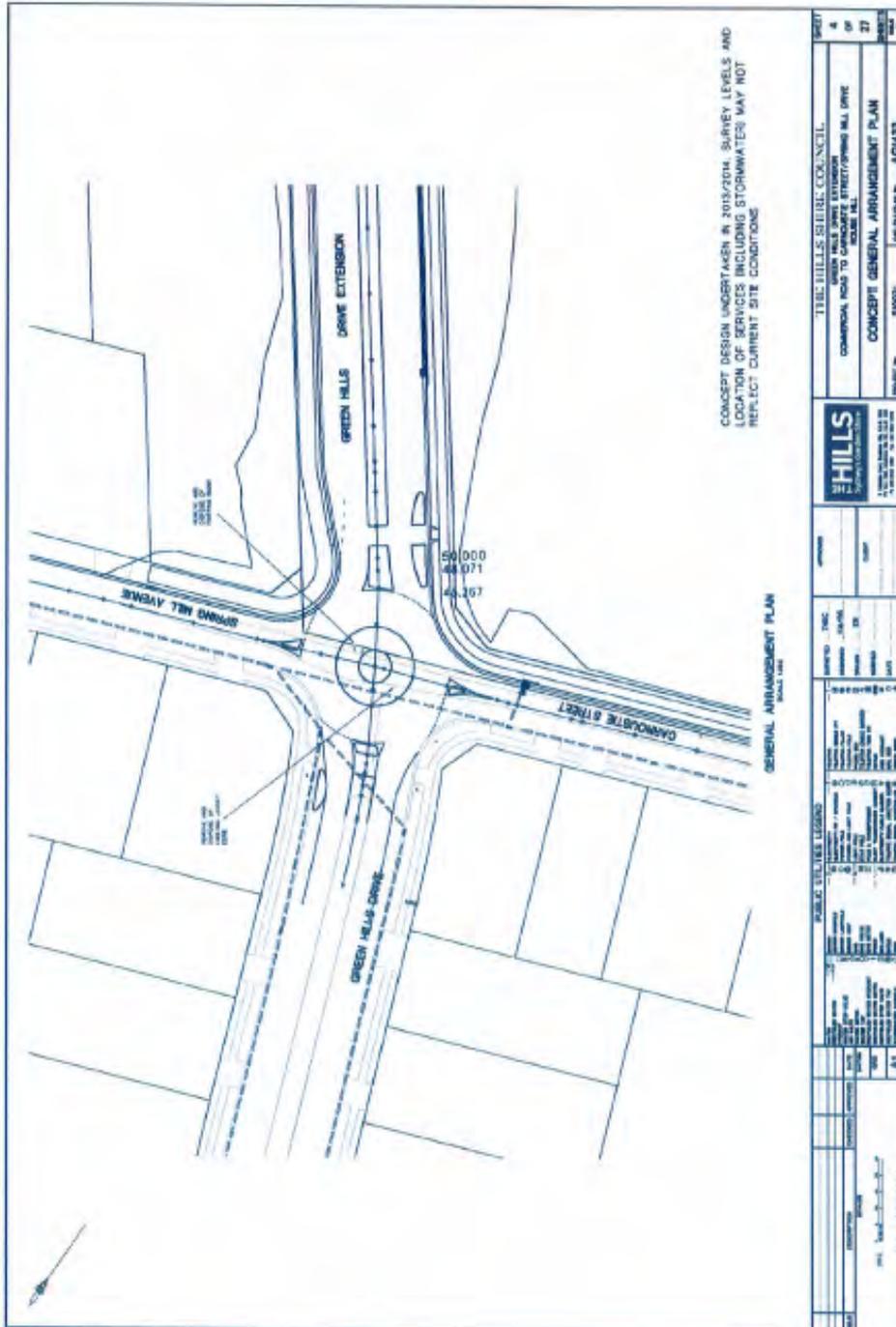
(Schedule 1 Item B1 and B2)



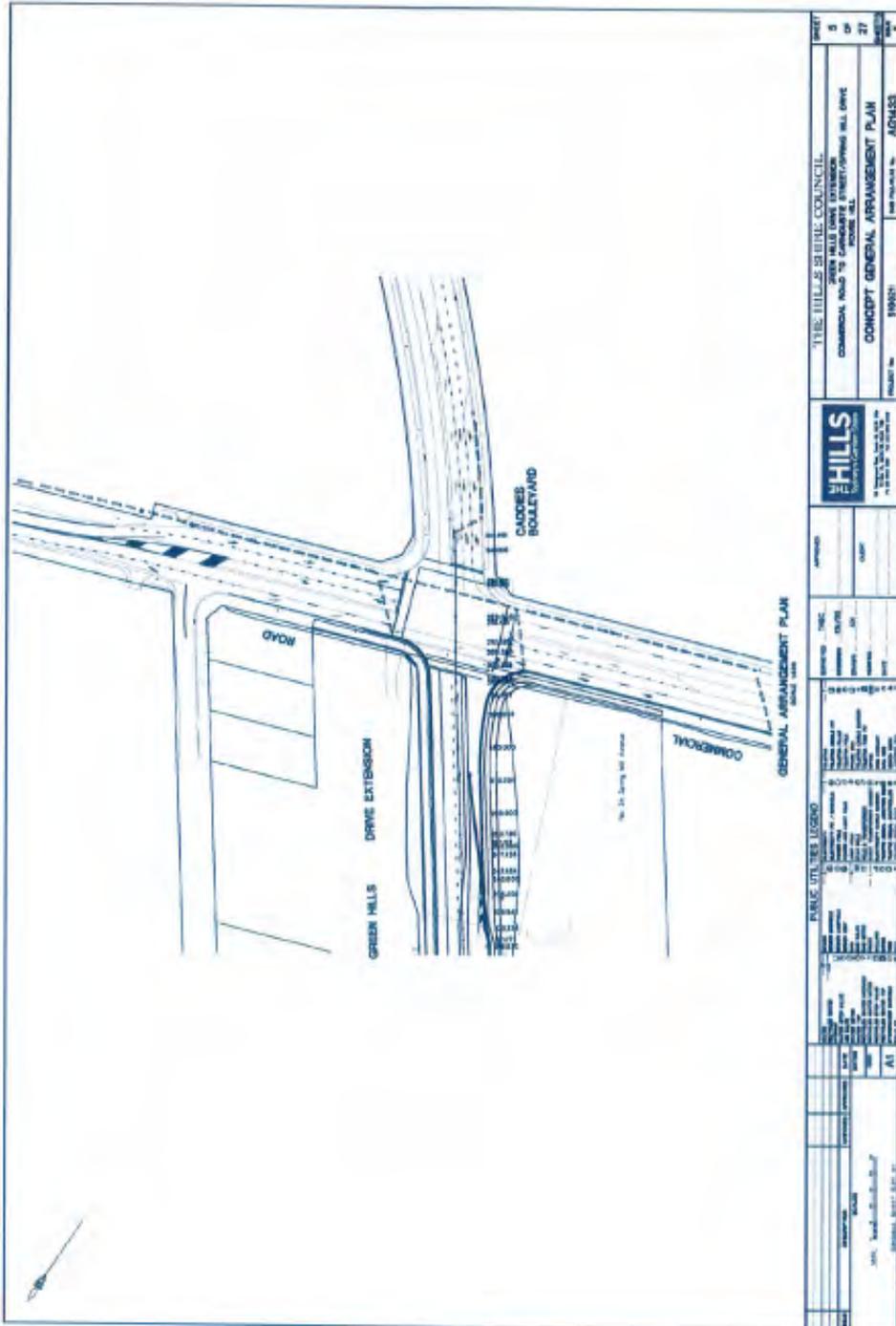
Schedule 3

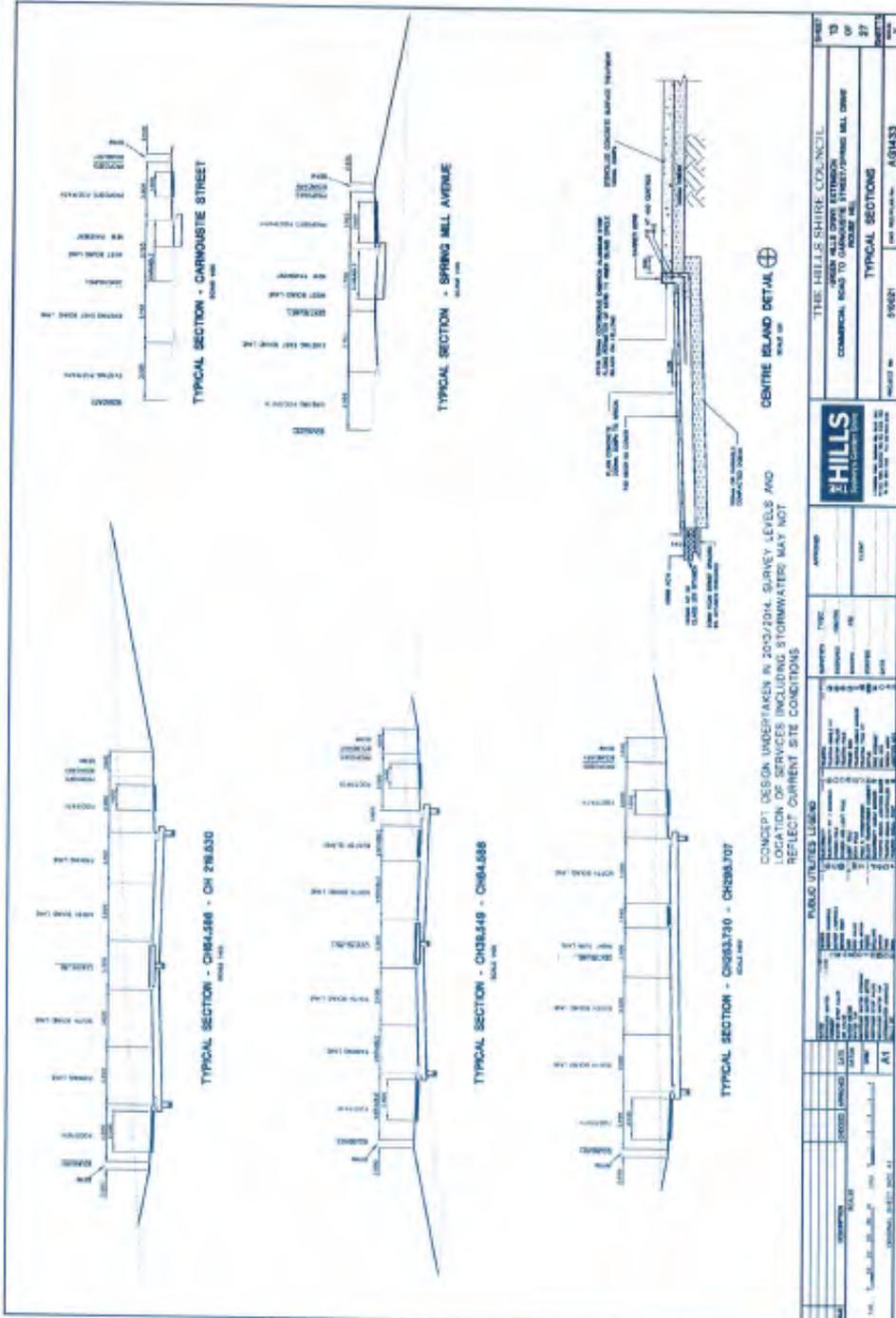
Concept Plan

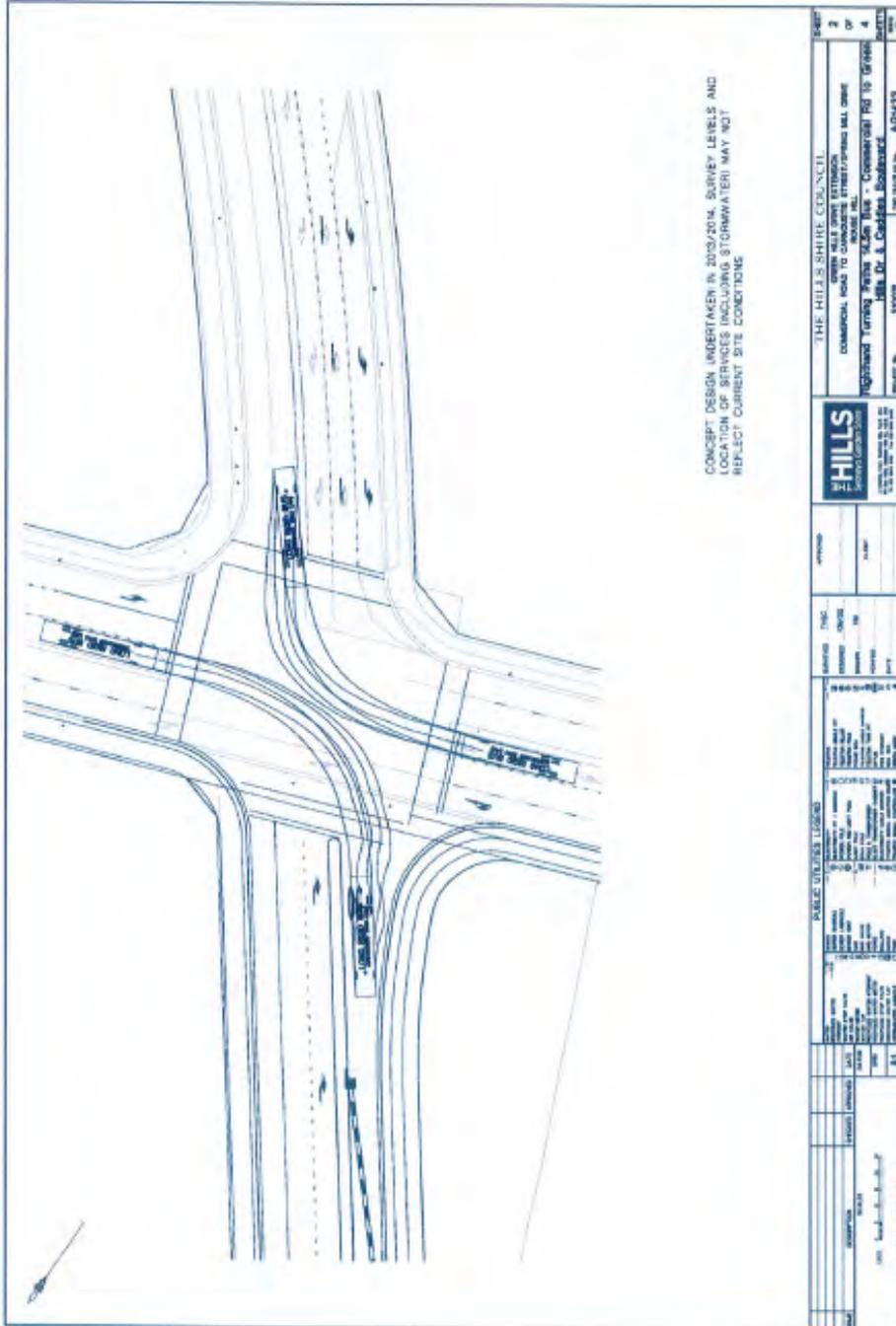
(Schedule 1)



<p>THE HILLS Shire Council 1, Victoria Road, Rouse Hill NSW 2158</p>		<p>TITLE: HILLS SHIRE COUNCIL GREEN HILLS DRIVE EXTENSION COMMERCIAL ROAD TO DANOGOBRIE ST ROUSE HILL</p>	<p>SHEET 4 OF 27</p>
<p>PROJECT NO: 21002 DATE: 18/08/2022</p>		<p>CONCEPT GENERAL ARRANGEMENT PLAN</p>	<p>PROJECT NO: AGH23</p>
<p>PUBLIC UTILITIES LEGEND</p> <p>Water Main (100mm - 150mm) Sewer Main (150mm - 300mm) Stormwater Main (150mm - 300mm) Gas Main (150mm - 300mm) Electricity (11kV - 22kV) Telephone (100mm - 150mm) Cable TV (100mm - 150mm)</p>		<p>DATE TO INC: 18/08/2022 DRAWN BY: [Name] CHECKED BY: [Name]</p>	<p>SCALE: 1:500</p>

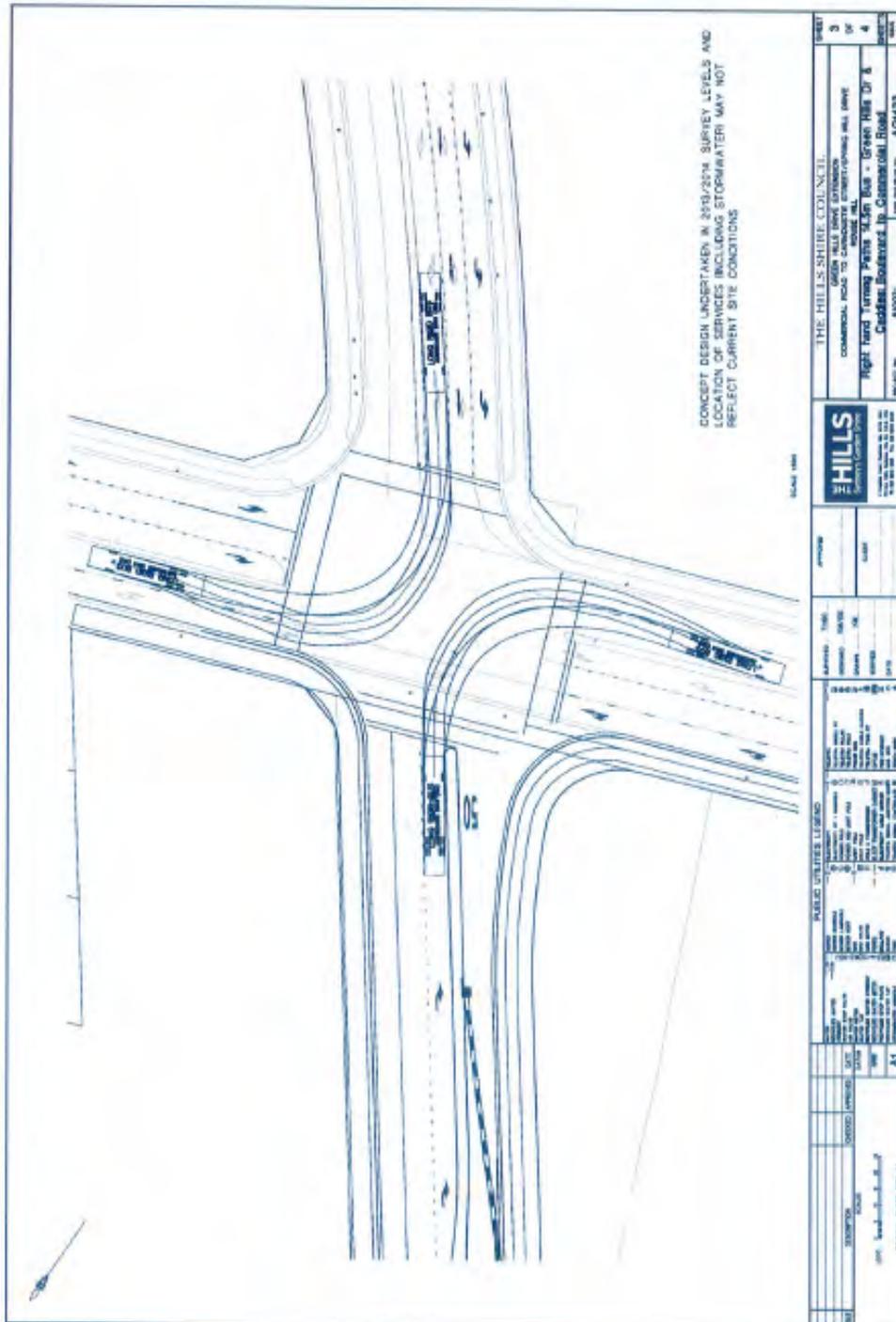






CONCEPT DESIGN UNDERTAKEN IN 2020/2014. SURVEY LEVELS AND LOCATION OF SERVICES (INCLUDING STORMWATER) MAY NOT REFLECT CURRENT SITE CONDITIONS

THE HILLS SHIRE COUNCIL 1000 Commercial Road to Commercial Road Rouse Hill NSW 2158 Phone: 02 9633 3333 Fax: 02 9633 3333 Email: info@thehills.nsw.gov.au Website: www.thehills.nsw.gov.au		SHEET NO. 2 OF 4 DATE: 18/08/2022 DRAWN BY: [Name] CHECKED BY: [Name]
THE HILLS SHIRE COUNCIL 1000 Commercial Road to Commercial Road Rouse Hill NSW 2158 Phone: 02 9633 3333 Fax: 02 9633 3333 Email: info@thehills.nsw.gov.au Website: www.thehills.nsw.gov.au		PROJECT NO. 18/08/2022 PROJECT NAME: [Name] PROJECT LOCATION: [Name] PROJECT DESCRIPTION: [Name] PROJECT STATUS: [Name]
PUBLIC UTILITIES LOGS DATE: 18/08/2022 TIME: 10:00 AM LOCATION: [Name] DEPTH: [Name] DUCT TYPE: [Name] DUCT SIZE: [Name] DUCT MATERIAL: [Name] DUCT CONDITION: [Name] DUCT BURIAL: [Name] DUCT COVER: [Name] DUCT MARKING: [Name] DUCT IDENTIFICATION: [Name]		PROJECT NO. 18/08/2022 PROJECT NAME: [Name] PROJECT LOCATION: [Name] PROJECT DESCRIPTION: [Name] PROJECT STATUS: [Name]





Execution

Executed as a Deed

Dated:



Executed on behalf of the Council pursuant to a resolution
of Council on 25 July 2017

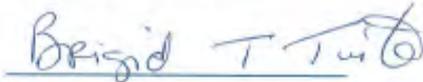

General Manager

Witness


Mayor

Witness

Executed on behalf of the Developer in accordance with s127(1) of the
Corporations Act (Cth) 2001


Brigid Theresa Tuite - Director

Brigid Theresa Tuite - Director


Fiona Mary Tuite - Director

Fiona Mary Tuite - Director