

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-138
DA Number	DA 318/2021/JP
LGA	The Hill Shire Council
Proposed Development	Residential Flat Building Comprising 33 Units under the Provisions of the SEPP Affordable Rental Housing 2009
Street Address	40 Civic Way, Rouse Hill
Applicant	Creative Planning Solutions
Consultants	Creative Planning Solutions Stanton Dahl Architects Varga Traffic Planning Dickens Solutions Project Surveyors BCA Vision Greenview Consulting PKA Acoustic Consulting Vista Access Architects MBM Pty Ltd
Date of DA lodgement	07 September 2020
Number of Submissions	Nil
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	(CIV \$9,957,370)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • SEPP State and Regional Development 2011 • SEPP 55 – Remediation of Land • SEPP Affordable Rental Housing 2009 • SEPP Design Quality of Residential Flat Development • SREP 20 – Hawkesbury Nepean River • Apartment Design Guidelines • LEP 2012 • DCP Part D Section 6 – Rouse Hill Regional Centre • DCP Part B Section 5 – Residential Flat Buildings
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Nil
Clause 4.6 requests	LEP 2019 Clause 4.1A Minimum lot size for dual occupancy, multi dwelling housing and residential flat buildings B4 Mixed Use zone
Summary of key submissions	No submissions received.
Report prepared by	Kristine McKenzie

	Principal Co-ordinator
Report date	Electronic Determination

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	NA
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

The Development Application is for an apartment development under the provisions of SEPP Affordable Rental Housing 2009. The building will contain 33 units and will be owned and operated by Wentworth Community Housing.

Clause 4.1A of LEP 2019 requires a minimum 4000m² site area for residential flat building development. The subject site has an area of 3050m². This is a variation of 23.75%. The variation to the development standard can be supported for the following reasons:

- The Applicant's request is well founded;
- The proposed variation results in a development which is consistent with the objectives of Clause 4.1A 'Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings' and the B4 Mixed Use zone objectives;
- Compliance with the standard is unreasonable and unnecessary in this instance and there are sufficient environmental grounds to justify the contravention; and
- The proposed development will be in the public interest as it is consistent with the objectives of the development standard and the objectives for development within the relevant zone.

In addition, the site is considered to have an adequate area for an apartment development with appropriate landscape area, parking and built form provided. The site has always been envisaged for multi-storey residential development since the approval of the Masterplan in 2004. The site is in a Town Centre location sleeving the retail centre. Apartment development is the most suitable form of residential development for the site.

The development proposes variations to DCP Part D Section 6 – Rouse Hill Regional Centre in respect to setbacks, separation, apartment size and mix and common open space. The proposal is also inconsistent with SEPP Affordable Rental Housing 2009 in regard to landscape area, deep soil zone and solar access however these provisions are requirements which cannot be used as reasons for refusal if the development complies with the clause. In addition, variations are proposed to the Apartment Design Guidelines in regard to common open space and solar access, separation and parking and to the Town Centre Precinct Plan and Design Guidelines in regard to height, setbacks, private open space and common open space.

The site has a narrow depth of approximately 32.4 metres at the south-western boundary of the site and is a corner allotment with an irregular shape. The site also contains an existing building used for affordable rental housing and the current proposal seeks to increase the number of affordable units on the site. As such the site is constrained in terms of its dimensions and shape. The site is also located to the south of the existing Town Centre building. A number of the proposed variations to the development criteria arise from the constrained nature of the site and the limited depth.

The design provides a range of unit sizes to cater for all future occupants and the unit sizes all comply with the requirements of SEPP 65. The site is adjacent to the Rouse Hill Town Centre and therefore has good access to a range of services. The site is also located in close proximity to Caddies Creek, Leisure Square and the landscaped area of Tributary 3 and as such has a high level of amenity in regard to open space and passive leisure opportunities.

The proposed design of the development is considered to be satisfactory and appropriate for the Town Centre location. The external façade is a modern design which is in keeping with recently approved development opposite the site and is consistent with the Town Centre. The design of the proposal has been reviewed by the Rouse Hill Design Review Panel who supported the proposal and raised no objection to the external design, appearance and colour scheme.

The application was notified and no submissions were received.

The application is recommended for approval.

BACKGROUND

The site forms part of the Rouse Hill Regional Centre and is subject to an approved Masterplan which sets broad parameters for the development of the Regional Centre as a whole and is also subject to a Precinct Plan and supporting Design Guidelines which provide further detail regarding the development of the precinct. A site specific DCP for Rouse Hill Regional Centre is also in place.

On 15 May 2014 Development Application 586/2014/JP was approved for a residential flat building to be used for affordable housing under SEPP Affordable Rental Housing by the then Joint Regional Planning Panel (JRPP). The development contained 28 apartments. The approved building has four levels over an under-croft basement containing 32 car parking spaces. Vehicle access to and from the basement is via a single driveway off Civic Way at the northern end of the building.

On 20 November 2014 Section 96(1A) Modification Application 586/2014/JP/A was lodged to delete Condition 24 in regard to Section 94 Contributions. In support the applicant provided a detailed review of the proposal having regard to public benefit, unreasonableness of the contribution and overall impact of exemption on funding. On 03 February 2015

Modification Application 586/2014/JP/A was refused by the Development Assessment Unit on the basis that the proposed development intensified the use of existing infrastructure in the area and added to the demand for public amenities and services. As such it was considered reasonable that Section 94 contributions be levied on the development.

The subject application was lodged on 07 September 2020. A letter requesting additional information was sent to the applicant on 23 October 2020 and a further email was sent to the applicant on 10 February 2021. Additional information was submitted by the applicant on 04 December 2020, 25 February 2021 and 17 March 2021.

DETAILS AND SUBMISSIONS

Owner:	Wentworth Community Housing
Zoning:	B4 Mixed Use
Area:	3050m ²
Existing Development:	SEPP Affordable Rental Housing development
Section 94 Contribution	\$238,601.84
Exhibition:	Not required
Notice Adj Owners:	Yes, 14 days
Number Advised:	Eight
Submissions Received:	Nil

PROPOSAL

The proposal is for the construction of a part six/part seven storey residential flat building to be used for affordable housing under the provisions of SEPP Affordable Rental Housing 2009.

The proposal will contain 33 units as follows:

6 x studio units;
22 x 1 bedroom units; and
5 x 2 bedroom units.

The proposed building will be located to the south-west of the existing building on the site. The existing and proposed buildings are separate structures above ground level however will be linked below ground level to provide an undercover link between the existing carpark and the proposed lobby and lift. The existing above ground waste collection area will be demolished and a new waste area will be provided in the underground link area.

The site is located at the corner of Civic Way and White Hart Drive and is adjacent to the retail Town Centre. The site contains two areas of land which are attached by a vinculum. Attachments 1-3 shows the subject site.

The applicant has advised as follows in regard to Wentworth Housing:

Wentworth Community Housing is a registered Tier 1 not-for-profit housing company, committed to providing secure, appropriate and affordable housing across Western Sydney and Lithgow. Wentworth is one of the largest community housing providers in NSW, managing almost 2,300 properties. Properties under management are primarily owned either by Wentworth or by Land and Housing Corporation, and a portion of properties that are owned by Wentworth are also delivered by Wentworth as new builds.

ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

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

6 Private infrastructure and community facilities over \$5 million

Development that has a capital investment value of more than \$5 million for any of the following purposes:

- (a) *air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) *affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

The proposed development has a capital investment value of \$9,957,370 thereby requiring referral to, and determination by, a Joint Regional Planning Panel.

2. SEPP 55 – Remediation of Land

Clause 7 (Contamination and remediation to be considered in determining development application) of SEPP 55 – Remediation of Land 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.*

A Stage 1 Preliminary Site Investigation report was undertaken by the then Department of Urban Affairs and Planning (DUAP) in 2000. A Stage 2 Environmental Site Assessment was subsequently undertaken which accompanied the Masterplan application. The report concluded that:

Based on the scope of work undertaken for this assessment, the site is considered to be suitable for the most sensitive residential development provided that the additional investigation, general rubbish and asbestos removal activities outlined in this report are undertaken.

The proposal is considered satisfactory in regard to the requirements of SEPP 55.

3. Compliance with SEPP Affordable Rental Housing 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (the “SEPP (ARH) 2009”) contains the following aims:

- (a) *to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) *to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) *to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) *to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) *to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) *to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) *to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

The Development Application is made under Part 2 Division 1 of the SEPP (In-fill Affordable Housing).

Clause 6 of the SEPP states:

6 Affordable housing

Note. *The Act defines affordable housing as follows:*

affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

- (1) *In this Policy, a household is taken to be a very low income household, low income household or moderate income household if the household:*
 - (a) *has a gross income that is less than 120 per cent of the median household income for the time being for the Sydney Statistical Division (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or*
 - (b) *is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme.*
- (2) *In this Policy, residential development is taken to be for the purposes of affordable housing if the development is on land owned by the Land and Housing Corporation.*

In regard to persons occupying the development, the applicant has advised:

Wentworth CH is a not-for-profit housing organisation that provides affordable rental housing and other housing assistance to eligible people who are on low to medium incomes. The proposed development will provide 33 affordable housing units for the community, in line

with the longstanding intention for the provision of affordable housing within the Rouse Hill Regional Centre (RHRC).

Where the relevant controls prescribed by the SEPP are satisfied, this Policy provides for affordable rental housing to be developed. The relevant controls for in-fill affordable housing are:

Division 1: In-fill Affordable Housing			
Clause 10: Development to which Division Applies			
Clause	Requirement	Comment	Complies
Sub-clause 1	This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:		
Sub-clause 1(a)	the development concerned is permitted with consent under another environmental planning instrument, and	A residential flat building is permitted with consent in the B4 Mixed Use zone under LEP 2019.	Yes
Sub-clause 1(b)	the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <i>Heritage Act 1977</i> .	The site does not contain a heritage item and is not subject to an interim heritage order.	Yes
Sub-clause 2	Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.	The development is within an accessible area. The entry lobby to the building is approximately 300m to both the Metro and bus services.	Yes
Sub-clause 3	Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.	NA.	NA
Clauses 11 and 12 – repealed.			
Clause 13 Floor space ratios			
This clause applies if the percentage of the gross floor area of the development that is to be used for affordable housing is at least 20 per cent.			

Note: 100% of the units will be used for affordable housing.

The bonus FSR is N/A as Council has no FSR controls for the site under LEP 2019. Note: Draft LEP 2021 also does not contain any FSR requirements.

Proposed FSR of 1.27: 1 is reasonable.

NA

The proposal has been assessed against the relevant controls prescribed by the SEPP for in-fill housing and the development's performance against the relevant controls of the Policy.

Standards that cannot be used to refuse consent

Criteria	Requirement	Comment	Complies
Site area	If the site area on which it is proposed to carry out the development is at least 450m ² .	The site area is 3050m ² .	Yes
Landscaped area	In the case of a development application made by a social housing provider - at least 35m ² of landscaped area per dwelling is provided.	Based on a total of 61 dwellings (28 x existing and 33 x proposed), a landscaped area of 2135m ² is required. The proposed landscape area is 1065.6m ² .	No – see comments below.
Deep soil zones	There is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the deep soil zone), and	The proposed deep soil area is 420.55m ² which is 13.8% of the site.	No – see comments below.
	Each area forming part of the deep soil zone has a minimum dimension of 3 metres, and	Each area of the deep soil zone above has a minimum dimension of 3 metres.	Yes
	If practicable, at least two-thirds of the deep soil zone is located at the rear of the site area.	The deep soil zone is located towards the rear and between the buildings.	Yes
Solar access	If living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	The proposal provides 63.64% of living areas and 60.61% of private open space areas achieving a minimum of 3 hours sunlight.	No – see comments below.
Parking	In the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5	The existing development required the provision of 14 (13.1) spaces and 32 spaces were provided. The applicant has advised that all existing units are provided with one parking space and there are also 4 visitor spaces.	Yes

	parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms.	The existing and proposed development would require the provision of 25 (24.4) spaces. Note: no parking is required for studio units.	
Dwelling size	if each dwelling has a gross floor area of at least: 50m ² in the case of a dwelling having 1 bedroom, 70m ² in the case of a dwelling having 2 bedrooms 95m ² in the case of a dwelling having 3 or more bedrooms.	The proposed units meet the required minimum unit area. Note: the SEPP does not specify unit area for studio units however the proposed studio units meet the minimum floor area under the Apartment Design Guide.	Yes

i. Landscape Area

The SEPP requires that in the case of a development application made by a social housing provider at least 35m² of landscaped area per dwelling is provided. Based on a total of 61 dwellings (28 x existing and 33 x proposed), a landscaped area of 2135m² is required. The proposed landscape area is 1065.6m².

The applicant has provided the following justification:

Wentworth CH is a social housing provider as defined under Cl. 4 of the ARHSEPP. Based on the aggregate number of existing and proposed dwellings, at 35m² per dwelling, satisfaction of this requirement would require 2,135m² (i.e. 70%) of the total site area be landscaped. With regard the above landscaped area calculations, the proposed development would not meet this minimum requirement. Therefore, this application requires assessment against the requirement of Part 3.1.16 of THDCP 2012.

ii. Deep Soil Zone

The SEPP requires that there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone). The proposed deep soil area is 420.55m² which is 13.8% of the site.

The applicant has provided the following justification:

Opportunities to provide additional deep soil to achieve compliance with the 15% deep soil on the site are limited. It is noted the proposal complies with the minimum 7% deep soil required by the ADG.

iii. Solar Access

If living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. The proposal provides 63.64% of living areas and 60.61% of private open space areas achieving a minimum of 3 hours sunlight.

The applicant has provided the following justification:

The proposed building provides 63.64% of living areas and 60.61% of private open spaces with the minimum 3 hours direct sunlight between 9am and 3pm. This fails to comply with the prescribed minimum 70% of apartments achieving a minimum 3 hours direct sunlight between 9am and 3pm to the living rooms and private open spaces.

Despite this, the Apartment Design Guide recommends for the Sydney Metropolitan area that a minimum 70% of apartments achieve 2 hours solar access to living areas and private open spaces during mid-winter between 9am and 3pm. The solar access criteria are considered more appropriate for the site's context within a dense RHTC urban environment.

Comment:

The above standards are reasons that cannot be used as reasons for refusal if the development complies with the SEPP requirements. The subject site is limited in terms of its area and width and is constrained in regard to the location of the Town Centre which sits immediately to the rear of the site. The site is also a corner lot, with part of the lot being unusable due to its location across a driveway entry to/from the Town Centre and connection by a vinculum.

The proposal meets the aims of the SEPP in that it allows for the provision of additional affordable rental housing in an area where a need has been identified.

Despite the non-compliances identified to the SEPP requirements, the proposal will provide a reasonable level of amenity to future residents. The site sits in a Town Centre location and is close to a variety of services, retail and commercial uses. The site is also in close proximity to a number of open space areas which are available for passive and active recreation activities, including Council's Ironbark Ridge Reserve.

The proposal is considered satisfactory having regard to the SEPP requirements.

a. Clause 16 - SEPP 65

Clause 16 requires that the provisions of SEPP 65 be applied to a residential flat building.

Note: Clause 15 relates to a requirement for 'Seniors Living Policy: Urban Design Guidelines for Infill Development' to be applied to development but only in circumstances where SEPP 65 does not apply. An assessment under the provisions of SEPP 65 and the Apartment Design Guidelines is below in Section 3.

b. Clause 16A - Character of the Area

Clause 16A states:

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

The subject site is located on a 'sleeve site' at the corner of Civic Way and White Hart Drive on the edge of the Rouse Hill Town Centre. The Town Centre is characterised by predominantly two storey retail/commercial development with some higher built form elements including Council's library and community centre, two residential flat buildings located in the centre of the site and a number of existing, under construction, approved or proposed residential flat building developments on other sleeve sites around or

on the perimeter of the Town Centre . The Masterplan and Precinct Plan envisaged the use of the 'sleeve sites' for predominantly residential uses.

The proposed development of an apartment style development is considered to be in keeping with the existing and future character of the area. The built form is characteristic of the modern design of the Town Centre.

As such the proposal is considered to be in compatible with the character of the local area.

c. Clause 17 - Use for Affordable Housing

Clause 17 states that the consent authority must impose conditions of consent to the effect that:

- (a) *for 10 years from the date of the issue of the occupation certificate:*
 - (i) *the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*
 - (ii) *all accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
- (b) *a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919 , that will ensure that the requirements of paragraph (a) are met.*

The site and affordable rental housing development will be owned and operated by Wentworth CH who are a not-for-profit housing organisation.

Appropriate conditions of consent have been imposed (See Conditions 2 and 62).

d. Clause 18 – Subdivision

Clause 18 states that land may be subdivided with the consent of the consent authority. The applicant has confirmed that there is no subdivision proposed.

4. Assessment under the Provision of SEPP 65 and the Apartment Design Guidelines

Clause 16 requires that the provisions of SEPP 65 be applied to a residential flat building. The sections below address the requirements of SEPP 65 in regard to Design Quality Principles and the key provisions of the Apartment Design Guidelines.

a. Design Quality Principles

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

Principle 1: Context and Neighbourhood Character

The development responds to and reflects the context into which it is placed. The site is located in a B4 Mixed Use zone and is close to public transport and the retail and commercial uses within the established Town Centre. The site is part of the envisaged

Masterplan for development of the Rouse Hill Regional Centre. The site will provide a high level of amenity for future residents given its location and character.

Principle 2: Built Form and Scale

The height of the development overall is satisfactory in terms of solar access and residential amenity impacts given the location of the site. The proposal responds to the existing topography of the site within its context. The development responds to the desired future scale and character of the site.

The spatial relationship of buildings has been considered. The proposed building will maintain adequate separation with appropriate distances between buildings. The building separations and setbacks will provide a sufficient degree of separation and landscaping to ensure privacy and solar access is maintained.

The proposed street setbacks establish the front building alignment and contribute to the public domain by enhancing the streetscape. The street setbacks provide for continuity of the street facades and enhance the setting for the building.

The setbacks allow for landscape areas and defined entrances. The proposed setbacks have been developed to provide a satisfactory distance from surrounding boundaries and to form active street frontages given the location of the site on a corner. The proposal addresses matters such as visual and acoustic privacy and open space.

The proposal satisfactorily responds to the existing building on the site and will not unreasonably impact on the amenity of residents of the existing building.

Principle 3: Density

The proposed density has been determined by a number of design factors contained in the planning controls. The main controls provide the limits of height, setbacks and landscaping areas to provide a scale of development which is proportional to the characteristics of the site. The density proposed is appropriate for the site and the broader location which adjoins the existing Town Centre and public transport links.

Principle 4: Sustainability

The building construction phase will utilize appropriate waste management controls. The design achieves natural ventilation and insulation to minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes to the reduction of energy consumption, resulting in a lower use of resources and the reduction of costs.

Principle 5: Landscape

The landscape plans indicates that all open spaces will be appropriately landscaped with a variety of native and exotic trees and shrubs to provide a low-maintenance environment. 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 key elements of the building design incorporates satisfactory access and circulation, apartment layouts, floor areas, ceiling heights, private open space, common open space, energy efficiency rating, adaptability and diversity, safety, security and site facilities.

Principle 7: Safety

The development has been designed with safety and security concerns in mind. The ground level common areas are able to be easily viewed to allow passive surveillance. Private spaces are clearly defined and screened.

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations (See Condition 28).

Principle 8: Housing Diversity and Social Interaction

The location of the development provides dwellings with architectural style and character within a precinct that provides access to community services, retail, recreation and medical services. The design provides a variety of unit layouts to allow housing choice and diversity.

Principle 9: Aesthetics

The proposal integrates a number of recesses and projections into the facades of the structure to articulate the overall mass and form into smaller segments. The bulk of the overall buildings and height is reduced by the articulation of the facades, creating smaller segments in order to minimise the overall bulk and scale of the development. The design is modern in style and appropriate for the area.

b. Apartment Design Guidelines

The following table addresses the key provisions of the Apartment Design Guidelines.

Clause	Design Criteria	Compliance
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	The site has an area of 3050m ² and as such a common open space area of 1525m ² is required. The proposal provides a ground level area of 411.34m ² and a roof top area of 93.11m ² , being a combined common open spaces area of 504.45m ² . This is 16.5% of the site. The common open space areas do not achieve the required the solar access.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	A deep soil zone of 420.55m ² (13.8%) is provided.
Separation	For habitable rooms and balconies, 12m for up to 4 storeys, 18m for 5-8 storeys and 24m for 9+ storeys.	The proposal has varied separation to the existing building on site and the Town Centre building.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Appropriate visual privacy is achieved through window placement, use of balustrades and screens and separation between buildings.

Carparking	<p>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:</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>The existing and proposed development would require the provision of 40 (39.2) residential spaces and 13 (12.2) visitor spaces.</p> <p>Note: no parking is required for studio units.</p>
Solar and daylight access	<p>Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.</p>	<p>73% (24) of the proposed units receive solar and daylight access.</p>
Direct Sunlight	<p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.</p>	<p>6% (2 units) of the proposed units receive no direct solar access.</p>
Natural ventilation	<p>At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.</p>	<p>81.8% (27) of the proposed units are naturally ventilated.</p>
Ceiling heights	<p>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.</p>	<p>2.7m ceiling heights are provided.</p>
Apartment size	<p>Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p>	<p>All units meet the minimum floor area.</p>

	A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.	
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.	All units meet or exceed the minimum depth requirements.
Balcony area	The primary balcony is to be: Studio – 4m ² with no minimum depth 1 bedroom – 8m ² with a minimum depth of 2m 2 bedroom – 10m ² with a minimum depth of 2m 3 bedroom – 12m ² with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m ² with a minimum depth of 3m is required.	All units exceed the minimum required private open space area.
Storage	Storage is to be provided as follows: Studio – 4m ³ 1 bedroom – 6m ³ 2 bedroom – 8m ³ 3+ bedrooms – 10m ³ At least 50% of the required storage is to be located within the apartment.	All units meet or exceed the minimum required storage area.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	The proposal provides a reasonable apartment mix.

i. Common Open Space

The ADG requires that 25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter. The site has an area of 3050m² and as such a common open space area of 1525m² is required. The proposal provides a ground level area of 411.34m² and a roof top area of 93.11m², being a combined common open spaces area of 504.45m².

The common open space areas do not achieve the required the solar access. In this regard the ground level common open space achieves a maximum area of 133.87m² or 32.54% solar access at 11am and roof top common open space achieves a maximum of 37.07m² or 39.81%.

The applicant has submitted the following as justification:

The design criteria for Part 3D-1 of the ADG prescribes that:

- Communal open space has a minimum area equal to 25% of the site with a minimum dimension of 3m.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

The proposal provides two (2) communal open spaces having a total area of 504.45m² (16.5%) including a ground floor landscaped communal open space at the rear of the site (411.34m²) and a rooftop communal open space (93.11m²) with panoramic views of the precinct to the east, west and south. The communal open spaces, including the rooftop, will be accessible to residents of both the existing and proposed building. The provided communal open space falls below the recommended 25% communal open space.

It is noted that the existing communal open space provided for the existing Wentworth CH building is largely unused by existing residents due to its limited functionality, comprising of turf landscaping with minimal privacy or opportunities for seating and passive recreation; see image below.



Despite the non-compliance and minor reduction in the size of the existing communal open space, the proposed development will provide substantially improved communal open spaces which allow for genuine passive recreation opportunities for residents including seating areas, BBQ facilities, gathering areas and a well-designed landscaped setting, offering privacy from the public domain. The proposed communal open space has been carefully designed to be user specific following consultation/engagement with existing Wentworth CH residents to identify desired facilities and infrastructure for the communal open space areas. The new rooftop communal open space will additionally provide a new alternative area for passive recreation for existing and future residents not currently provided. The rooftop communal open space has been designed to optimise panoramic views of the RHRC to the east, west and south, which include views to the natural vegetation/riparian corridor within Tribunal No. 3, rather than north facing towards the rooftop of the RHTC.



With regards to sunlight access, the ground floor communal open space is inevitably overshadowed by the shopping centre built with a nil setback to the northern site boundary, and this space will therefore not achieve the minimum 2 hours of sunlight between 9 am and 3 pm during mid-winter. This is consistent with the existing communal open space arrangement on site which is also largely overshadowed.

The proposal has been designed to maximise solar access to both to the communal open spaces and apartments by:

- Maximising solar amenity to the main circular gathering spaces and BBQ area within the ground floor communal open space.
- Maximising the provision of dual orientated apartments and limiting the number of apartments with a single southern aspect to comply with the recommended minimum solar access to the living areas and private open spaces of apartments during the mid-winter.

The table below provides the solar access to each of the two communal open space areas, as well as the total solar access provided to communal open space across the development.

	Ground level COS 411.34m ²		Roof-top COS 93.11m ²		TOTAL 504.45m ²	
	m ²	%	m ²	%	m ²	%
9am	4.67	1.14	32.6	35.01	37.27	7.39
10am	63.05	15.33	37.07	39.81	100.12	19.85
11am	133.87	32.54	33.23	35.69	167.1	33.13
12pm	112.6	27.37	30.71	32.98	143.31	28.41
1pm	74.91	18.21	24.48	26.29	99.39	19.70
2pm	22.54	5.48	12.7	13.64	35.24	6.99
3pm	0	0.00	0	0.00	0	0.00

The table above confirms that the constraints of the site inevitably preclude compliance with Part 3D-1 of the Apartment Design Guide. However, the proposal has been designed to maximise solar access to both the communal open spaces and the apartments.

In consideration of the above, the proposed variations to the communal open spaces as a result of the natural constraints of the site are considered acceptable. The proposed communal open spaces will provide improved fit for purpose spaces that are functional to the needs of existing and future residents.

Comment:

The development is opposite the open space area along Tributary 3 and in close proximity to Council's Iron Bark Ridge Park and Caddies Creek recreation area. As such there is adequate area available for open space activities. In addition, the proposal provides adequate private open space for residents in either the form of balconies and courtyards. There is adequate area on site for landscape planting and the proposal will achieve an attractive streetscape outcome.

ii. Carparking

The ADG states that carparking is to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:

Metropolitan Sub-Regional Centres:

0.6 spaces per 1 bedroom unit.

0.9 spaces per 2 bedroom unit.

1.40 spaces per 3 bedroom unit.

1 space per 5 units (visitor parking).

The existing and proposed development would require the provision of 40 (39.2) residential spaces and 13 (12.2) visitor spaces.

Note: no parking is required for studio units.

There are 32 spaces currently available on site comprising 28 resident spaces and four visitor spaces. There is no additional parking proposed.

The applicant has submitted the following justification:

The subject site is located within 800m of the Rouse Hill train station and is within the B4 Mixed use zone.

Guide to Traffic Generating Development (RMS, 2002).

- 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 unit (visitor parking)

Notwithstanding, the proposal seeks to maintain the existing car parking provision on site in compliance with the ARH SEPP being an affordable housing development. The non-

compliance with the car parking provisions of the ADG are considered acceptable in this regard.

Comment:

The proposed development has been considered having regard to SEPP ARH which states the required parking for this form of development. The proposal satisfies the requirements of SEPP ARH and provides adequate parking to meet the needs of existing and future residents.

iii. Separation

The ADG requires that for habitable rooms and balconies, 12m for up to 4 storeys, 18m for 5-8 storeys and 24m for 9+ storeys. It is also noted that Rouse Hill DCP requires a minimum separation between buildings of 12 metres.

The proposal has varied setbacks to the existing building on site as follows:

Existing building on site: Ground to third floor – minimum 11m
 Fourth-seventh floor – 11m – 13m

The applicant has submitted the following justification:

The design criteria for Part 3F of the ADG prescribes minimum separation distances to be provided between windows and balconies from a building to the side and rear boundaries, as reproduced below:

Design criteria		
1.	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	
Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

The design guidance to Part 3F states that for residential buildings next to commercial buildings, separation distances should be measured as follows:

- *for retail, office spaces and commercial balconies use the habitable room distances*
- *for service and plant areas use the non-habitable room distances*

Therefore, the separation distances to the existing Wentworth building, as well as the portion of the Rouse Hill Town Centre (RHTC) which adjoins to the north, containing a car park and a Coles supermarket. Given the supermarket is bound by a wall containing no windows, the non-habitable room distances are appropriate in the calculation of those separation distances. It is also noted that where buildings are located on different sites (as with the

RHTC), the setbacks are measured to the boundaries, but where located on the same site (as with the existing Wentworth building), the separation distances are combined.

Location	Required	Provided	Complies?
Existing Wentworth Building, ground –third floor.	12m	11m – 19m	No
Existing Wentworth Building, fourth –seventh floor.	18m	11m – 13m	No
Rouse Hill Town Centre, ground – third floor.	3m	4.5m – 14.8m	Yes
Rouse Hill Town Centre, fourth –seventh floor.	4.5m	4.5m – 9.7m	Yes

Despite the numerical non-compliance with the 18m separation distance between the proposed building and the existing building, the variation should be supported for the following reasons:

- The proposed development complies with the recommended building separation for buildings up to four storeys in height (12m). The existing RFB on site is only 4 storeys tall. Therefore, there is little merit in providing an 18m building separation, which is required for buildings that exceed four storeys in height, and a 12m building separation, required for buildings of four storeys or less, is more appropriate in this instance.*
- The proposed building footprint is to be located as close as possible to the southern corner of the site in order to maximise the building separation to the existing residential flat building. An increase in building separation to 18m would inhibit the built upon area of the proposed development, and it is not possible to achieve compliance with this requirement.*
- The southern end of the existing Wentworth RFB does not respond to the geometry of the site. The proposal seeks to respond to both the geometry of the site, as well as the geometry of the existing building. This results in the portions of the upper levels provide shorter setbacks than could have been provided, had the proposal provided no visual response to the existing building.*
- The non-compliance is limited to the easternmost apartment, with all other elements achieving compliance with the separation requirements.*
- The proposed development achieves appropriate levels of visual and acoustic privacy, meeting the stated purpose for the building separation provisions.*
- The proposed development is well articulated and provides a high standard of design and high quality finishes, and would not appear visually discordant within the streetscape.*
- The proposal will not result in any unacceptable overshadowing impacts to the adjoining RFB.*

Comment:

The aims of the ADG in relation to separation are:

- ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings.
- assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.
- provide suitable areas for communal open spaces, deep soil zones and landscaping.

The proposed variation to the separation between the existing and proposed buildings is considered reasonable given the variation is a point encroachment given the location and design of the two buildings.

The proposal incorporates privacy measures including highlight windows to ensure that privacy is maintained between the units. The design of the privacy measures will not unreasonably reduce amenity or result in impacts to solar access or natural ventilation.

The proposed separation is considered appropriate given that adequate landscape planting is provided at ground level to soften the development when viewed from adjoining streets and open spaces. The proposal will provide an appropriate garden setting through the provision of landscape gardens and soft landscape features.

The proposed separation is considered satisfactory in regard to the aims of the ADG and can be supported.

5. Compliance with LEP 2019

a. Permissibility and Development Standards

The site is zoned B4 Mixed use under the provisions of LEP 2019. A residential flat building is permissible use in the zone.

Notwithstanding this, the proposal is a permissible use under the provisions of SEPP ARH.

Under LEP 2019 there are no development standards applicable to the site in regard to height or FSR.

b. Draft LEP 2021 (formerly Draft LEP 2019)

Council's Draft LEP 2021 intends to establish a clear and transparent framework that provides further certainty that the outcomes anticipated under the approved Master Plan and Precinct Plan would be delivered. In regard to the site, Draft LEP 2021 seeks to introduce maximum height of building controls ranging between 12m and 32m and apply a maximum dwelling cap of 375 dwellings. These planning controls reflect the outcomes approved through the existing Masterplan. These controls will act as a "baseline", pending further amendments to the LEP arising from either site specific planning proposals or Council-led

precinct planning. Draft LEP 2021 also includes a sunset provision to enable flexibility for these planning controls to be revised once Council completes precinct planning for the Rouse Hill Strategic Centre.

Draft LEP 2020 seeks to impose a height limit on the site of 10 metres. The proposal has a maximum height of 22.85 metres.

The applicant has submitted the following as justification:

The draft instrument proposes to prescribe a complex arrangement of maximum building heights across the RHTC, and this includes a building height limit of 10m for the site. The relevant planning proposal notes that the proposed maximum building heights are intended to match maximum heights approved within the Level 2 RHTC Precinct Plan DA. However, in line with the discussion provided below in response to Issue 9, the draft height of buildings map has been prepared based on a flawed understanding of the detailed requirements of the concept approval. Not only does this proposed height limit fail to account for an existing building which already exceeds the 10m height limit, it also fails to account for the changes to building siting that have occurred since the precinct plan was initially approved.

For reasons outlined within in further detail in response to Issue 9, it is unreasonable to expect that the proposal should be subject to a 10m height limit. The intent of the precinct plan is clearly to provide multiple buildings in this location that increase in height from east to west, and the proposed development would meet that objective. It is not possible to provide three built forms fronting this part of White Hart Drive, unless the subject land is utilised for the purposes of providing one of those buildings. There is no value in providing a 10m building in this location, and insistence on compliance would not only provide a poor urban design outcome, but would provide less affordable housing than was anticipated when this site was transferred for that purpose.

However, aside from the requirements of the concept plan, since the lodgement of the application the Sydney Central City Planning Panel have further established the character of this part of White Hart Drive through its approval of DA483/2020/JP at Lot 129 DP 280036 Civic Way, Rouse Hill. This development is to sit on the opposite side of White Hart Drive and accommodate buildings as tall as 11 storeys, with taller buildings also to be located on the western side of that development site. Each building located on the southern side of White Hart Drive will be larger than the proposal, both in terms of the number of storeys, and the RL of the highest ceiling level. The approved development is shown within the photomontage below.



The approved development is shown within the photomontage provided in response to Issue 6. Any initial reasoning for anticipating a smaller building on the subject site is largely no longer valid given the scale of development that will sit on the opposite side of White Hart Drive.

Despite the requirement of the draft instrument, the height of the proposed development is complementary to the existing and desired future character of the locality, noting that:

- White Hart Drive falls towards the north-east, and the top of the proposed building would align with the height of a development that could be accommodated on land further to the south-west.*
- The building is sited towards the southern corner of the site, with the majority of the amenity impacts (overshadowing, etc) born by the adjacent driveway, loading dock, and White Hart Drive. The eastern portion of the building, represents a slender building form, minimising the apparent height difference between the proposal and the existing Wentworth CH building (noting that the majority of the building envelope of the existing Wentworth CH is concentrated towards Civic Way). On the approach along White Hart Drive from the north-east, the slender section of the proposal would temper the apparent scale of the development.*
- The perceived prominence of the building from the southern corner is minimised through the provision of a 6 storey element in this location. On the approach along White Hart Drive from the south-west, the seventh storey will be not be perceived as a dominant aspect.*
- The building is well articulated, provided with a high standard of design, quality finishes, and is supported by the Design Review Panel.*
- Given the proposal is for the purposes of affordable housing, a floor space ratio bonus is anticipated, per Lotus Project Management Pty Ltd v Pittwater Council [2015] NSWLEC. Given the limited area of the development site, this can only be accommodated through a taller building.*

For the reasons outlined above, the proposal will meet the objectives of draft clause 4.3.

Comment:

Draft LEP 2021 seeks to include a savings provision that will apply to a development application made but not finally determined before the commencement of the LEP provision. However this is subject to the Department of Planning, Industry and Environment's consideration and pending Parliamentary Councils legal drafting of the instrument.

Draft LEP 2021 was publicly exhibited from 10 July 2020 to 7 August 2020 and at its meeting on 25 August 2020, Council resolved to progress the planning proposal for draft LEP 2021 to finalisation. The Department has not made a decision on this matter to date.

In regard to the draft height control, the proposal includes a variation to the Precinct Plan height controls. This matter is addressed in Section 7.

c. Minimum Lot Size for Residential Flat Buildings

Clause 4.1A of LEP 2012 'Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings' requires a minimum lot size for residential flat buildings of 4000m². The subject site has an area of 3050m² which is a variation of 23.75%.

The applicant has submitted a detailed Clause 4.6 variation request which is Attachment 7 and which concludes as follows:

Having regard to relevant case law, the reasons for the variation can be summarised as follows:

- The 23.75% variation to the 4,000m² development standard will not result in any discernible impacts, noting the proposal will form part of a combined affordable housing development, incorporating the existing residential flat building located on the site.*
- The proposal provides appropriate visual and acoustic privacy through appropriate building separation to the existing residential flat building, and adjoining shopping centre and car park.*
- Variations to this standard are not unusual in this locality.*
- There is an existing non-compliance on the site, and given the proposal will share parking, communal space, and services with the existing residential flat building, the additional building need not require an increase in land size.*
- The provision of an additional building on this lot responds to the Precinct Plan.*
- The size of the allotments has not precluded the provision of adequate solar amenity and cross ventilation.*
- The landscaping scheme proposed would largely improve the existing landscape setting through the provisions of an increase in total landscaped area, given the inclusion of shrubs, grasses and groundcovers.*
- The proposal provides a new affordable housing development with a high level of residential amenity that will make a positive contribution to the streetscape. The proposal will increase the diversity of housing resources in the locality and within the wider local government area.*
- The objectives of the zone are achieved notwithstanding non-compliance with the standard;*
- The proposal will not create adverse environmental effects on the use or enjoyment of adjoining properties and the public domain; and*
- The proposed development will result in a positive outcome for the locality and is therefore within the public interest despite the variation to the lot size control.*

This written request has demonstrated that compliance with the standard in this instance would be unnecessary and unreasonable and that there are environmental planning grounds

to justify the contravention of the development standard. Given the above, it is considered that the requirements of clause 4.6 have been satisfied and that the variation to the minimum lot sizes for residential flat buildings within the B4 mixed use zone development standard can be approved.

Comment:

Clause 4.1A of LEP 2012 'Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings' requires a minimum lot size for residential flat buildings of 4000m². The subject site has an area of 3050m². This is a variation of 23.75%.

Clause 4.1A of LEP 2012 lists the following objective:

'The objective of this clause is to achieve planned residential density in certain zones'.

In addition, Clause 4.1A(3) of LEP 2019 allows a variation to be requested to the minimum land area for residential flat buildings subject to assessment of certain criteria. Clause 4.1A(3) states:

Despite subclause (2), development consent may be granted to development on a lot in a zone shown in Column 2 of the Table to subclause (2) for multi dwelling housing or residential flat buildings where the area of the lot is less than the area specified for that purpose and shown in Column 3 of the Table, if Council is satisfied with that:

- (a) the form of the proposed structures is compatible with adjoining structures, in terms of their elevation to the street and building height, and*
- (b) the design and location of rooms, windows and balconies of the proposed structures, and the open space to be provided, ensures acceptable acoustic and visual privacy, and*
- (c) the dwellings are designed to minimise energy needs and utilise passive solar design principles, and*
- (d) significant existing vegetation will be retained and landscaping is incorporated within setbacks and open space areas.*

The proposal is considered satisfactory given that the site has been identified since the approval of the Rouse Hill Masterplan in 2004 as being set aside for residential development. The proposed affordable rental housing residential flat building will provide a higher density form of living which is suitable for the Town Centre location and which is consistent with the principles in the DCP.

The site adjoins the Town Centre which provides a high level of access to a variety of retail, commercial and community uses. The site is located in close proximity to the Caddies Creek area, Leisure Square and Council's Iron Bark Ridge Park. The site is located in a landscape setting.

The proposal is satisfactory in regard to the objectives of the B4 Mixed Use zone in that the proposal is a compatible land use to the adjoining retail and commercial uses, the location is

highly accessible in terms of location and access to existing public transport, and the proposal is integrated with civic spaces in the area.

The proposal is considered satisfactory in regard to the criteria under Clause 4.1A(3) of LEP 2019 in that the proposal is consistent with the existing and future character in respect to its modern design and features, will result in reasonable acoustic and visual privacy, is designed to consider BASIX requirements and passive design features and includes appropriate landscape planting.

Clause 4.6 (4) of LEP 2019 states:

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

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment: The applicant has adequately addressed the matters required to be addressed by subclause (3).

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

Comment: As detailed above, the proposal is an appropriate development outcome in regard to public interest and is consistent with the objectives of the B4 Mixed Use zone.

- (b) the concurrence of the Director-General has been obtained.*

Comment: Council has assumed concurrence under the provisions of Circular PS 08–003 issued by the Department of Planning and infrastructure.

On the basis of the above comments, the proposed variation to the minimum lot size for residential flat buildings is considered reasonable and will not result in an adverse impact on residential amenity to future residents for the following reasons:

- The Applicant's request is well founded;
- The proposed variation results in a development which is consistent with the objectives of Clause 4.1A 'Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings' and the B4 Mixed Use zone objectives;
- Compliance with the standard is unreasonable and unnecessary in this instance and there are sufficient environmental grounds to justify the contravention; and
- The proposed development will be in the public interest as it is consistent with the objectives of the development standard and the objectives for development within the relevant zone.

The proposed variation to lot size is supported.

6. Compliance with DCP Part D Section 6 – Rouse Hill Regional Centre

i. General Merit Consideration

DCP Part D Section 6 states:

Affordable housing means housing for very low income households, low income households, or moderate income households as defined in the NSW Environmental Planning and Assessment Act 1979. A component of affordable housing will form a portion of the housing provision, and it is anticipated that this will be met by providing a variety of different types of dwelling, distributed throughout the Centre. This obligation will be enforced through contractual arrangements between the State government and the Regional Centre developer.

The proposed development is considered to be consistent with the principles of the Rouse Hill Regional Centre development in that the proposal offers housing choice, offers an alternative housing type and is consistent with the aims and objectives of the State Government to provide affordable housing within the area.

As such the proposal is considered satisfactory in regard to the DCP requirements.

ii. DCP Requirements for Residential Flat Buildings

SEPP ARH and the ADG provisions address the main principles for development of an affordable rental housing development in the form of an apartment building. Notwithstanding this, the DCP requirement for apartment developments has been detailed below.

DEVELOPMENT STANDARD (CLAUSE NO.)	REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
3.1.2 Density Per Hectare	Minimum of 40 dwellings per hectare with no maximum density subject to overall density limits.	The minimum density required is 12.2 dwellings. The existing and proposed combined dwellings on the site is 61 dwellings.	Yes
3.1.4 Subdivision and Allotment Sizes	Subdivision is to be consistent with the LEP minimum lot size of 600m ² .	There is no subdivision proposed.	NA
3.1.5 Site Frontage	20m	The site has a frontage of approximately 53 metres to White Hart Drive and 59 metres to Civic Way.	Yes
3.1.6 Building Height	Building heights to be consistent with LEP 2019.	LEP 2019 contains no building height – see comments in Section 4 above.	NA
	Residential floor to ceiling heights shall be 2.7 metres on ground/livings spaces and 2.55 metres in upper levels/bedrooms.	The floor to ceiling heights are 2.7 metres	Yes

3.1.7 Setbacks	<p>Front setback for building height 5 storeys or greater: 5 metres.</p> <p>Articulation to the front building line is permitted for 1 metre up to 5 storey and 3 metres for 5 storeys or greater for ground floor predominantly residential.</p>	The proposed front setback is a minimum 1.5 metres.	No – see comments below.
	Side setback: 1.5 metres.	A nil setback is proposed to the south-western boundary (adjoining the Town Centre access driveway).	No – see comments below.
	Rear setback: 4 metres.	The minimum rear setback is 5.5 metres.	Yes
	The minimum separation between buildings is 12 metres.	The minimum separation between the existing and proposed building on the site is 10.3 metres.	No – see comments below.
	The maximum linear length of a building is 50 metres.	The building has a length of approximately 25 metres.	Yes
3.1.8 Building Appearance, Articulation, orientation and Design	Buildings are required to address the street, entries points are to be clearly articulated, corner buildings to address both street frontages.	The proposal addresses the street and provides a clear entry point for future residents.	Yes
3.1.9 Apartment Layout and Design	The proposal is required to meet unit mix and sizes.	The proposal does not meet the required unit mix and size requirements.	No – see comments below.
3.1.10 Storage	<p>Storage is to be provided in units or lockable garages as follows:</p> <p>Studio/1 bed: 6m³</p> <p>2 bed: 8m³</p> <p>3+ bed: 10m³</p>	The proposal provides storage in accordance with the ADG.	Yes – provided in accordance with the ADG.
3.1.11 Roof Design	Use of a variety of roof forms which are in character with modern design principles.	The proposed roof design is satisfactory and is in keeping with the modern character of the Town Centre.	Yes
3.1.12 Driveways	Buildings of 4 or more storeys may have access to a basement car park.	The driveway entry to the carpark is existing. There is no additional driveway entry proposed.	Yes

	Access to a public street should be in a forward direction.		
3.1.13 Car Parking	<p>Residential flat buildings: Off-street parking is to be provided for each dwelling at the rate of: 1 bedroom: 1 space/ dwelling 2 bedrooms: 1.5 space / dwelling 3 + bedrooms: 2 spaces/ dwelling</p> <p>Visitor parking: 1 space/5 dwellings for development with 60 or more units.</p> <p>Bicycle parking to be provided at a rate of 1 space/5 dwellings.</p>	The proposal provides carparking in accordance with SEPP ARH.	Yes – provided in accordance with SEPP ARH.
3.1.14 Garage Design	Ensure that garages are not dominant and that materials and colours are in keeping with the proposed building.	The basement parking area is existing. There is no additional basement parking proposed.	Yes
3.1.15 Solar Access	Solar access for residential flat buildings is to be in accordance with SEPP 65.	See comments in Section 4.	Yes
3.1.16 Landscaping	<p>Residential flat buildings: Minimum 30% of site excluding buildings and driveways. Terraces/balconies within 1m of natural ground level can be included. At least 25% or 50m² (whichever is greater) ground level open space is to be provided on natural ground.</p>	A landscape area of 34% (1047.16m ²) is provided.	Yes
3.1.17 Open Space (Private and Common)	<p>Residential flat buildings: Private Open Space:</p>	All units are provided with private open space area which exceeds the DCP requirement.	Yes

	<p>Must be accessible from living areas. Ground level units to have a minimum width of 4m and minimum depth of 3m.</p> <p>Above ground levels units to have a minimum area of 8m² and minimum depth of 3m.</p> <p>Solar access to be in accordance with SEPP 65.</p>		
	<p>Common Open Space: A minimum 10m² of open space per dwelling (including courtyards, gardens and balconies) is to be provided, with minimum dimensions of 4 metres on ground level and podium levels, 3 metres for balcony and roof terraces.</p>	<p>Based on the provision of a total of 61 units, a common open space area of 610m² is required.</p> <p>The proposal provides a ground level area of 411.34m² and a roof top area of 93.11m², being a combined common open spaces area of 504.45m². This is 16.8% of the site.</p>	No – see comments above in Section 4.
3.1.18 Fencing and Courtyard Walls	There are no standards applicable to residential flat buildings. The principles relate to providing fencing which contributes to the character of the street.	The proposal includes 1.2 metres high fencing forward of the ground floor apartments which is considered satisfactory and will not unreasonably impact on streetscape.	Yes
3.1.19 Designing for Privacy	Provision of at least one semi-private balcony. Minimise direct overlooking to internal living areas and private open space through design.	The proposal provides a reasonable level of privacy between units.	Yes
	Acoustic privacy is to be protected to ensure that potential noise sources are appropriately addressed.	Council's Environmental Health Officer has reviewed the proposal and raised no objection subject to compliance with the acoustic report.	Yes

3.1.20 Waste Management	The submission of a waste management plan for construction and on-going.	A waste management plan has been submitted which is satisfactory.	Yes
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a. Setbacks

The DCP requires the following setbacks:

Front setback for building height 5 storeys or greater: 5 metres. The proposed setback is a minimum of 1.5 metres.

Articulation to the front building line is permitted for 1 metre up to 5 storey and 3 metres for 5 storeys or greater for ground floor predominantly residential.

Side setback: 1.5 metres. A nil setback is proposed to the south-western boundary (adjoining the Town Centre access driveway).

In addition, the Design Guidelines requires a 2m setback to Civic Way and Town Park Drive (now called White Hart Drive) to the front façade at ground floor. Above ground floor projections up to 1m are permitted.

The DCP also requires that the minimum separation between buildings is 12 metres. The minimum separation between the existing and proposed building on the site is 10.3 metres.

The applicant has submitted the following as justification:

The proposed setbacks have largely been derived from efforts to maximise the setbacks from the existing Wentworth CH building and the Rouse Hill Town Centre.

The front setback of 1.5m is maintained for the lower 6 storeys for each unit located towards the corner shared with the Town Centre driveway. This is in direct response to feedback provided by the Design Review Panel. To offset these shorter setbacks, generous front setbacks, staggered between 2.4m and 8m, are provided to the remainder of the frontage.

A similar rationale applies to the non-compliant south-western side setbacks. The setbacks are staggered in this location, but corner elements of the building are setback a non-compliant setback from the driveway. The proposal is strictly numerically compliant, given that the site boundary is situated 13.6m from the proposed building, beyond the driveway. However, the potential amenity impacts of the short driveway setback are well known, and an acoustic report has been prepared to ensure these potential impacts are managed to achieve satisfactory amenity for future residents. Furthermore, no living areas or private open space areas are oriented exclusively to the driveway, enabling the mitigation of amenity impacts.

The proposal complies with the required 4m rear boundary setback, and the setbacks to the existing Wentworth CH building are compliant with Part 3F of the ADG.

Comment:

The Principles within the DCP relate to defining the built area, provision of solar access to rear yards, minimising impact to adjoining property, streetscape appearance and minimising bulk of garages, and allowing landscape works to be undertaken.

The site is considered discrete in that it forms part of the existing Wentworth Housing development and adjoins an access driveway to the Town Centre basement parking to the south-west and is fully bounded along the rear boundary to the Town Centre parking. The front boundaries of the site are bounded by Civic Way and White Hart Drive.

In regard to the side setbacks to the Town Centre access, a nil setback is proposed to some building elements. However, given the location and depth of the site, there will be no unreasonable impact to the adjoining Town Centre site. The proposal provides appropriate design features to ensure that amenity will be maintained for residents such as raised balcony walls, hi-light windows and landscape screen planting. The setbacks provided to the apartments will continue to allow a reasonable level of amenity to be provided to future residents.

It is noted that raised balconies are located within the setback to White Hart Drive. The Design Guidelines state that setbacks are a minimum from the property line to the front façade of the ground floor residential uses.

The proposed setbacks are considered satisfactory given the Town Centre location. The site is effectively separated from adjacent future residential development which is located across Civic Way. The site is discrete in that it has two street frontages. The variations are considered reasonable in that context.

In regard to separation, the proposed design minimises windows on the facing elevations to reduce potential for impacts on privacy. The separation is considered reasonable given the proposed design and relationship between the two buildings and will ensure that amenity to future residents is maintained.

The proposed design of the development and the setbacks and landscape planting proposed will provide a satisfactory streetscape outcome. The development will effectively define built upon area, minimise impacts to adjoining properties and allows adequate solar access.

As such the proposal is considered satisfactory in regard to the DCP requirements.

b. Apartment Layout and Design

The DCP requires the following in relation to unit mix and size:

Apartment Mix

- (a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments.
- (b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.

Residential Flat Development (30 or more units)

- (d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following:

Apartment Size Category	Apartment Size
Type 1	
1 bedroom	50m ²
2 bedroom	70m ²
3 or more bedrooms	95m ²
Type 2	
1 bedroom	65m ²
2 bedroom	90m ²
3 or more bedrooms	120m ²
Type 3	
1 bedroom	75m ²
2 bedroom	110m ²
3 or more bedrooms	135m ²

- (e) Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- (f) Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- (g) All remaining apartments are to comply with the Type 3 apartment sizes.

The following is proposed:

6 x studio units;
 22 x 1 bedroom units; and
 5 x 2 bedroom units.

When combined with the existing development on site, the site overall will provide:

6 x studio units;
 36 x 1 bedroom units;
 18 x 2 bedroom units; and
 1 x 3 bedroom unit.

Apartment Mix:

- (a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments – overall there are 42 x studio/1 bedroom units (68.8% of the total).
- (b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms – there are 1 x 3 bedroom units (1.6% of the total).

Proposed Unit Sizes:

Unit Type	Size	No. of Units	Type
Note: there is no unit size criteria for studio units			
1 bedroom	50.81 – 60.9m ²	21	Type 1
	65.94m ²	1	Type 2
2 bedroom	76.95 – 77.81m ²	5	Type 1

- (e) Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments – there are 26 x Type 1 apartments (78.8% of the total).
- (f) Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments – there are 1 x Type 2 apartments (3% of the total).
- (g) All remaining apartments are to comply with the Type 3 apartment sizes ie: 40% - there are 0 x Type 3 apartments (0% of the total).

Note: 18.2% of units are studio units.

The applicant has submitted the following as justification:

The proposal does not comply with the prescribed unit mix requirements. Unit mixes within affordable housing developments are carefully selected based on need, rather than as a result of a profit imperative. As a result, it is not unreasonable to expect that a non-profit and well-established affordable housing provider would be able to select a unit mix which provides accommodation sizes that are appropriate for the current need.

Comment:

The objectives of the DCP are:

- (i) *To ensure that individual units are of a size suitable to meet the needs of residents.*
- (ii) *To ensure the layout of units is efficient and units achieve a high level of residential amenity.*
- (iii) *To provide a mix of residential flat types and sizes to accommodate a range of household types and to facilitate housing diversity.*
- (iv) *Address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*
- (v) *To ensure designs utilise passive solar efficient layouts and maximise natural ventilation.*

As outlined above, the proposal includes variations to both the unit type and mix. However the variations are reasonable and do not result in an unreasonable built form. Strict compliance with the DCP requirements will not result in an improved outcome for future residents.

The proposal meets the objectives of the DCP in that it provides units which have a suitable size to meet resident needs, have a satisfactory level of amenity and provide housing choice and diversity.

The ADG contains the following minimum internal areas:

- *1 bedroom apartment 50m²*
- *2 bedroom apartment 70m²*
- *3 bedroom apartment 95m²*

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.

The units all meet or exceed the minimum requirements of the ADG.

The proposal provides a range of unit sizes to cater for a variety of future residents. The proposal achieves satisfactory solar access and daylight to the units and meets the required ventilation requirements.

The units are also considered to have a high level of amenity in regard to the Town Centre location, with a high level of access to retail, commercial and leisure activities.

The proposed units have been designed to have regard to the views towards the Tributary area and as such have adequate window openings. The design also takes advantage of the site location in regard to the surrounding open spaces. In this regard the site is located in a Town Centre location with access to the Caddies Creek area and future Leisure Square. In addition Council's Iron Bark Ridge Park is located to the east.

As such the proposal is considered satisfactory and can be supported.

7. Compliance with Masterplan and Precinct Plan

The proposal has been assessed having regard to the approved Masterplan and Precinct Plan for the Rouse Hill Regional Centre.

a. Masterplan

Development Consent 1604/2004/HB was approved by Council on 26 March 2004. The approval included both conditions of consent and stamped plans. The application was subsequently amended by 1604/2004/HC/A which modified the Masterplan to ensure consistency with the approved Northern Precinct Plan. The Masterplan set the broad parameters for development of the site including documents and technical reports and six plans detailing land use, open space, road hierarchy, water, residential density and maximum building height. A Masterplan condition requires that a Precinct Plan be prepared for the various precinct areas including detailed urban design guidelines.

There are no conditions of consent or approved plans which directly impact on the subject site or development.

It is noted that the Masterplan referred to a maximum of 1800 dwellings within the Regional Centre as a whole. To date a total of 1947 dwellings (comprising apartments, affordable rental housing, integrated housing and single dwellings) have been approved. The subject application will result in a total of 1980 dwellings.

The proposal is considered to be consistent with the Masterplan and is supported.

b. Compliance with Precinct Plan

Development Consent 1581/2005/HB for the Town Centre Precinct Plan was approved by Council on 26 July 2005. The following conditions of consent are relevant to the current proposal.

Condition	Comment	Satisfactory
1. Development In Accordance with Plans The development being carried out in accordance with the approved plans and details, stamped and returned with this consent, being: (list of plans)	The proposal is generally consistent with the approved plans.	Yes

<p><u>2. Level 3 Development Applications for Construction Works</u> Separate Development Applications (known as Level 3 DA's) are to be submitted for any construction works within the Town Centre Core Precinct Plan and are to be generally in accordance with the Town Centre Core Precinct Plan. All Level 3 Development Applications are to be in accordance with the endorsed Design Guidelines.</p>	<p>The subject application is a level 3 Development Application.</p>	<p>Yes</p>
<p><u>3. Design Guidelines</u> The draft design guidelines are to be finalised prior to the submission of the first Level 3 Development Application for works within the Town Centre Core Precinct. The guidelines are to be updated to reflect the conditions of consent and Design Review Panel comments. The guidelines relating to shade structures must indicate that the structures must not enclose the Town Centre Core Precinct.</p>	<p>The Design Guidelines have been finalised and are in force.</p>	<p>Yes</p>
<p><u>9. Cycleways & Pedestrian Links</u> The proposed cycleway and pedestrian links are to connect into the proposed network within the adjoining precincts.</p>	<p>The propose works will not conflict with the existing established cycleway and pedestrian links.</p>	<p>Yes</p>
<p><u>12. Safer by Design</u> All Level 3 Development Applications within the Town Centre Core Precinct are to be designed in accordance with the comments contained within Section 3 of the letter from the NSW Police dated 13 January 2004 and the "Safer By Design" Guidelines.</p>	<p>The proposal was referred to Castle Hill Police for review and comment.</p>	<p>Yes</p>

c. Compliance with Approved Precinct Plan Plans

Condition 1 states as follows:

1. Development In Accordance with Plans

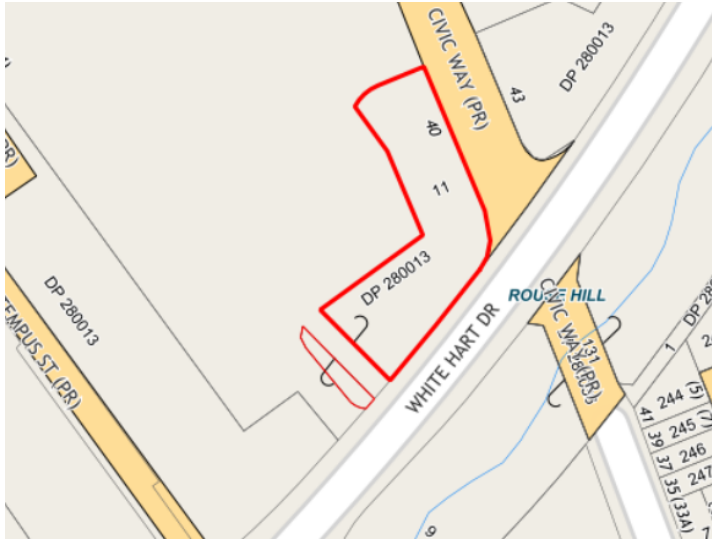
The development being carried out in accordance with the approved plans and details, stamped and returned with this consent, being:

- Statement of Environmental Effects, prepared by BBC Consulting Planners, dated 21 December 2004 and associated reports.
- DA-001A, Town Centre Context Plan.
- DA-001B, Town Centre Linkage and Concept Plan.
- DA-002, Land Use – Ground Floor.
- DA-003, Land Use – Level 1.
- DA-004, Land Use – Level 2 and Above.
- DA-005A, Land Use Plan – Basement 1.

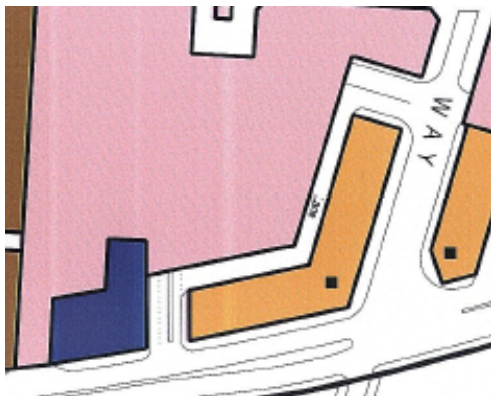
- DA-006A, Land Use Plan – Basement 2/3.
- DA-007, Land Use – Ground Floor - Stage 1.
- DA-008, Land Use – Level 1 - Stage 1.
- DA-009, Land Use – Level 2 and Above - Stage 1.
- DA-010A, Land Use Plan – Grade/Basement – Stage 1.
- DA-11A, Land Use plan – Basement 2 – Stage 1.
- DA-12, Public Realm Plan.
- DA-013, Pedestrian and Cyclist Circulation Plan.
- DA-014, Road Hierarchy, Loading and Car Park Access Plan.
- DA-015A, Maximum Building Height Plan.
- DA-015B, Contour Plan.
- DA-016, Section AA.
- DA-017, Section CC.
- DA-018, Section 01.
- DA-019, Section 03.
- DA-020, Section 05.
- DA-021, Section 06.
- DA-022, Section 07.

No works (including excavation) shall be undertaken prior to the release of the construction certificate.

In regard to the approved Precinct Plans, the general layout of the precinct differs in the western part of the site from the existing lot layout which has resulted from the current development of the Town Centre and adjoining sleeve sites. In this regard the current lot layout separates the western part of the site with a vinculum from the main portion of the site. The area between the two parts of the site contains an access driveway to the shopping centre parking area. The current layout is as follows:



The Precinct Plan shows the site to the west of the driveway as a larger development lot which would contain a commercial building.



Comments regarding compliance with the plans are as follows:

- (i) DA-001A, Town Centre Context Plan – the plan identifies the site as being for residential use. The proposal is consistent.
- (ii) DA-001B, Town Centre Linkage and Concept Plan – the plan does not show any works on the subject site.
- (iii) DA-002, Land Use – Ground Floor – the plan shows the site as residential with rear loaded at grade parking (access via a rear lane). The existing parking is basement style however this layout has been approved. There is no additional parking proposed.
- (iv) DA-003, Land Use – Level 1 - the plan identifies the site as being for residential use. The proposal is consistent.
- (v) DA-004, Land Use – Level 2 and Above - the plan identifies the site as being for residential use. The proposal is consistent.

- (vi) DA-005A, Land Use Plan – Basement 1 – the plan identifies the site as being rear loaded at grade parking. The existing parking is basement style however this layout has been approved. There is no additional parking proposed.
- (vii) DA-006A, Land Use Plan – Basement 2/3 - the plan does not identify the site.
- (viii) DA-007, Land Use – Ground Floor - Stage 1 – the plan identifies the site as being for residential use in Stage 1. Note: the area to the west of the main site which is connected by the vinculum is shown as interim landscaping.
- (ix) DA-008, Land Use – Level 1 - Stage 1 – the plan identifies the site as being for residential use in Stage 1.
- (x) DA-009, Land Use – Level 2 and Above - Stage 1 - the plan identifies the site as being for residential use in Stage 1.
- (xi) DA-010A, Land Use Plan – Grade/Basement – Stage 1 - the site is shown as 'sleeved on grade' parking.
- (xii) DA-11A, Land Use Plan – Basement 2 – Stage 1 - the site is not identified on this plan.
- (xiii) DA-12, Public Realm Plan – the site is not identified on this plan.
- (xiv) DA-013, Pedestrian and Cyclist Circulation Plan – the site is not identified on this plan.
- (xv) DA-014, Road Hierarchy, Loading and Car Park Access Plan – the plan identifies a residential parking entry point off Civic Way. The existing residential parking entry point is provided in a consistent location.
- (xvi) DA-015A, Maximum Building Height Plan– proposal exceeds height - see comments below on height.
- (xvii) DA-015B, Contour Plan – the plan identifies final levels at public places. There are no set final levels for the subject site.
- (xviii) DA-016, Sections – not relevant – sections through alternate part of site.
- (xix) DA-017, Sections– not relevant – sections through alternate part of site.
- (xx) DA-018, Section 01 – see comments below on height.
- (xxi) DA-019, Section 03– not relevant – sections through alternate part of site.
- (xxii) DA-020, Section 05– not relevant – sections through alternate part of site.
- (xxiii) DA-021, Section 06 – see comments below on height.
- (xxiv) DA-022, Section 07– not relevant – sections through alternate part of site.

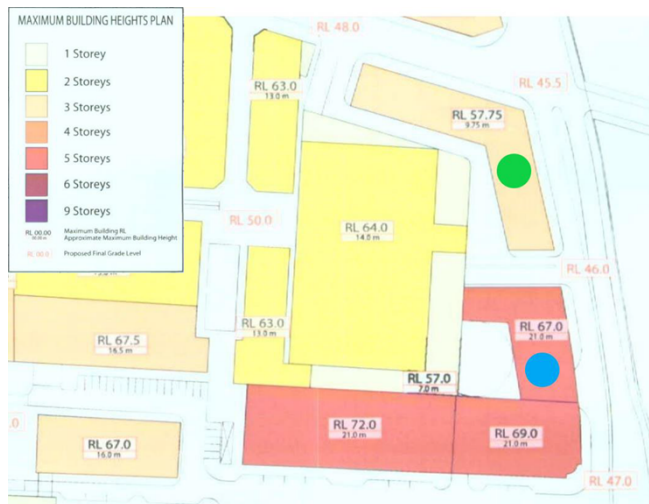
i. Height

The site is identified as having a 3 storey height with a maximum height of 9.75 metres at RL 57.75. The proposal is part 6/part 7 storey in design and has a maximum height of 22.85 metres.

The applicant has justified the height as follows:

On 26 July 2005, development consent was granted for the Level 2 Rouse Hill Town Centre (RHTC) precinct plan which establishes in the detailed planning framework for development of the RHTC. The Precinct plan approval included conditions of consent, approved plans and Design Guidelines.

The 'Maximum Building Heights Plan', DA 015A, prescribes the building heights within the precinct. The relevant extract of the plan is shown below:



There are two different height limits marked on the plan that are relevant to the development application, as summarised below:

- A three storey height limit, a maximum RL of 57.75, and a maximum building height of 9.75m (marked by the green spot).
- A five storey height limit, a maximum RL of 67.0, and a maximum building height of 21.0m (marked by the blue spot).

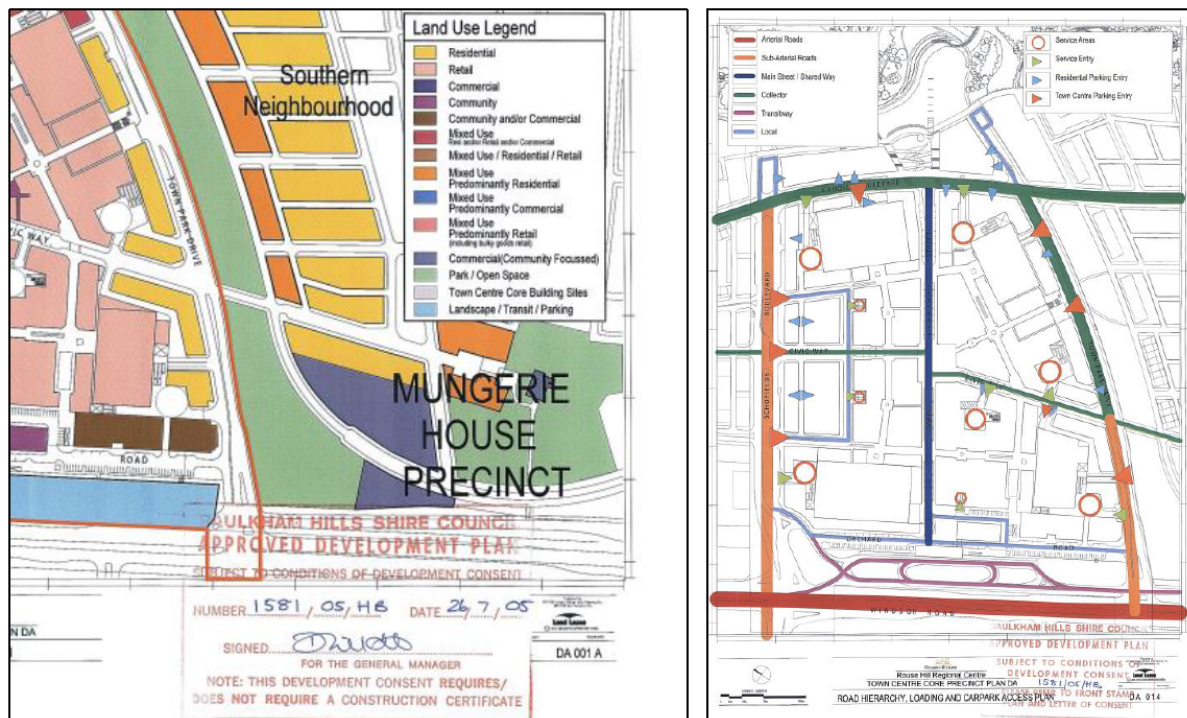
In addition, the Design Guidelines provide that:

- "Maximum building height is defined as being the RL at the underside of the ceiling of the uppermost floor.
- Roof structures, including roof forms, architectural features, mechanical plants, screening and other such roofscape elements may extend above these Maximum Heights, provided they do not further increase shadowing of the street ground plane".

The proposal provides for a 7 storey building with a seventh level ceiling RL of 67.45, and is therefore 0.45m above the height limit shown by the blue spot, and 9.7m above the height limit shown by the green spot. The precise height limit that should apply to the development requires a thorough consideration of the wider requirements of the concept approval (precinct plan).

The land that was dedicated for the purposes of affordable housing contained two building envelopes marked for the purposes of residential development, separated by a town centre

vehicular parking entry, with an additional vehicular service entry located to the south-west. This is demonstrated in the extracts of the approved plans shown below.



The two driveways were eventually constructed virtually adjacent to one another, with a small portion of land remaining between the driveways, and dedicated as part of the subject site. The 'service entry' shown on the Level 2 plan is now a loading dock, whilst the 'town centre parking entry', is the southern entry (entry only) to the RHTC, with primary vehicular access points provided elsewhere.

In addition, the size of the loading dock is larger than what is likely to have been envisioned as part of the Level 2 consent. As a consequence, the appropriate location for the approved 5 storey building form which was to lie to the west of the existing Wentworth CH building is not clear. However, there are only two possible locations for this built form, being the land subject to this application, or the land that is forward of the loading dock, being an approximately 500m² area of land that would be surrounded by a loading dock on two sides, with a third side fronting a portion of White Hart Drive subject to all traffic between Windsor Road and the driveway entry. This land also sits closer than the subject site to both Windsor Road and the railway line. This site would be highly constrained.

The existing Wentworth CH building approximately relates to the L-shaped building shown at the intersection of Civic Way and White Hart Drive, although only a limited east-west wing is provided to the existing Wentworth CH building, with the completed building providing a predominately north-south orientation. There is no possibility of extending the existing Wentworth CH building further towards the west, in accordance with the building envelope that was shown in the Level 2 consent given that:

- There are windows located on this façade.

- The east-west wing is aligned to be perpendicular to Civic Way, rather than parallel to White Hart Drive. As a result, there is no space remaining to continue the building towards the west along its current alignment.

Noting that the existing Wentworth CH is unable to be extended further to the west, it follows that the most appropriate response to the concept approval, is for the 5-storey built form to be located further to the east. In this location, a tall, slender, and well-dimensioned residential flat building is able to be provided, which maintains compliant setbacks from the existing Wentworth CH building.

Moreover, the approved Stage 1 plan shown below also indicates that a portion of the precinct equivalent to the land on which the development is proposed, would be used for the purposes of 'interim landscaping' as shown below.



This image also shows that the interim landscaped land was to be separated from the north-south building form fronting Tempus Street, by part of the town centre, and this land equates to what is now the adjacent loading dock. Although previous approvals have affected the precise location of the land subject to this application, it is understood that this land is that described above, currently used for 'interim landscaping'.

It is therefore unreasonable to expect that the proposal should be subject to a 9.75m height limit. The intent of the precinct plan is clearly to provide multiple buildings in this location that increase in height from east to west, and the proposed development would meet that objective. It is not possible to provide three built forms fronting this part of White Hart Drive, unless the subject land is utilised for the purposes of providing one of those buildings. There is no value in providing a three storey building in this location, and insistence on compliance would not only provide a poor urban design outcome, but would provide less affordable housing than was anticipated when this site was transferred for that purpose.

Moreover, as noted within the response to Issue 8, there is currently limited solar access or privacy available within the ground floor communal space that is used for the current

Wentworth building. The precinct plan also encourages rooftop communal open space, for instance:

- *“Access to roof gardens and decks is encouraged, especially for residential buildings where opportunities for private open space is limited”.*

Although the proposed development is able to provide adequate private open space, the quality of the ground floor communal open space, both for the existing building and the proposed development, is compromised by poor solar access, and – in relation to the existing building – a lack of privacy. The provision of a rooftop communal open space provides a solution to this constraint, whilst responding the Design Guidelines. A significant portion of the partial top storey, which exceeds the nominated height limit shown by the blue spot, is for the purposes of rooftop communal open space.

However, aside from the requirements of the concept plan, since the lodgement of the application the Sydney Central City Planning Panel have further established the character of this part of White Hart Drive through its approval of DA483/2020/JP at Lot 129 DP 280036 Civic Way, Rouse Hill. This development is to sit on the opposite side of White Hart Drive and accommodate buildings as tall as 11 storeys, with taller buildings also to be located on the western side of that development site. Each building located on the southern side of White Hart Drive will be larger than the proposal, both in terms of the number of storeys, and the RL of the highest ceiling level. The approved development is shown within the photomontage provided in response to Issue 6. Any initial reasoning for anticipating a smaller building on the subject site is largely no longer valid given the scale of development that will sit on the opposite side of White Hart Drive.

Finally, the height of the proposed development is complementary to the existing and desired future character of the locality, noting that:

- *White Hart Drive falls towards the north-east, and the top of the proposed building would align with the height of a development that could be accommodated on land further to the south-west.*
- *The building is sited towards the southern corner of the site, with the majority of the amenity impacts (overshadowing, etc) born by the adjacent driveway, loading dock, and White Hart Drive. The eastern portion of the building, represents a slender building form, minimising the apparent height difference between the proposal and the existing Wentworth CH building (noting that the majority of the building envelope of the existing Wentworth CH is concentrated towards Civic Way). On the approach along White Hart Drive from the north-east, the slender section of the proposal would temper the apparent scale of the development.*
- *The prominence of the building from the southern corner is minimised through the provision of a 6 storey element in this location. On the approach along White Hart Drive from the south-west, the seventh storey will be largely obscured by the six storey element in front of it.*
- *The building is well articulated, provided with a high standard of design, quality finishes, and is supported by the Design Review Panel.*

- *Given the proposal is for the purposes of affordable housing, a floor space ratio bonus is anticipated, per Lotus Project Management Pty Ltd v Pittwater Council [2015] NSWLEC. Given the limited area of the development site, this can only be accommodated through a taller building.*

Comment:

The proposed height of the building is considered satisfactory and will not unreasonably impact on streetscape. The proposed height is consistent with existing approvals in place for sleeve sites within the Town Centre. In addition, it is noted that Draft LEP 2021 seeks to impose a height of 12 metres for the site.

The proposed height is considered satisfactory given the relationship to the existing Town Centre buildings and meets the intent to provide a 'sleeve' to the Town Centre buildings and providing a screen to the existing blank walls of the centre.

The proposed height is also generally consistent with the existing building on site which has a height of 4 storeys and 14.13 metres, whilst acknowledging that the proposed height exceeds the height of the existing building. The height is also consistent with recent approvals in the Town Centre on sleeve sites including DA 981/2020/HA which is located opposite the subject site (across Civic Way) which has an approved height of:

- Building A is 7 storeys (fronting both Civic Way and White Hart Drive) with a maximum height of 23.7m;
- Building B is 5 storeys (fronting White Hart Drive) with a maximum height of 20.6m; and
- Maximum height of RL 68.2 for the lift over-run on Building A

(DA 981/2020/HA approved by the Local planning Panel on 17 March 2020).

The proposed height is considered reasonable given the context of the site in a Town Centre location.

d. Compliance with Design Guidelines

Condition 2 of Development Consent 1581/2005/HB stated as follows:

2. Level 3 Development Applications for Construction Works

Separate Development Applications (known as Level 3 DA's) are to be submitted for any construction works within the Town Centre Core Precinct Plan and are to be generally in accordance with the Town Centre Core Precinct Plan. All Level 3 Development Applications are to be in accordance with the endorsed Design Guidelines.

Final Design Guidelines were submitted on 08 November 2005. The following table addresses the relevant sections of the Design Guidelines which are specific to the subject site or to the form of development:

Section	Required	Provided	Complies
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A02: Siting and Massing: Setbacks	2m setback to Civic Way and Town Park Drive to the front façade at ground floor. Above ground floor projections up to 1m are permitted. Note: Town Park Drive is now called White Hart Drive.	The proposal has a minimum setback of 1.5 metres to the front boundary.	No – see comments above in Section 6.
A03: Siting and Massing: Building Heights and Dimensions	Heights - See comments above	See comments above	No – see comments above.
A03: Siting and Massing: Building Heights and Dimensions	Floor Heights: 2.7m	A 2.7m floor to ceiling height is provided.	Yes
A03: Siting and Massing: Building Heights and Dimensions	Building Depth: 8-18m deep	Proposed depth of units is 8.5-10 metres.	Yes
A03: Siting and Massing: Building Heights and Dimensions	Building Length: 80m maximum. For buildings more than 40m in length, the façade must be articulated.	The building is approx. 25m in length. Appropriate articulation is used in the design.	Yes
B01: Built Form: Building Uses	The site is identified for SOHO/residential use (single occupancy home office).	The proposal is for a residential use being affordable housing.	Yes
B02: Built Form: Facades	Appropriate articulation is to be used to reinforce a modern residential design. Balconies for the apartments are to add to the design of the buildings. All balconies are to have an area of 10m ² and be functional.	The buildings incorporate appropriate articulation. All balconies have private open space area in accordance with the ADG and council's DCP. The balconies are functional areas.	No however private open spaces areas are consistent with the ADG and Council's DCP.
B04: Built Form: Building Entries	Building entries to units are to be defined and identifiable.	The building entries are clear and identifiable.	Yes
B09: Sun and Shadowing and Energy Use: Built Form	Apartments are to comply with SEPP 65 and have appropriate BASIX outcomes.	The proposed design is satisfactory in regard to SEPP 65 and BASIX.	Yes
B11: Built Form: Materials and Colour	Use of a palette appropriate to a	The materials and colour are appropriate and in	Yes

	contemporary urban character.	keeping with the modern design of the Town Centre.	
B12: Built Form: Residential Open Space	Each dwelling is to be provided with an appropriate amount of private open space in the form of balconies or at-ground. Each dwelling shall be provided with a minimum of 20m ² of open space/unit (includes common open space and setback areas).	The proposed private and common open space areas provided are satisfactory.	No - the proposal includes a variation to the ADG requirements for common open space which is addressed above in Section 4.
C01: Character: Vision	Plans indicate the site has a 'civic' character and 'residential edge' character.	The proposed character of the development is satisfactory for the location.	Yes
D01: Public Realm: Public Realm Masterplan	The plan shows a 6m wide laneway to provide vehicle access to the rear at grade parking.	This has been addressed by the applicant and is satisfactory.	Yes

8. Internal Referrals

The application was referred to following sections of Council:

- Traffic
- Engineering
- Fire Safety
- Environmental Health
- Resource Recovery
- Landscaping
- Section 7.12 Contributions

No objection was raised to the proposal subject to conditions.

9. External Comments

The proposal was referred to the following authorities for comments:

a. Castle Hill Police Comments

The proposal was referred to the NSW Police. No objections were raised to the proposal (See Condition 28).

b. Endeavour Energy

The proposal was referred to Endeavour Energy. No objections were raised to the proposal. (See Condition 29).

c. Sydney Water

The proposal was referred to Sydney Water. No objections were raised to the proposal (See Conditions 33 and 57).

Clause 6.3 of LEP 2019 states that consent must not be granted for development in an urban release area unless Council is satisfied that appropriate arrangements have been made for essential public utility infrastructure. In regard to the above, water, sewer and electricity can be provided to the subject site.

DISTRICT PLAN

The Central City District Plan contains 'Directions for Liveability' which include:

- A City for People - Planning Priority C4 - Fostering healthy, creative, culturally rich and socially connected communities;
- Housing the City – Planning Priority C5 - Providing housing supply, choice and affordability with access to jobs, services and public transport; and
- A City of Great Places – Planning Priority C6 – Creating and renewing great places and local centres, and respecting the District's heritage.

The plan seeks to provide housing supply which is diverse and affordable and which meets the needs of residents and which bring people together. The plan seeks to provide housing in locations which are easily accessible by public transport to reduce commuting time. Housing should be located in places which are liveable, walkable and cycle friendly. Housing should also respond to the changing needs of residents and consider single person and aging households. Great places are defined as areas which have a unique combination of local people, built form and natural features which reflect shared community values and which attract residents, workers and visitors. Local centres act as a focal point for neighbourhoods and provide essential access to day to day goods and services. This includes creating communities where social housing is part of the same urban fabric as private and affordable housing, has good access to transport and employment, community facilities and open spaces which can therefore provide a better social housing experience.

Implementation and monitoring of the Plan and the potential indicators are as follows:

Direction 4: Housing the City: Providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population. Housing affordability is also a challenge that can affect job and lifestyle choices.

Direction 5: A City of Great Places: The creation and renewal of great places for people, together with better local accessibility through walking and cycling, will achieve local liveability that attracts and retains residents and workers. Great places exhibit design excellence and start with a focus on open spaces and a people-friendly realm.

The proposed development meets the intent of the Plan as follows:

- The proposal will provide a range of unit types which will assist in meeting housing demands;

- The site is located in an area serviced by existing and future public transport and is in close proximity to the Rouse Hill town centre; and
- The proposed will result in an appropriate built form outcome which responds to the desired future modern character of the area;

The proposal is considered satisfactory in regard to the Central City District Plan.

CONCLUSION

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, Local Environmental Plan 2019 and The Hills Development Control Plan 2012 and is considered satisfactory. The proposal includes a variation to LEP 2019 in regard to site area for residential flat buildings. In this regard the LEP requires a 4000m² minimum site area whilst the subject site has an area of 3050m². This is a variation of 23.75%. A Clause 4.6 variation request has been submitted by the applicant and is considered to be satisfactory. Compliance with the development standard is considered unreasonable and unnecessary in this instance. The proposal also includes a number of variations to the Apartment Design Guidelines, DCP Part D Section 6 – Rouse Hill Regional Centre and the Town Centre Precinct Plan and Design Guidelines. The proposed variations are considered given the site constraints in regard to area and depth. There were no submissions received to the proposal.

Approval is recommended subject to conditions.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

The proposal is considered satisfactory in regard to The Hills Future Community Strategic plan and will provide affordable housing and housing diversity within the Shire through the provision of a variety of unit layouts and sizes in a Town Centre location.

RECOMMENDATION

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

- The Clause 4.6 Variation request is considered to be well founded, and the proposed variation results in a development that is consistent with the relevant objectives and compliance with the standard is unreasonable and unnecessary in this instance. The proposal results in a better planning outcome as outlined in the report.
- The site is considered suitable for the development.
- The proposal adequately satisfies the relevant state and local planning provisions.
- The proposal will not have an unreasonable impact on the built or natural environment.
- The proposal is in the public interest,

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	DATE
DA00	Cover Sheet & Location Plan	4/12/20 Rev. B
DA01	Site & Block Analysis Plan	03/12/20 Rev. B
DA02	Building Envelope and Massing Diagrams	03/12/20 Rev. B
DA03	Demolition Plan	03/12/20 Rev. B
DA04	Site & External Works Plan	03/12/20 Rev. B
DA05	Development Data	03/12/20 Rev. B
DA06	Basement Floor Plan	03/12/20 Rev. B
DA07	Level 1 Floor Plan	03/12/20 Rev. B
DA08	Level 2 Floor Plan	03/12/20 Rev. B
DA09	Level 3 Floor Plan	03/12/20 Rev. B
DA10	Level 4 Floor Plan	03/12/20 Rev. B
DA11	Level 5 Floor Plan	03/12/20 Rev. B
DA12	Level 6 Floor Plan	03/12/20 Rev. B
DA13	Level 7 Floor Plan	03/12/20 Rev. B
DA14	Roof Plan	03/12/20 Rev. B
DA15	Elevations (Sheet 1)	03/12/20 Rev. B
DA16	Elevations (Sheet 2)	03/12/20 Rev. B
DA17	Elevations (Sheet 3)	03/12/20 Rev. B
DA18	Elevations (Sheet 4)	03/12/20 Rev. B
DA19	Sections (Sheet 1)	03/12/20 Rev. B
DA20	Sections (Sheet 2)	03/12/20 Rev. B
DA21	Shadow Diagrams (Sheet 1)	03/12/20 Rev. B
DA22	Shadow Diagrams (Sheet 2)	03/12/20 Rev. B
DA23	Shadow Diagrams (Sheet 3)	03/12/20 Rev. B
DA24	Shadow Diagrams (Sheet 4)	03/12/20 Rev. B
DA25	ADG Diagrams (Sheet 1)	03/12/20 Rev. B
DA26	ADG Diagrams (Sheet 2)	03/12/20 Rev. B
DA27	ADG Diagrams (Sheet 3)	03/12/20 Rev. B
DA27	Common Open Space Diagrams	03/12/20 Rev. B
DA29	Materials and Finishes	03/12/20 Rev. B

L01	Landscape Plan – Ground Floor	03.12.20 Rev. 4
L02	Landscape Plan – Rooftop & Details	03.12.20 Rev. 4
B04728-1	Survey Plan Sheet 1 of 2	19/06/20
B04728-2	Survey Plan Sheet 2 of 2	19/06/20
---	Street/Unit Numbering Plans (for unit numbering purposes only)	---

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

2. Use of the Dwellings for Affordable Housing

For 10 years from the date of the issue of the occupation certificate:

- (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and
- (ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider,

in accordance with Clause 17 of the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009.

In regard to the above, 100% of the units are required to be used for affordable housing (both existing and proposed units).

3. Unit Numbers

The existing and proposed development comprises the following unit numbers:

Existing (approved under DA 586/2014/JP:

1 bedroom – 13

2 bedroom – 14

3 bedroom - 1

The approved development includes 20 adaptable dwellings.

Proposed:

Studio - 6

1 bedroom – 22

2 bedroom – 5

3 bedroom - 0

The proposed development includes four adaptable units.

4. Carparking

The provision and maintenance thereafter of a total of 28 parking spaces (including three accessible spaces) approved under 586/2014/JP.

5. 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.

6. 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.

7. Clause 94 Upgrading

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

- i. The existing premises is to be upgraded in accordance with the recommendations in BCA design compliance report by BCA Vision Pty Ltd (report No. P20102, revision 2, dated 13/08/20).
- ii. As proposed building works relate to an extension of more than 50% of the volume of the existing building, a Register Certifier is to review the existing premises and determine if there are sufficient elements to control the development and spread of fire. If in the opinion of the Registered Certifier that provisions are insufficient, the building is to be provided with an automatic fire suppression system, to the degree necessary, appropriate to EP1.4 of the BCA.
- iii. The existing hydrants system is to be upgraded to ensure system performance, appropriate to EP1.3 of the BCA:
 - a. The existing booster system is to be provided with a thrust block and anchor in order to provide adequate reaction to forces imposed on the system
 - b. The existing block plan is to be upgraded to reflect modifications to the system incorporated for the new units.
 - c. A structural engineer is to review the existing masonry hydrant booster radiant heat barrier and determine the structural capacity of the wall.
 - d. The hydrant pipework supports in the existing carpark are to be provided with an adequate fire resistance level to prevent early collapse when exposed to fire.
- iv. The service penetrations in the existing switch room in the carpark are to be protected appropriate to CP8 of the BCA.

8. 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.

9. Vehicular Access and Parking

Any amendments to the constructed carpark under the DA 586/2014/JP, 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.

10. Minor Engineering Works

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

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

a) Disused Layback/ Driveway Removal

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

b)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.

c)Site Stormwater Drainage

The site stormwater management as proposed in the Civil Design drawings prepared by Greenview Consulting submitted with the application must incorporate a 5000lt rainwater tank for the reuse purposes.

The overflow from the rainwater tank and the entire site that must be graded, collected and drained by pits and pipes must be directed to the kerb inlet on White Hart Drive, the point of legal discharge.

d)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.

11. 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.

12. 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.

13. 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.

14. Planting Requirements

All trees planted as part of the approved landscape plan prepared by Botanique Design Revision 4 dated 03/12/20 are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers and grasses are to be minimum 150mm pot size.

All planting on slab must achieve the following minimum soil depths for all on slab and planter boxes throughout the development:

- 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

15. Street Trees

Street trees must be provided for the section of White Hart Drive fronting the development site spaced between 7m apart across the frontage.

The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. This includes a street tree masterplan where one exists (check Council's website for details). A street tree planting plan demonstrating compliance with the above must be submitted for written approval before any street trees are planted.

The establishment of street tree planting is included in the maintenance bond required to be paid. Alternatively, street trees can be planted by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

16. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained and protected.

17. Air Conditioner Location

Any air-conditioning unit 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.

18. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by PKA Acoustic Consulting Pty Ltd, referenced as 11831 R01v4, dated 4 December 2020 and submitted as part of the Development Application are to be implemented as part of this approval.

All walls and floors separating sole occupancy units must comply with the construction ratings listed in Section 4.1 of the report.

The development must consider the acoustic mitigation measures detailed in Section 7.0 of the report to ensure compliance with the SEPP Infrastructure Traffic Noise Intrusion noise goals.

The selection and placement of any outdoor mechanical equipment such as condenser units, exhausts serving car parks and toilets etc. must be designed to acoustically comply with the criteria established in Section 6.1 of the report.

If the preparation of a Construction Noise & Vibration Management Plan is required by the certifying authority, the noise criteria established in Sections 6.1 and 6.3 must be considered.

19. Property Numbering

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

The property address for this development is: - 6 White Hart Drive Rouse Hill

Approved unit numbering is as per plans submitted marked as DWG No: DA06 - DA13, Rev: A, Dated: 21/08/20 marked up within consent documentation; and as follows:

Level	Building
Ground	G01 – G04
Level	101 - 105
Two	201 – 205
Three	301 – 305
Four	401 – 405
Five	501 – 505
Six	601 - 604

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

One Cluster mail box is to be located as shown on plans submitted marked as DWG No: DA07, Rev: A, Dated: 21/08/20 marked up within consent documentation.

Cluster mail box is 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, plus one (1) for the proprietors of the development and be as per Australia Post size requirements.

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.

20. Construction of Waste Storage Area

The waste storage area must be designed and constructed in accordance with the following requirements. The area must provide minimum storage facility for a total of 14 x 1100 litre bins (7 x 1100 litre garbage and 7 x 1100 litre recycle bins) and the bin towing device.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins and the bin towing device as specified above.
- The layout of the waste storage area must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage area must be constructed of brickwork.
- The floor of the waste storage area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage area must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).

- The waste storage area must have a 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 area, when fully opened, must be flush with the outside wall and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The waste storage area must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- The waste storage area must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area, it is not to conflict with the space designated for the placement of bins.
- The waste storage area must be provided with internal lighting such as automatic sensor lights.
- The waste storage area must have appropriate signage (Council approved designs) mounted in a visible location on internal walls and are to be permanently maintained by Owners corporation
- Finishes and colours of the waste storage area are to complement the design of the development.

Example Bin Measurements (mm)

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

21. 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.

22. Provision of Kitchen Waste Storage Cupboard

Waste storage facility must be provided in each unit to enable source separation of recyclable material from residual garbage. Each unit 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.

23. Commencement of Domestic Waste Service

A domestic waste service is already in place for the existing building. Council must be contacted to arrange for the existing bins onsite to be exchanged to ensure the correct allocation is provided to service both buildings as they now share a common waste storage room. The service must be arranged no earlier than two days prior to occupancy in the new building 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.

24. 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.

25. Management of Construction 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.

26. Adherence to Waste Management Plan

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

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

27. Police Requirements

The following is required by the NSW Police:

- i. Fencing is required to be vertical style to stop unauthorised access, with spaces left between vertical elements to limit physical access.
- ii. Materials chosen should have regard to the potential for graffiti.
- iii. It is recommended that during the construction phase security sensor lights be used and security guards monitor the site.

- iv. Police recommend the use of CCTV at entry/exit points to the carpark, within the basement carparking, stairwells, fire escapes and common areas. Police also suggest the use of height stickers on entry/exit doors.
- v. Vegetation is to be maintained at all times to allow natural surveillance and reduce opportunities for concealment.
- vi. Lighting is to be utilised within the site in accordance with Australian Standards.
- vii. Letterboxes and caged storage areas are to have good-quality locking mechanisms and be secure.
- viii. Access control is to be provided through secure entry points to the lobbies, lifts and basement areas.
- ix. The building entry points and unit numbering signage, entry/exit driveways and car parking areas are to be lit to improve visibility. It is not recommended that sensor lighting be used in these areas.
- x. It is recommended that ground level units include door and window alarms, thickened glass and sensor lights.

28. Endeavour Energy Requirements

The applicant is required to liaise with Endeavour Energy regarding the provision of services to the site.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

29. Section 7.11 Contribution

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

Payments comprise of the following:-

	Purpose : 1 bedroom unit	Purpose : 2 bedroom unit	No. of 1 bed units : 24	No. of 2 bedroom units : 4	Sum of Units	Total S7.11
Open Space - Land	\$ 3,553.01	\$ 5,739.47	\$ 85,272.24	\$ 22,957.88	\$ 108,230.12	\$ 108,230.12
Open Space - Capital	\$ 1,461.34	\$ 2,360.62	\$ 35,072.16	\$ 9,442.48	\$ 44,514.64	\$ 44,514.64
Community Facilities - Land	\$ 76.56	\$ 123.68	\$ 1,837.44	\$ 494.72	\$ 2,332.16	\$ 2,332.16
Community Facilities - Capital	\$ 662.84	\$ 1,070.75	\$ 15,908.16	\$ 4,283.00	\$ 20,191.16	\$ 20,191.16
Studies and Administration	\$ 101.93	\$ 164.65	\$ 2,446.32	\$ 658.60	\$ 3,104.92	\$ 3,104.92
Roadworks - Land	\$ 585.41	\$ 945.66	\$ 14,049.84	\$ 3,782.64	\$ 17,832.48	\$ 17,832.48
Roadworks - Capital	\$ 1,391.80	\$ 2,248.29	\$ 33,403.20	\$ 8,993.16	\$ 42,396.36	\$ 42,396.36
Total	\$ 7,832.89	\$ 12,653.12	\$ 187,989.36	\$ 50,612.48	\$ 238,601.84	\$ 238,601.84

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are updated at the time of the actual payment in accordance with the provisions of the applicable plan.

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

This condition has been imposed in accordance with Contributions Plan No 8.

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

30. Irrigation

An automatic watering system to be installed as a minimum to all common areas and rooftop planters. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be provided to Council or Private Certifier prior to issue of the Construction Certificate.

31. Private Open Space Fencing

A semi open metal panel, palisade, or slatted style fence extension is to be provided to the private open space area of Unit 101 to provide an effective fence height from within the private open space of 1.8m. Details are to be provided to the PCA prior to issue of the Construction Certificate.

32. Building Plan Approval

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

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

The Tap in™ service provides 24/7 access to a range of services, including:

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

Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

33. 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. Details are to be provided to the PCA prior to the issue of a Construction Certificate.

34. 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.

35. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$190,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the 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 (130m) multiplied by the width of the road (16.5m).

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.

36. Security Bond – External Works

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

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

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

37. 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).

PRIOR TO WORK COMMENCING ON THE SITE

38. 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.

39. 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.

40. 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 INSERT within the likely zone of influence from any excavation, dewatering or construction induced vibration.

41. 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.

42. 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.

43. Consultation with Service Authorities

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

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

44. 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.

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

Signage

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

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

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

45. 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.

46. 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.

47. 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).

DURING CONSTRUCTION

48. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No. 1126307M is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

49. 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.

50. Roof Water Drainage

Gutter and downpipes to be provided and connected to an approved drainage system upon installation of the roof covering.

51. 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 Clause 162A of the Environmental Planning and Assessment Regulation 2000. Prior to allowing building works to commence the Principal Certifier must give notice of these inspections pursuant to Clause 103A of the Environmental Planning and Assessment Regulation 2000.

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

52. 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.

53. Dust Control

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

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

54. Construction Noise

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

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

55. Landscaping Prior to Issue of any Occupation Certificate

Landscaping of the site shall be carried out prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plan 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.

56. Section 73 Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

57. Procurement of Mechanical Bin Mover

Prior to an Occupation Certificate being issued, a mechanical bin mover (also known as bin towing device), suitable to transport multiple 1100 litre bins, must be purchased and delivered to the site. As the bins will be transported across a road, the bin towing device will need to be a ride-on mover. The equipment procured must have capacity to move full bins over all ramps and slopes between the waste storage areas and collection point. All waste moving equipment must be lawfully handed into the ownership of the Owners Corporation.

58. 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.

59. 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.

60. 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.

61. 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:

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) Positive Covenant – Stormwater Pump

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

c) Restriction – Affordable Rental Housing

A restriction must be created to ensure, in accordance with SEPP Affordable Housing 2009, that for ten years from the date an Occupation Certificate is issued for the development:

- The dwellings/ units proposed to be used for the purposes of affordable housing will only be used for the purposes of affordable housing; and
- All accommodation that is used for affordable housing will be managed by a registered community housing provider.

62. 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.

63. 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. 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.

64. Final Inspection of Waste Storage Area

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

THE USE OF THE SITE

65. 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*.

66. 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*.

67. Waste and Recycling Management

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

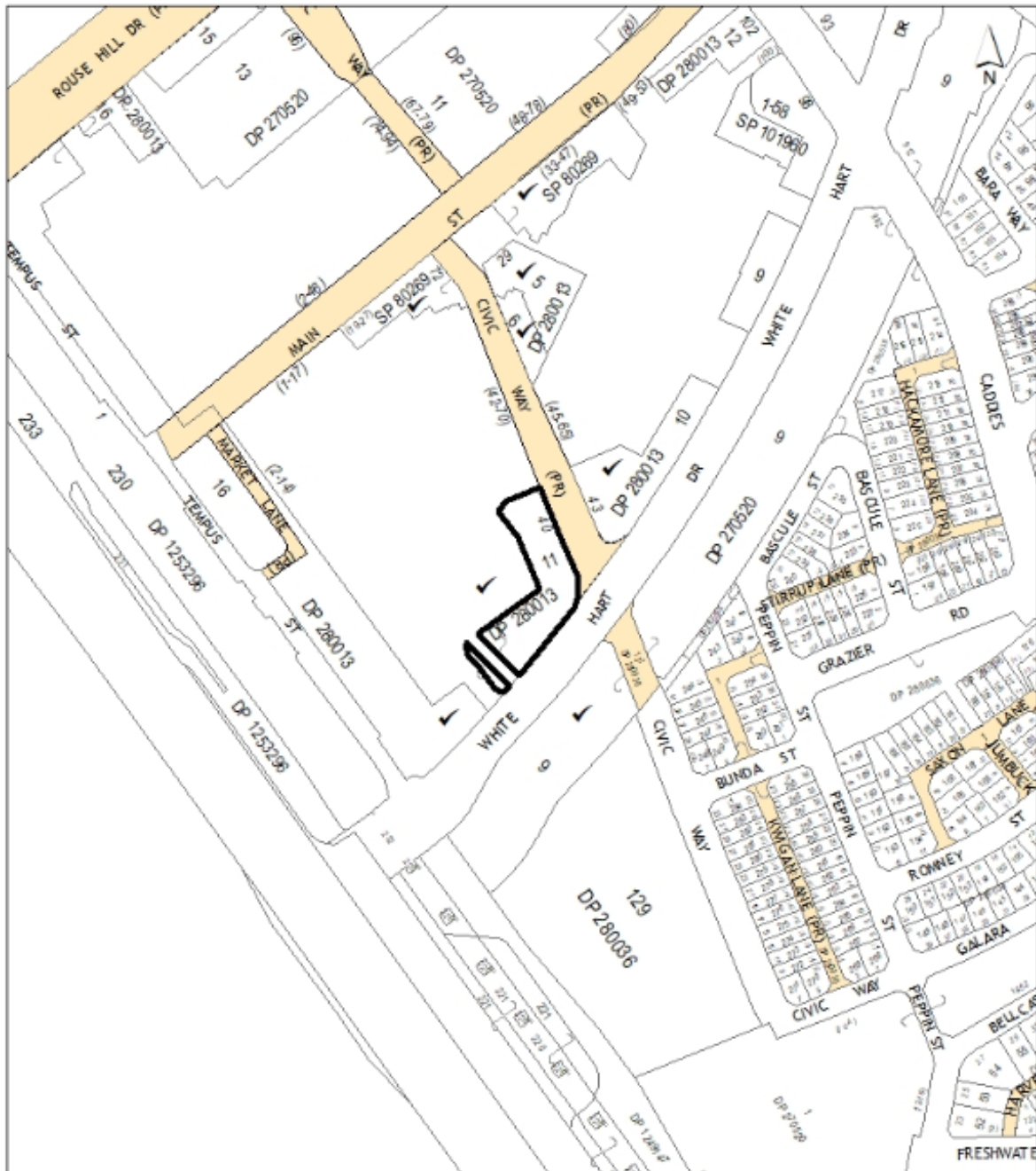
68. Bin Presentation for Waste Collection

Wentworth Housing and The GPT Group must abide to the written agreement that residential bins are to be presented for waste collection purposes from loading dock 2 Quad A within Rouse Hill Town Centre. It has been agreed that residential bins will be transported to the loading dock on the evening prior to the morning/day of collection and returned to the waste storage room once collected, unless otherwise instructed by Council.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Full Site Plan
4. Part Site Plan
5. Elevations
6. Perspectives
7. Clause 4.6 Variation Request

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

ATTACHMENT 2 – AERIAL PHOTOGRAPH

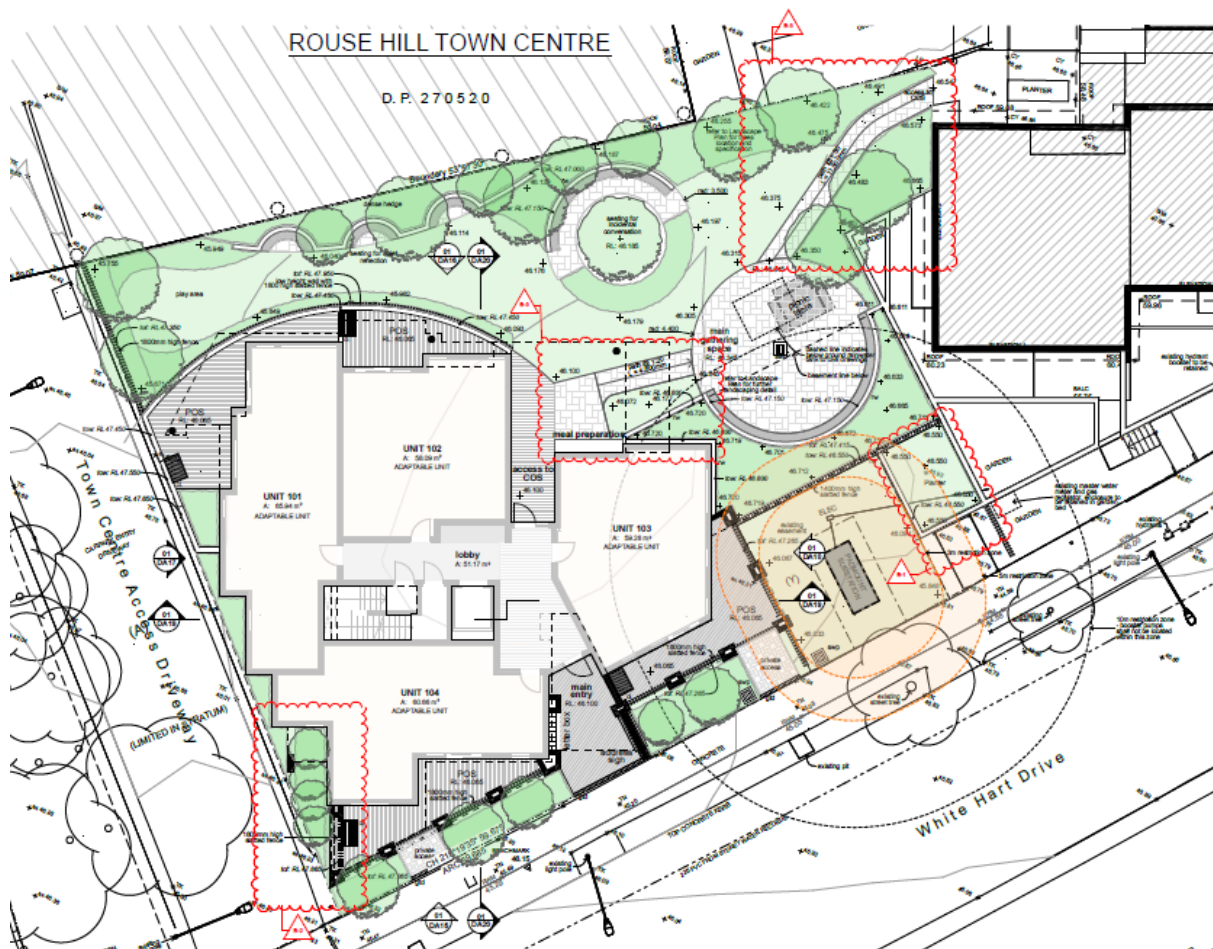


 SUBJECT SITE

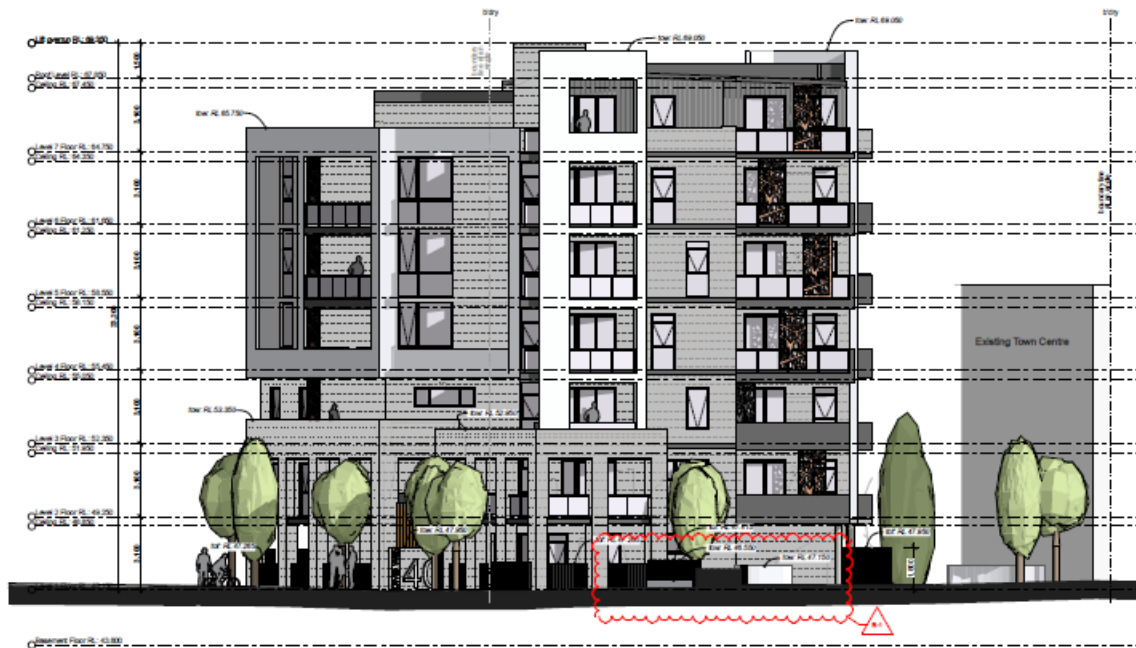
ATTACHMENT 3 – FULL SITE PLAN



ATTACHMENT 4 – PART SITE PLAN



ATTACHMENT 5 – ELEVATIONS



01 East Elevation (White Hart Drive)
1:100



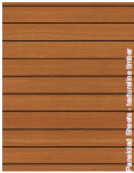
01 South Elevation (White Hart Drive)
1:100

ATTACHMENT 6 – PERSPECTIVE

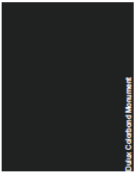
External Colour Selections (Sample)



Metal Cladding
mcl(1)



Soffit & signage
s(2)



Slab Edges & Balcony Detail
sp(1)



Cemented Basestone prefinished
panels vertical expressed joints
cst(1)



Metal slate fence (ft)
ft(1)



Face Brickwork + Colour Matched Mortar Joints
fb(1)



Face Brickwork + Colour Matched Mortar Joints
fb(2)



ATTACHMENT 7 – CLAUSE 4.6 VARIATION REQUEST



Clause 4.6 Exceptions to development standards Written request – Minimum Lot Size

Construction of a part six / part seven-storey residential flat building for affordable housing, including associated stormwater works and landscaping, under the provisions of Division 1 – In-Fill Affordable Housing of *State Environmental planning Policy (Affordable Rental housing) 2009*.



40 Civic Way (Corner of White Hart Drive and Civic Way), Rouse Hill NSW 2066

Prepared for:



CPS Project No: D703

Date: December 2020

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Creative Planning Solutions works to a stringent Quality Assurance Program.

If this document has not been signed for review and approval then it is deemed a preliminary draft.



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Clause 4.6 Written Request to Vary a Development Standard

The Hills Local Environmental Plan 2019 (THLEP 2019)

Applicant's name	Wentworth community housing						
Site address	40 Civic Way (Corner of White Hart Drive and Civic Way) Rouse Hill, NSW 2066						
Proposal	Construction of a part six / part seven-storey residential flat building for affordable housing, including associated stormwater works and landscaping, under the provisions of Division 1 - In-Fill Affordable Housing of State Environmental Planning Policy (Affordable Rental Housing) 2009						
Environmental Planning Instrument	The Hills Local Environmental Plan 2019 (THLEP 2019)						
Development standard to be varied	<p>Clause 4.1A(2) – minimum lot sizes for dual occupancy, manor houses, multi dwelling housing and residential flat buildings.</p> <p>The relevant subclause states:</p> <p><i>(2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this subclause for a purpose shown in Column 1 of the table, of the area of the lot is equal to or greater than the area specified in Column 3 of the table</i></p> <table><tr><td>Column 1</td><td>Column 2</td><td>Column 3</td></tr><tr><td>Residential Flat Building</td><td>Zone B4 Mixed Use</td><td>4,000sqm</td></tr></table>	Column 1	Column 2	Column 3	Residential Flat Building	Zone B4 Mixed Use	4,000sqm
Column 1	Column 2	Column 3					
Residential Flat Building	Zone B4 Mixed Use	4,000sqm					

Below is the written request relating to the proposed variation to clause 4.1A (2) (3) of the THLEP 2019 in accordance with the provisions of clause 4.6 of the THLEP 2019.

1. Details of development standard sought to be varied

Clause 4.1A(2) of the THLEP 2019 prescribes the minimum lot size for residential flat buildings (RFB) located on land Zoned B4 – Mixed Use. Clause 4.1A(2) is provided below:

4.1A Minimum lot sizes for dual occupancy, manor houses, multi dwelling housing and residential flat buildings

(2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this subclause for a purpose shown in Column 1 of the table, of the area of the lot is equal to or greater than the area specified in Column 3 of the table

There are a range of different lot size requirements listed within this subclause, and the relevant clause for this development is shown below:

Column 1	Column 2	Column 3
Residential Flat Building	Zone B4 Mixed Use	4,000sqm

The subject site is located within the B4 Mixed Use Zone, involves the erection of a part six / part seven-storey RFB for affordable housing on an allotment with a total site area of 3,050m². The proposal represents a 23.75% variation to the development standard (4,000m²), which is equal to the non-compliance currently experienced at the site.

Although subclause (3) outlines circumstances under which a development consent may be issued despite a non-compliance, this clause 4.6 variation request is provided as an additional measure in support of the proposed non-compliance.

2. Clause 4.6 Exceptions to Development Standards – The Hills Local Environmental Plan 2019

Clause 4.6 of the THLEP 2019 is the mechanism by which a consent authority is able to grant consent to a development despite non-compliance with a prescribed development standard.

Clause 4.6 is reproduced below:

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
 - (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*
 - (5) In deciding whether to grant concurrence, the Secretary must consider:*
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*
 - (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
 - (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
 - (8) This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4.*
 - (ca) clause 6.2 or 6.3,*
 - (cb) clause 7.11,*
 - (cc) clause 7.15.*

3. Relevant case law and the statutory obligations of the applicant and Council

The authority established within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, provides that a clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This judgement also outlines the necessary distinction between the obligations of the applicant, and the obligations of Council. It is only necessary that the applicant address the

matters required by 4.6(3). Note however that for completeness and to assist Council in its assessment, this variation request has addressed 4.6(3) and 4.6(4).

The consent authority need only be satisfied of the matters required within 4.6(4)(a), namely that the applicant has adequately addressed 4.6(3), and that the development is consistent with the objectives of the standard and the objectives of the zone.

The *Initial Action* judgement states that “the consent authority, or the Court on appeal, does not have to directly form the opinion of satisfaction regarding the matters in cl 4.6(3)(a) and (b), but only indirectly form the opinion of satisfaction that the applicant’s written request has adequately addressed the matters required to be demonstrated by cl 4.6(3)(a) and (b)”.

The independent role for the consent authority is therefore to determine whether the proposed development will be consistent with the objectives of the standard and the objectives of the zone. It is clear that the development meets the objectives of the standard and of the zone as discussed throughout this written request.

The responsibilities of the applicant had earlier been clarified within *Four2Five Pty Ltd v Ashfield Council* (2015) NSWCA 248. In addressing clause 4.6(3), the applicant must establish reasons that the variation should be supported, aside from the consistency of the development with the objectives of the standard and the objectives of the zone. Note that although this request is structured to address 4.6(3) and 4.6(4)(a)(ii) individually, the report should be read in its entirety as fulfilling the applicant’s obligations under 4.6(3).

In *Wehbe V Pittwater Council* (2007) NSW LEC 827, Preston CJ set out the following 5 different ways in which an objection (variation) may be well founded:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and,*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

It is understood that Clause 4.6(3) can be satisfied if it is established that a development satisfies one or more of points 2-5 above. However, this list is not exhaustive. In *Wehbe*, Preston CJ states, inter alia:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that

compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

It is important to note that although *Wehbe* related to variations requested under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1), the reasoning can be similarly applied to variations made under Clause 4.6 of a local environmental plan prepared under the standard instrument.

In *Wehbe*, Preston CJ further clarifies that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

In addition to *Wehbe*, *SJD DB2*, and *Initial Action*, despite no citations being contained herein, this clause 4.6 variation request has also had regard to legal precedent established by:

- *Four2Five Pty Ltd v Ashfield Council* [2007] 156 LGERA 446;
- *Micaul Holdings Pty Ltd v Randwick City Council* [2015] NSWLEC 1386;
- *Moskovich v Waverley Council* [2016] NSWLEC 1015;
- *Zhang and anor v Council of the City of Ryde* [2016] NSWLEC 1179; and,
- *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130;

4. 4.6(3) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are environmental planning grounds to justify the contravention of the standard

Having regard for the authority within the case law listed above, compliance with the minimum lot sizes for residential flat buildings within the B4 zone has been determined to be unreasonable and unnecessary in the circumstances of the case, and the following outlines the environmental planning grounds for the proposed variation:

Clause 4.1(A)(3) of THLEP 2019 prescribes the following:

(3) *Despite subclause (2), development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this subclause (2) for multi dwelling housing or residential flat buildings where the area of the lot is less than the area specified in Column 3 of the table, if the consent authority is satisfied that:*

- (a) *The form of the proposed building is compatible with adjoining buildings in terms of their elevation to the street and building height, and*
- (b) *The design and location of rooms, windows and balconies of the proposed buildings, and the open space to be provided, ensures acceptable acoustic and visual privacy, and*
- (c) *All swellings are designed to minimise energy needs and utilise passive solar design principles, and*

- (d) Significant existing vegetation will be retained and landscaping incorporated within setbacks and open space areas.

Each of the four matters are discussed below:

(a) Compatibility with adjoining structures

- The proposed development is located on land that is the subject of a concept approval for the delivery of sleeve development, designed to screen the adjoining shopping centre and car parking structure. Sleeve sites are smaller and narrower than conventional RFB sites, thus making it difficult to comply with the 4,000m² site requirement.
- Within the Rouse Hill Town Centre, it is not common for sites containing residential flat buildings to achieve compliance with the minimum lot size requirements. The land size and apartment density vary significantly throughout the precinct, noting the following other non-compliant examples:

Site Address	DA Number	Land Area	No. of Apartments
Cnr Caddies Blvd and White Hart Drive	385/2014/HB	3131m ²	39
Cnr Caddies and Main Street	965/2015/JP	2478m ²	94
Cnr Caddies Blvd and White Hart Drive	906/2015/JP	1888.75m ²	58

- In addition, DA No. 483/2020/JP, was recently approved for a mixed-use development located on the opposite side of White Hart Drive (Lot 129 in DP280036 Civic Way) containing 375 residential units and 2500m² of commercial/retail space within 6 towers. The land has an area of 14,980m² and is also located within the B4 Mixed Use Zone. When considered in context with the proposed development, DA No. 483/2020/JP would provide an average of 2,496m² of site area per building, which is also less than the 4,000m² lot size control.
- An existing RFB is located on the site, despite the lot size, the vacant area of the site is of a size and dimension that can suitably accommodate an additional RFB. The proposed density at the site is comparatively lower than the majority of the examples described above. In addition, although the development at the subject site is to be spread across two buildings, these buildings will contain common parking, services, and communal open space areas, meaning the required land size need not increase as a consequence of the proposed additional building, particularly noting that the site currently contains an undeveloped portion of the land that is unusual in this location.
- The land is affected by a Precinct Plan approval, DA-1581/2005. The Design Guidelines associated with DA-1581/2005 indicate that three building sites are to be provided along White Hart Drive, between Tempus Street and Civic Way. The site on the corner of Tempus Street and White Hart Drive will provide one of these building blocks. The proposal seeks to provide the remaining two buildings on the subject site, and in this sense, reduces the

extent of the non-compliance that would be anticipated by providing three individual building sites. The provision of an additional building on this lot therefore responds to the Precinct Plan

- The building has been aligned to respond to the geometry of the existing RFB. It is acknowledged there is some distinction between the aesthetic character of the existing and proposed buildings, however this is largely a consequence of the desire to implement a high-quality design on the new building.

(b) Acoustic and Visual Privacy

- The proposed development achieves appropriate levels of visual and acoustic privacy through adequate building separation to the existing RFB and the adjoining shopping centre and car park.
- The submitted Acoustic Report includes the recommended acoustic treatments to ameliorate noise impacts from the nearby road and rail noise sources.
- Suitable landscaping has been provided at the ground level to provide appropriate visual and acoustic screening to apartments from the adjoining basement car park.
- The proposal has limited west facing openings and balconies that face on to the retail car park driveway with only one apartment at each floor comprising a balcony that faces the entry driveway. These balconies have been designed to be screened from the town centre access driveway with views orientated towards White Hart Drive to minimise acoustic impacts whilst allow for solar access.
- The apartments have been designed to maximise solar amenity cross ventilation through a dual orientated design.

(c) Energy and Passive Solar Design Principles

- The proposal provides 72.73% of the living areas and private open space for apartments with 2 hours solar access during mid-winter between 9am and 3pm. Further, it is noted when including the solar access to existing apartments, the development as a whole provides 81.97% of living areas to apartments with 2 hours solar access during mid-winter between 9am and 3pm.
- The site is naturally constrained being located directly to the south of the Rouse Hill Town Centre building which overshadows the site. However, the proposal has sought to maximise solar access for apartments and key gathering areas of the communal open space.
- The design has also sought to maximise areas which can achieve solar access incorporating larger balconies, and a new roof top communal open space for both buildings.

- The proposal also provides a high level of natural cross ventilation with 82% of proposed apartments provided with natural cross ventilation and the development as a whole having 90% of apartments with natural cross ventilation.

(d) Landscaping

- The residual land subject of the proposed development currently contains limited vegetation of significance, being predominantly turfed open area with edge screen planting. The proposed landscaping scheme seeks to substantially improve the landscape setting of the site through a user orientated design which includes the planting of a medium and large sized trees and a significant number of shrubs, grasses and groundcovers, so as to provide suitable screening from the adjoining shopping centre driveway and car park.
- The proposal provides 34.9% of the site area with landscaping.

The non-compliance of 950m² is considered acceptable due to its lack of adverse impacts, and the proposed use of the site for affordable housing, a form of housing in short supply in the local area.

5. Clause 4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

In *Initial Action*, Preston CJ indicated that a consent authority only needs to be satisfied that an applicant has adequately addressed the matters within clause 4.6(3), and that, pursuant to 4.6(4)(a)(ii), the development is consistent with the objectives of the standard and consistent with the objectives of the zone. Although not strictly required, this variation has addressed the reasons that the development satisfies 4.6(4)(a)(ii).

The objectives of the B4 Mixed Use Zone are as follows:

(a) To provide a mixture of compatible land uses

The site is located within a master planned mixed use precinct. The proposal will form part of a combined affordable housing development, incorporating the existing RFB located on the site. The non-compliance is not unusual in this locality and does not impact on the mix of compatible land uses.

(b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling

The site is ideally located to encourage public transport patronage, noting the transport, leisure, entertainment, and shopping opportunities that are located a short walk from the site

(c) To encourage leisure and entertainment facilities in the major centres that generate activity throughout the day and evening.

This objective has limited application to the subject development. However, the proposed development will both increase patronage to leisure and entertainment facilities, as well as provide passive surveillance to an area where it is currently limited, thus improving the user experience associated with evening activities.

(d) To provide for high density housing that is integrated with civic spaces

The development is an appropriate response to the building siting envisioned by the concept approvals, and is ideally located for high density development. The subject land comprises a 'sleeve' site, whereby higher densities are encouraged. The proposal will provide a high-density form of residential development within a Town Centre Precinct with integrated access to civic spaces, including those located within the Rouse Hill Town Centre.

6. Summary

Having regard to relevant case law, the reasons for the variation can be summarised as follows:

- The 23.75% variation to the 4,000m² development standard will not result in any discernible impacts, noting the proposal will form part of a combined affordable housing development, incorporating the existing residential flat building located on the site.
- The proposal provides appropriate visual and acoustic privacy through appropriate building separation to the existing residential flat building, and adjoining shopping centre and car park.
- Variations to this standard are not unusual in this locality.
- There is an existing non-compliance on the site, and given the proposal will share parking, communal space, and services with the existing residential flat building, the additional building need not require an increase in land size.
- The provision of an additional building on this lot responds to the Precinct Plan.
- The size of the allotments has not precluded the provision of adequate solar amenity and cross ventilation.
- The landscaping scheme proposed would largely improve the existing landscape setting through the provisions of an increase in total landscaped area, given the inclusion of shrubs, grasses and groundcovers.
- The proposal provides a new affordable housing development with a high level of residential amenity that will make a positive contribution to the streetscape. The proposal will increase the diversity of housing resources in the locality and within the wider local government area.
- The objectives of the zone are achieved notwithstanding non-compliance with the standard;
- The proposal will not create adverse environmental effects on the use or enjoyment of adjoining properties and the public domain; and
- The proposed development will result in a positive outcome for the locality and is therefore within the public interest despite the variation to the lot size control.

This written request has demonstrated that compliance with the standard in this instance would be unnecessary and unreasonable and that there are environmental planning grounds to justify the contravention of the development standard. Given the above, it is considered that the requirements of clause 4.6 have been satisfied and that the variation to the minimum lot sizes for residential flat buildings within the B4 mixed use zone development standard can be approved.