COUNCIL ASSESSMENT REPORT

Panel Reference	**PPSSCC-199**
DA Number	DA 1057/2021/JP
LGA	The Hills Shire Council
Proposed Development	Redevelopment of existing community facility including the demolition of day program building, additions to Ross House, restoration of Box Hill House and Nelson Hall and construction of a Disability Support Centre.
Street Address	Box Hill House & McCall Gardens, 10-32 Terry Road, Box Hill
Applicant	McCall Gardens Community Foundation Limited
Consultant/s	Town Planner: DFP Planning Architect: Quattro Architecture Surveyor: Burton and Field Landscape Architect: Space landscape Designs Acoustics: Acoustic Logic Accessibility: Accessible Building Solutions Bushfire: Anderson Environmental Engineering: Indesco Quantity Surveyor: Peter Duckitt Consulting Waste: Dickens Solutions Traffic: Transport and Traffic Planning Associates Trees: Anderson Environmental Ecology: Anderson Environmental Heritage: Mackay Strategic Aboriginal Cultural Heritage: AECOM BCA: Formiga1 Site Assessment: WSP - Parsons Brinckerhoff
Date of DA lodgement	22 January 2021
Number of Submissions	1 in support
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Private Infrastructure and Community Facilities with a CIV of more than $5 million
List of all relevant s4.15(1)(a) matters	• Section 4.15 (EP&A Act) • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • State Environmental Planning Policy (Precincts – Central River City) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • Box Hill Development Control Plan 2018 • The Hills Development Control Plan 2012 • Environmental Planning and Assessment Regulation 2021
List all documents submitted with this	Clause 4.6

report for the Panel's consideration	
Clause 4.6 requests	• SEPP State Environmental Planning Policy (Precincts – Central River City) 2021 • Clause 4.3 Height of Buildings • RE2 Private Recreation and R2 Low Density Residential
Summary of key submissions	Nil (1 Submission in support)
Report prepared by	Robert Buckham – Principal Coordinator
Report date	23 August 2022 (Electronic Determination)

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	**Yes**
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? *e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*	**Yes**
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	**Yes**
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**Yes**
Conditions Have draft conditions been provided to the applicant for comment? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*	**Yes**

EXECUTIVE SUMMARY

The subject Development Application seeks approval for the redevelopment of existing community facility including the demolition of day program building, additions to Ross House, restoration of Box Hill House and Nelson Hall and construction of a Disability Support Centre.

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

- The impact on the existing heritage buildings on the site; and
- The proposed variation to Building Height.

The Development Application is accompanied by a written request to vary a development standard pursuant to Clause 4.6 of SEPP (Sydney Region Growth Centres) 2006 (refer Attachment 14). Clause 4.3 of Appendix 11 of the Growth Centres SEPP, the site has a maximum height of buildings development standard of 8.5m. The building has a maximum building of 15.35m above the existing ground level. Therefore, the proposed development exceeds the maximum height of buildings development standard by 6.85m, which is equivalent to a variation of 80.6%. The proposed variation to the height has been reviewed in context with the future surrounding development, future streetscape and character of the area. It is considered that the proposal has adequately demonstrated that the variation will not have a detrimental visual impact within the locality or on the heritage items on the site. The Clause 4.6 is supported and strict compliance with the development standard is considered unreasonable and unnecessary in the context of the proposal.

The proposed development respects the heritage significance of the heritage items on the site and will result in a positive heritage outcome for the site. As outlined in this report, the proposed development will not have any significant adverse impact on the amenity of the surrounding area and will facilitate the conservation and ongoing maintenance of Box Hill House, Nelson Hall and Ross House.

The application was advertised and notified for a period of 31 days. One submission was received in support of the application from the Hills District Historical Society.

The proposal is defined as 'Nominated Integrated Development' under the provisions of Section 4.46 of the Environmental Planning and Assessment Act 1979 as the proposal requires approval from NSW Heritage under Section 58 of the Heritage Act 1977. The proposal also requires an Integrated approval from Rural Fire Service under Section 100B of the Rural Fires Act 1997. Approval has been granted by both authorities.

The Development Application is recommended for approval.

BACKGROUND

The subject site is known as Lot 1 DP 1235252, Nos. 10 - 32 Terry Road, Box Hill. The site is located on the western side of Terry Road, approximately 550m north of Windsor Road. The site is immediately west of the future Box Hill Town Centre located at the corner of Terry Road and Masons Road. The site is irregularly shaped with a total area of approximately 35.66ha. The part of the site subject to this application has an area of 47,438m^2.

Box Hill House is an item of State heritage significance. The part of the site where the proposed development is to occur is zoned part R2 Low Density Residential, part R4 High Density Residential and part RE2 Private Recreation. The applicant calls the proposal the McCall Community Hub.

McCall Gardens has operated from the site since 1956 for the purposes of a residential care service for intellectually disabled men. Until recently men were residing on the site. Operations

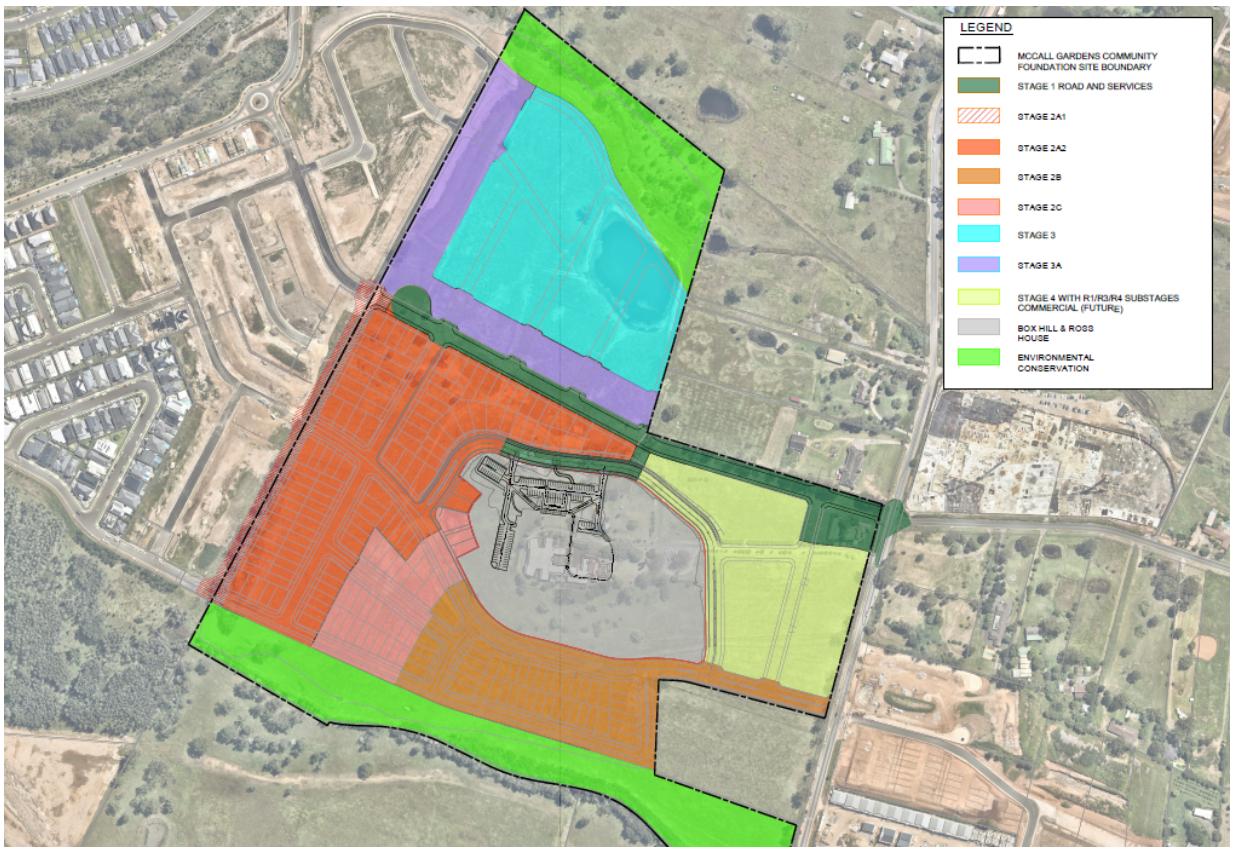
have expanded considerably to include new buildings and built improvements as well as permanent staff operating from within Box Hill House. The site today still accommodates the head office and a range of community participation venues.

On 24 April 2020, the Sydney Central City Planning Panel determined DA 1331/2017/JPZ by approving a staged concept masterplan for the subject site under Division 4.4 of the EP&A Act. The concept masterplan establishes a road pattern and heritage curtilage and guides the staged creation of the residential development. The conditions of consent approved under DA 1331/2017/JPZ were the subject of an appeal in the NSW Land and Environment Court. On 4 December 2020, the Land and Environment Court handed down a judgement issuing a Court Order, under a Section 34 Agreement.

The proposed McCall Community Hub development is confirmed to be consistent with the latest updated Staged Concept Masterplan as approved by the Court.

Development Consent 679/2021/ZB (refer Attachment 5) was issued under Delegated Authority on 18 March 2022. The consent provides for road construction including part of Gardiner Drive and Mezzomo Street that will provide vehicular access to the development as the existing access from Terry Road will be removed. A condition is recommended that required that an Occupation Certificate cannot be issued for this development before the preceding subdivision pursuant to Development Consent DA 679/2021/ZB has been registered. A modification application has been recently lodged to extend Mezzomo Street to both access points.

Staging of the existing site is outlined in the extract below. A number of applications have been determined or are under assessment to facilitate the subdivision works on the remainder of the site. The subject development site is shown grey on this extract. The general area of the development site identified by a black dashed line on Attachments 2 to 4.



DETAILS AND SUBMISSIONS

Owner:	McCall Gardens Community Foundation Limited
Zoning:	RE2 Private Recreation, R2 Low Density Residential, R4 High Density Residential
Area:	35.66ha (Development Site - 47,438m^2)
Existing Development:	McCall Gardens Facilities
Section 7.11 Contribution	$355,172.76
Exhibition:	31 days
Notice Adj Owners:	31 days
Number Advised:	31
Submissions Received:	One in support

PROPOSAL

The proposal, as amended, is summarised as the redevelopment of existing community facility including the demolition of day program building, additions to Ross House, restoration of Box Hill House and Nelson Hall and construction of a Disability Support Centre.

A summary of the proposed development comprises:

- Site remediation works;
- Demolition of existing driveway, carpark, ancillary buildings and structures and Day Program Building;
- Removal of 20 trees;
- Demolition of recent rear additions to Box Hill House;
- Site Excavation and earthworks;
- Restoration of Box Hill House and Nelson Hall for adaptive re-use
- Alterations and additions to Ross House including construction of a new two (2) storey Disability Support Centre (DSC);
- Carparking for up to 115 vehicles; and
- New landscaping including the planting of 177 new trees.

A further detailed breakdown of the works and uses proposed is outlined below;

<u>Site / External works</u>

- Remediation of areas within the McCall Community Hub will be undertaken as part of this DA. A Remediation Action Plan has been prepared. Validation reporting will be required to confirm that the site is suitable for the proposed development.
- A total of 20 trees are proposed to be removed to facilitate the works
- Retain existing driveway alignment to porte-cochere of Box Hill House;
- Relocation of five parking spaces adjacent to Nelson Hall;
- Reconfiguration of lower level on-grade parking and relocation of bin store;
- Vehicle access to the site is from Mezzomo Street via two driveways;
- New overflow carpark containing 20 spaces provided in the north-west corner of the site;
- Reduction in number of trees proposed to be removed (20 trees to be removed);
- Flagpole sandstone water trough and plaque located to the south of the swimming pool to be retained.

<u>Box Hill House</u>

The proposed works to Box Hill House comprise:

- Demolition of 1967 rear addition to Box Hill House including cool room, kitchen, store and dining room;
- Demolition of bull-nosed verandahs on northern and western elevations;
- Demolition of existing bathroom fixtures, fittings and finishes;
- Demolition of existing partition wall and kitchen joinery from meeting room;

- New fitout for accessible and ambulant bathrooms;
- New tea preparation / kitchen with staff room;
- Reinstate south-western verandah including posts, handrails, roof and other decorative details;
- Reinstate window to Office 5;
- New entry door in south-eastern corner;
- Accessibility upgrades including new threshold and step ramps at building entries; and
- Repairs to existing roof to address ongoing water ingress issues.
- Box Hill House is proposed to be used for offices.

Nelson Hall

The proposed works to Nelson Hall comprise:

- Demolition of non-original internal walls;
- Demolition of bathroom fitting, fixtures and finishes;
- Demolition of external stairs;
- Construction of new timber framed awning;
- Construction of new sandstone stairs to comply with BCA; and
- Cut in damp proof course with render below.
- The lower level of Nelson Hall is proposed to be used as a museum with the upper level to be used as a meeting room.

Rouse House – Existing Building

- The proposed works to Ross House comprise:
- Demolition of internal walls, fittings and fixtures, and stairs;
- Replacement of windows with 'like for like' to meet BCA requirements;
- Replacement of damaged roofing, fascia and gutters with new roof installed to match existing architectural style;
- New roof above gym allowing for increased ceiling heights; and New internal layout including facilities for Community Participation Programs and School Leavers Employment Support Programs, along with café and training/teaching kitchen.
- Ross House will provide facilities for the McCall Foundation to run a range of programs that cater to their clients including the Community Participation Programs and School Leavers Employment Support Programs.
- The new building is located to the north and west of the existing Ross House. The new building has been designed to seamlessly integrate with Ross House, with a new glazed link between the buildings. The northern wing of the new building contains the new administration offices for the McCall Foundation on the lower level with therapy facilities on the upper level. The western wing comprises two levels of carparking with hydrotherapy pool facility above.

Parking/Loading

A total of 116 parking spaces are proposed including 14 accessible spaces as follows:

- At-grade carpark - 55 spaces including two accessible spaces;
- Drop-off area parking and eight spaces including six accessible spaces;
- Lower deck parking – 28 spaces including four accessible spaces;
- Overflow carpaprk 20 spaces
- Box Hill House / Nelson Hall parking - Five spaces including two accessible spaces.
- A dedicated loading bay is located within the upper level of the basement carpark beneath the new building. Delivery vehicles will also be able to utilise the set-down/pick-up area. Waste collection will take place directly adjacent to the waste storage area within the

Use

The following table provides a summary of the proposed operation of the various facilities and services located within the development:

Use	Staff	Visitors / Customers / Clients	Day	Hours
<u>McCall Administration</u> Administration Support for McCall Gardens in providing disability support for individuals with disability in the Hawkesbury, Hills and Blacktown LGA. McCall provides supported independent living, specialist disability accommodation and a range of community programmes for individuals with disability.	25 staff	4 visitors	Monday to Friday: Saturday: Sunday:	7am – 6pm 9am – 5pm Closed
<u>Community Participation Programs (CPP)</u> Centre based community participation support programs and community based support programs. • Assistance with Daily Life (Core); • Assistance with Social and Community Participation (Core); • Improved Daily Living Skills (Capacity Building); • Improved Learning (Capacity Building); and • Increased Social and Community Participation (Capacity Building)	10 staff	20 visitors	Monday to Friday: Saturday: Sunday:	6am – 10pm 6am – 10pm 6am – 10pm
<u>Allied Health</u> Allied health provide a broad range of diagnostic, technical, therapeutic and direct health services to improve the health and wellbeing of clients supported by McCall Gardens	9 staff	6 visitors	Monday to Friday: Saturday: Sunday:	8am – 6pm 9am – 5pm Closed
<u>School Leavers Employment Supports (SLES)</u> SLES is a program for NDIS participants leaving school to help prepare them for the workforce.	4 staff	6 customers	Monday to Friday: Saturday: Sunday:	8am – 6pm Closed Closed
<u>Hydrotherapy and Learn to Swim</u> Programs include Hydrotherapy, Aqua Aerobics, Learn to Swim and Squad.	4 staff	Monday to Friday Max 30 children per hour Morning: 8am – 12pm Afternoons 3pm – 6pm	Monday to Friday: Saturday: Sunday:	6am – 6pm 8am – 5pm 8am – 5pm
<u>Cafe</u>	4 Staff	15 visitors	Monday to Friday: Saturday:	6am – 5pm 6am – 5pm

The café provides food and beverages primarily for staff and Clients/ Visitors during opening hours of the McCall Community Hub. The Café is also used to teach basic food preparation skills.			Sunday:	9am – 4pm
Box Hill House Commercial use	6 Staff	2 Visitors	Monday to Friday: Saturday: Sunday:	8am – 6pm 9am – 5pm Closed
Nelson Hall Museum and archive of McCall Gardens	1 Staff Part Time	By Appointment	Monday to Friday: Saturday: Sunday:	9am – 5pm Closed Closed

The proposed development is Integrated Development pursuant to Part 4 Division 4.8 of the EP&A Act as it requires the following approvals, licences, permits or permissions:

- Section 100B of the *Rural Fires Act 1997*;
- Section 58 of the *Heritage Act 1977*.

ISSUES FOR CONSIDERATION

1. State Environmental Planning Policy (Planning Systems) 2021

Part 2.4 and Schedule 6 of SEPP provides the following referral requirements to the SCCPP:-

- Private infrastructure and community facilities over $5 million.

The proposed development has a Capital Investment Value of $21,482,332 thereby requiring determination by the SCCPP.

2. Compliance with SEPP (Precincts - Central River City) 2021

Clause 3.9 of SEPP (Precincts – Central River City) 2021 reads as;

3.9 Savings provision relating to development applications lodged before commencement of State Environmental Planning Policy Amendment (Precincts) 2021

(1) A development application for development on land to which this Chapter applies must be determined as if State Environmental Planning Policy Amendment (Precincts) 2021, Schedule 2 (Precincts SEPP) had not commenced.

(2) Subsection (1) only applies to a development application that was—
- *a) lodged before the commencement of the Precincts SEPP, and*
- *b) not finally determined before the commencement of State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Savings) 2022.*

The subject development application was lodged on 22 May 2021, prior to the commencement of SEPP (Precincts – Central River City) 2021, being 1 March 2022 and is therefore required to be determined as if it had not commenced.

3. SEPP Sydney Region Growth Centres 2006

a. Permissibility

The part of the site subject to the proposed development is zoned part R2 Low Density Residential, part R4 High Density Residential and part RE2 Private Recreation. The development is defined as a 'community facility'. Community Facilities are permitted with consent in the R2 and RE2 zone.

community facility *means a building or place—*

(a) owned or controlled by a public authority or non-profit community organisation, and
(b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

The proposal meets this definition as it is owned and operated by a non-profit community organisation (registered charity) that provides a range of services to people with a disability including community programs. The proposed development will provide for upgrades to facilities that are used for the physical, social, cultural and intellectual development of the community.

Given the limitations of the definition on the community facility landuse being owned and operated by a non-profit community organisation, the application also seeks to rely on the heritage incentive provisions of Clause 5.10(10) of Appendix 11 of the Growth Centres SEPP as some of the proposed uses would ordinarily be prohibited in the zone. Clause 5.10 provides that, subject to certain matters being satisfied, a consent authority may grant consent to development on land on which a heritage item is located even though that development would otherwise be prohibited under the Growth Centres SEPP. Specifically the application use of floor space by other business as either 'offices premises' or 'business premises' in the RE2 zone and the café (food and drink premises), office premise and indoor pool (recreation facility) in the R2 zone. This is addressed further below in Section 3(d) of this report.

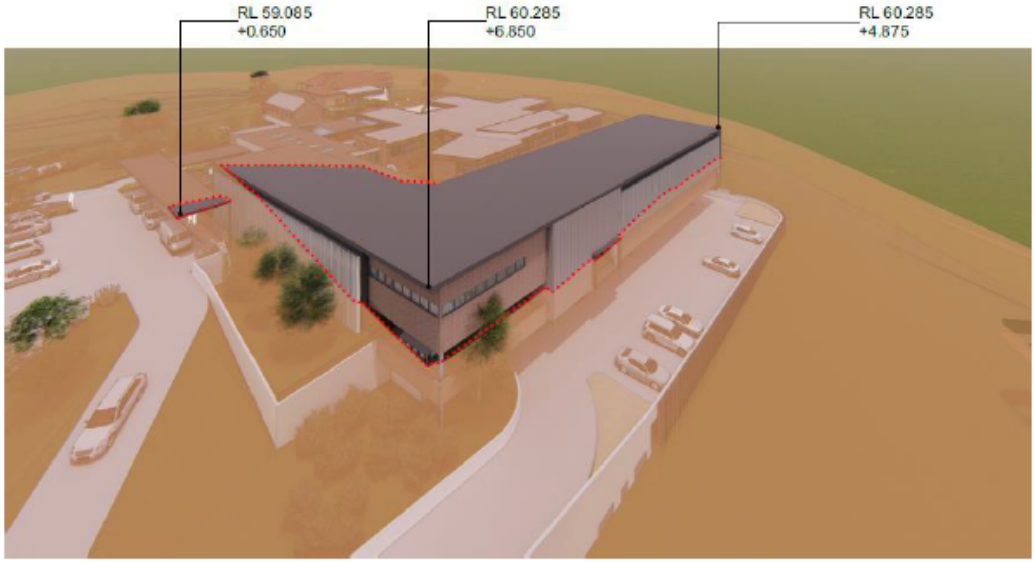
b. Development Standards

The following table addresses the principal development standards of the Hills LEP 2019:

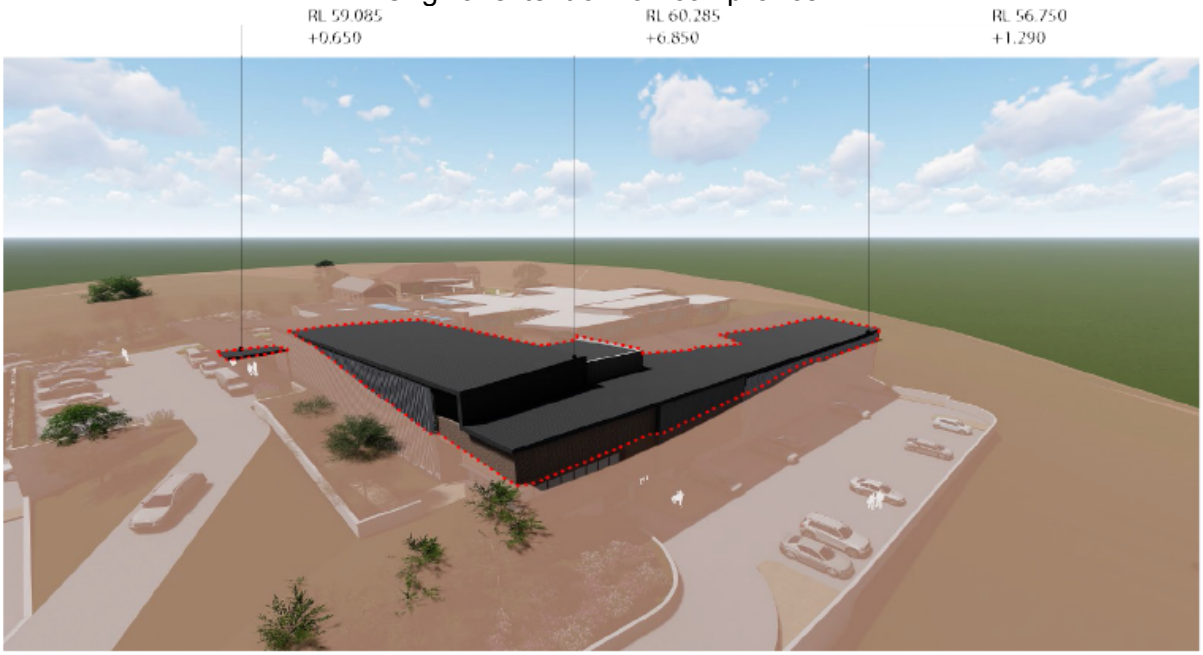
CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height of buildings	8.5 metres	The maximum building height for the development is 15.35 metres.	No. Clause 4.6 Variation Request.

c. Variation to Height

Clause 4.3 of Appendix 11 of the Growth Centres SEPP prescribes a maximum height of buildings development standard for part of the site affected by the proposed development of 8.5m. The building has a maximum building of 15.35m above the existing ground level. Therefore, the proposed development exceeds the maximum height of buildings development standard by 6.85m, which is equivalent to a variation of 80.6%. Following initial feedback during the SCCPP briefing, the applicant sought to reduce the bulk and scale of the building to limit the impact of the height non-compliance. The extracts below details the changes to the built form.



Original extent of non-compliance



Amended extent of non-compliance

Clause 4.6 Exceptions to Development Standards states:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

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

(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 Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning 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 Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation 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.

The applicant has submitted a Clause 4.6 Variation (see Attachment 14) and is summarised as follows:

- The upper level of the new accommodation maintains the existing ground floor level and places the remainder underneath into the steep site slope;
- The proposed building is at a significant distance from future residential development;
- The proposed development is unlikely to result in any adverse amenity impacts including acoustic impacts, overshadowing and overlooking;
- Positive heritage conservation outcomes through siting of the proposed development and facilitation of conservation works to Box Hill House and Nelson Hall; and
- The proposal provides for upgrade and expansion of a long standing and significant community facility.

Comment:
The objectives of Clause 4.3 Height of Building of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 are as follows:

(a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct,
(b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,
(c) to facilitate higher density development in and around commercial centres and major transport routes.

The bulk and scale of the proposed development is considered to be appropriate for the intended character of the area given the planning controls in place. The proposed variation to the height has been reviewed in context with the future surrounding development, future streetscape and character of the area. It is considered that the proposal has adequately demonstrated that the variation will not have a detrimental visual impact within the locality or on the heritage items on the site.

The applicant's Clause 4.6 Variation request is well founded and the proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Buildings the RE2 Private Recreation and R2 Low Density Residential zone objectives.

Specifically in relation to judgments of the Land and Environment Court, for the reasons identified above it is considered that:

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Buildings the RE2 Private Recreation and R2 Low Density Residential zone objectives; and
- Compliance with the standard is unnecessary or unreasonable in this instance.

In accordance with the Departments Circular PS 08-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

In view of the above, the proposed height is considered satisfactory and can be supported in this instance.

d. Heritage

The site is identified on the State Heritage Register and under Schedule 5 of Appendix 11 of the Growth Centres SEPP. Accordingly pursuant to the requirements of clauses 5.10(4) and 5.10(6) of Appendix 11 of the Growth Centres SEPP, a HIS has been prepared by Mackay Strategic that provides an assessment of the impacts of the proposed development on the significance of the heritage item. The HIS includes an assessment against the relevant provisions of the Growth Centres SEPP.

Clause 5.10(10) of Appendix 11 of the Growth Centres SEPP which states:

*(10) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Precinct Plan, if the consent authority is satisfied that—*

(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and

(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

The proposal will facilitate the conservation and ongoing maintenance of Box Hill House, Nelson Hall and Ross House including significant restoration and reconstruction of Box Hill House and Nelson Hall.
The works have been assessed against the policies outlined in the Conservation Management Plans endorsed by Heritage NSW in the General Terms of Approval. The proposed development respects the heritage significance of the State heritage item and will result in a positive heritage outcome for the site. As outlined in this report, the proposed development will not have any significant adverse impact on the amenity of the surround area.

The development and uses will facilitate the conservation and ongoing maintenance of Box Hill House, Nelson Hall and Ross House. The proposed development will ensure the continued viability of the use of the complex of buildings to provide a range of community programmes and services.

e. Public Utility Infrastructure

Clause 6.1(1) states the following:

(1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

Clause 6.1 of the SEPP defines public utility infrastructure as any of the following:
- the supply of water,
- the supply of electricity,
- the disposal and management of sewage.

The applicant has obtained advice that the provision of these services to the development. The proposal is satisfactory with respect to Clause 6.1 of the SEPP.

4. State Environmental Planning Policy (Resilience and Hazards) 2021 - (*Formerly State Environmental Planning Policy No. 55 Remediation of Land)*

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

Clause 4.6 of the SEPP states:-

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

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

A Sampling Analysis and Quality Plan, Stage 1 Preliminary Site Investigation and Stage 2 Detailed Site Investigation and Remediation Action Plan were carried out over the site in accordance with the relevant guidelines.

Five (5) areas of impact requiring remediation were identified, as follows:

- *Remediation Area 1: An area of buried waste materials in the western part of the site was found to be impacted with polycyclic aromatic hydrocarbons (PAHs), asbestos and microbiological contaminants. The volume of impacted material in this area was estimated to be 9,950 m3.*
- *Remediation Area 2: An area of surficial debris and rubble to the north of the on-site dam was found to be impacted by asbestos. The volume of impacted material in this area was estimated to be 260 m3.*
- *Remediation Area 3: A localised hot spot of lead impact was found around DSI test pit location TP77. A fragment of asbestos containing material (ACM) was also observed in this location. The volume of impacted material in this area was estimated to be 7.5 m3.*
- *Remediation Area 4: An underground storage tank (UST) and associated underground infrastructure historically used to store fuel is present in the central area of the site, requiring removal as part of the remediation works. No impacted soil was identified in this area during the DSI, although there is considered to be the potential for minor amounts of impacted soil to be present immediately surrounding the infrastructure.*
- *Remediation Area 5: ACM pipe present from the dam in the north of the site.*
- *Remediation Area 6: A fragment of ACM was observed on the site surface near the main building complex (in DSI sampling location HA32). This impact was surficial and associated with weathering of the site buildings.*

Remediation Areas 3, 4 and 6 are located within the site of the proposed McCall Community Hub. Remediation Area 1 is partially located within the site of the McCall Community Hub.

The RAP provided a detailed analysis of the remediation options for the site. The preferred remediation options for Areas 1, 3, 4 and 6 are as follows:

- Remediation Areas 1 and 3: Excavation and off-site disposal of contaminated soil;
- Remediation Area 4: Off-site disposal of UST, all associated infrastructure and any contents. Any surrounding soil found to be contaminated following validation will be excavated and disposed of off-site; and
- Remediation Area 6: No remediation requirement as associated within the existing buildings.

No objection is raised subject to the recommendations of the Combined State 1 and 2 Detailed Site Investigation and Report prepared by WSP Parsons Brinckerhoff, referenced as Project No. 2270171A-CLM-REP-002 RevC.docx, dated December 2016 and the Remediation Action Plan prepared by WSP Parsons Brinckerhoff, referenced as Project No. 2270171A-CLM-REP-003 RevD, dated August 2018 as captured by the recommended conditions of consent.

5. State Environmental Planning Policy (Biodiversity and Conservation) 2021 – *(Formerly Sydney Region Environmental Plan No. 20 (Hawkesbury-Nepean River) No. 2 – 1997)*

The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The development is unlikely to have detrimental impacts on the health of the environment of the Hawkesbury and Nepean River system.

6. Compliance with Box Hill Development Control Plan 2018

The proposed development has been assessed against the development controls of the Box Hill Development Control Plan including those summarised below.

DCP REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
2.2 Indicative Layout Plan All development is to be undertaken generally in accordance with the Indicative Layout Plan subject to compliance with the objectives and development controls set out in this DCP.	The proposed development is generally consistent with the Indicative Layout Plan (ILP) for Box Hill. The proposed development includes restoration and conservation works to Box Hill House, Nelson Hall and Ross House.	Yes
7.1 Stormwater Management All development proposals are to provide for integrated stormwater management measures in accordance with the publication "Box Hill and Box Hill Industrial Precincts - Water Cycle Management Strategy Report"	Stormwater Management measures have been incorporated to manage stormwater runoff associated with the proposed development.	Yes
7.3 European Heritage Development on land within 50 metres of a heritage site is not to detract from the identified significance of the place, its setting, nor obstruct important views to and from the site. New structures proposed on land adjoining a heritage building should be of similar scale and proportions to the heritage building. Where development is proposed within 50 metres of a heritage site, the following matters must be taken into consideration: - the character, siting, bulk, height and external appearance of the development; - the visual relationship between the proposed development and the heritage site; - the potential for overshadowing of the heritage site;	Box Hill House is identified as an item on State Heritage Register. A detailed assessment of the impacts of the proposed development on the heritage significance of the item	Yes

DCP REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
- the colours and textures of materials proposed to be used in the development; - the landscaping and fencing of the proposed development; - the location of car parking spaces and access ways into the development; - the impact of any proposed advertising signs or structures; - the maintenance of the existing streetscape, where the particular streetscape has particular significance to the heritage site; - the impact the proposed use would have on the amenity of the heritage site; and - the effect the construction phase will have on a heritage building.		
7.4 Bush Fire Hazard Management	The development is located more than 140m from the bush fire hazard. This area is to be maintained as an Inner Protection Area in perpetuity. The proposed McCall Community Hub will meet the relevant requirements under Planning for Bushfire Protection 2019 and Australian Standard AS 3959: 2009. Approval has also been granted by the RFS.	Yes
7.5 Tree and Bushland Protection	A total of 20 trees are proposed to be removed. All other trees on site will be protected.	Yes
7.6 Contamination Management	A Stage 1/Stage 2 DSI and RAP have been. These reports address the provisions of SEPP 55 and Section 7.6 of the DCP.	Yes
7.9 Cut and Fill Fill will only be permitted in the designated areas shown in Figure 51 and Section 7 of this DCP for the floodplain A cut and fill works shall be in accordance with Council's Design Guidelines Subdivisions/ Developments and Works Specification Subdivisions/ Developments	The proposed development includes 2,780m^3 of cut and 9,390m^3 of fill. The impacts associated with the earthworks have been considered in the assessment.	Yes

DCP REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
Embankment batters and retaining walls are to be landscaped to reduce erosion and provide a suitable screen. They should be vegetated preferably with native ground covers and small native trees with mature height of up to 10 m.		
8.1.7 Box Hill House Development within the Box Hill House State Heritage Register curtilage should be in accordance with the requirements of the NSW Heritage Act 1977 and will require concurrent approval of the Heritage Council. Additionally, development should take into account the heritage provisions of the Growth Centres SEPP. Development within the State Heritage Register curtilage and the Precinct Plan Control Area (Figure 70) should be accompanied by a Heritage Impact Statement as described in Table 2 to address the significance of the House. The following matters must be considered in the Heritage Impact Statement: - The character, siting, bulk, height and external appearance of the development; - The visual relationship between the proposed development and Box Hill House; - The colours and textures of materials proposed to be used in the development; - The landscaping and fencing of the proposed development; - The location of car parking spaces and access ways into the development; - The impact of any proposed advertising signs or structures; and - The impact the proposed use would have on the amenity of Box Hill House. Development within the Precinct Plan Control Area should respect the character of Box Hill House in accordance with the general principles of the height limitations in Figure 71 and the Height of Buildings map in the Growth Centres SEPP. The visual impact of structures within the Precinct Plan Control Area should be minimised through appropriate siting, landscaping and use of materials. Roof and wall colours are to be selected from the colour pallet in Appendix C. Prior to development within the Precinct Plan Control Area, archival recording should be undertaken to capture the current views and landscape setting. The recording must be in accordance with the guidelines issued by Heritage Branch, Department of Planning &	A HIS has been prepared by a suitably qualified heritage consultant that assesses the impacts of the development on the State significance of the item; The proposed development will provide an overall positive heritage outcome resulting in the conservation of Box Hill House Amendments were made to the additions to Ross House which reduced the bulk and scale of the development. General Terms of Approval were provided by Heritage NSW.	Yes

DCP REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
Infrastructure How to prepare archival records (Heritage Office 1998) and Photographic Recording of Heritage Items using Film or Digital Capture (Heritage Office 2006).		

7. Compliance with The Hills Development Control Plan 2012

The proposal has been assessed against the provisions of The Hills Development Control Plan 2012 and the following addresses the relevant development controls of the DCP:

- Part C Section 1 – Parking
- Part C Section 3 – Landscaping

Table 1 of Part C Section 1 - Parking does not identify any specific parking rates for the proposed type of development. A total of 118 spaces are provided for the proposed development, which is considered to be appropriate for the number of staff and visitors using the facility. Landscape plans have been prepared to address Part C Section 3 of The Hills DCP and are considered satisfactory.

8. Heritage Act 1977

The *Heritage Act 1977* contains provisions relating to the protection of items of heritage significance. Section 58 of the Heritage Act requires that approval from the Heritage Council of NSW is obtained prior to undertaking any development likely to have an impact on an item listed on the State Heritage Register. The site is identified as an item of State heritage significance (SHR 00613) on the State Heritage Register

General Terms of Approval were issued by Heritage NSW and are included at Attachment 12.

9. Rural Fires Act 1997

The proposed development is for a community facility on a site that contains bush fire prone land. Section 100B of the Rural Fires Act 1997, in conjunction with section 4.14 of the EP&A Act, requires a 'bushfire safety authority' to be issued for development of bush fire prone land for a special fire protection purpose. A "respite care centre, or similar centre, that accommodates persons with a physical or mental disability or provides respite for carers of such persons" is identified as special fire protection purpose.

A Preliminary Bush Fire Hazard Assessment has been prepared by Anderson Environmental that includes an assessment against the relevant provisions of Planning of Bush Fire Protection 2019.

A Bushfire Authority was granted by the Rural Fire Service and is included at Attachment 13.

10. Internal Referrals

The application was referred to the following sections of Council:

- Engineering
- Environmental Health
- Landscaping
- Resource Recovery

- Development Contributions
- Fire Safety
- Heritage

No objections are raised to the proposal subject to conditions.

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, SEPP Sydney Region Growth Centres 2006, Box Hill Development Control Plan 2018 and The Hills Development Control Plan 2012 and is considered satisfactory.

The Development Application is accompanied by a written request to vary a development standard pursuant to Clause 4.6 of SEPP (Sydney Region Growth Centres) 2006 (refer Attachment 14) .Clause 4.3 of Appendix 11 of the Growth Centres SEPP, the site has a maximum height of buildings development standard of 8.5m. The building has a maximum building of 15.35m above the existing ground level. Therefore, the proposed development exceeds the maximum height of buildings development standard by 6.85m, which is equivalent to a variation of 80.6%. It is considered that the proposal has adequately demonstrated that the variation will not have a detrimental visual impact within the locality or on the heritage items on the site and the variation can be supported.

Approval is recommended subject to conditions.

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within “Hills 2026 – Looking Towards the Future” as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

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

JOB No.	DRAWING NO.	DESCRIPTION SHEET	REVISION	DATE
19-0526	DA-A-000	Cover Page	4	28/04/2022
19-0526	DA-A-025	Staging Plan	3	28/04/2022
19-0526	DA-A-030	Site Demolition Plan	4	28/04/2022

19-0526	DA-A-031	Nelson Hall Modification Plan	3	28/04/2022
19-0526	DA-A-032	Box Hill House Demolition Plan	3	28/04/2022
19-0526	DA-A-033	Box Hill House Proposed Plan	3	28/04/2022
19-0526	DA-A-034	Box Hill House Proposed Elevation	3	28/04/2022
19-0526	DA-A-035	Box Hill House Proposed Work	3	28/04/2022
19-0526	DA-A-036	Ross House Lower Ground Demolition	C	28/04/2022
19-0526	DA-A-037	Ross House Upper Ground Demolition	3	28/04/2022
19-0526	DA-A-038	Ross House Demolition Elevation	3	28/04/2022
19-0526	DA-A-040	Ground Disturbance Plan	3	28/04/2022
19-0526	DA-A-050	Site Plan	6	28/04/2022
19-0526	DA-A-055	Surface Parking Details	5	28/04/2022
19-0526	DA-A-099	Basement Plan	7	28/04/2022
19-0526	DA-A-100	Lower Ground Plan	7	28/04/2022
19-0526	DA-A-101	Upper Ground Plan	7	28/04/2022
19-0526	DA-A-102	Roof Plan	6	28/04/2022
19-0526	DA-A-150	Detail Plans Sheet 1	5	28/04/2022
19-0526	DA-A-151	Detail Plans Sheet 2	3	28/04/2022
19-0526	DA-A-152	Detail Plans Sheet 3	5	28/04/2022
19-0526	DA-A-153	Detail Plans Sheet 4	C	28/04/2022
19-0526	DA-A-154	Detail Plans Sheet 5	5	28/04/2022
19-0526	DA-A-200	Elevations Sheet 1	7	28/04/2022
19-0526	DA-A-250	Sections Sheet 1	5	28/04/2022
19-0526	DA-A1000	External Finishes	3	28/04/2022
201785	L-000	Landscape Master Plan	M	05/05/2022
201785	L-010	Carpark Landscape Plan	J	05/05/2022
201785	L-020	Basement Landscape Plan	J	05/05/2022
201785	L-030	Lower Ground Landscape Plan	I	05/05/2022
201785	L-040	Upper Ground Landscape Plan	K	05/05/2022
201785	L-050	Details and Specifications	F	05/05/2022

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. Compliance with Department of Heritage NSW Requirements

Compliance with the requirements of heritage NSW attached as Appendix A to this consent and dated 14 June 2022.

3. Compliance with NSW Rural Fire Service Requirements

Compliance with the requirements of the NSW Rural Fire Service attached as Appendix B to this consent and dated 6 April 2021.

4. Tree Removal
Approval is granted for the removal of twenty-three (23) trees located and numbered 1, 3, and 40-60 within Appendix C – Tree Numbering plan of the Arboriculture Impact Assessment prepared by Australis dated 26/04/2022.

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

5. Planting Requirements
All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m^2.

6. Retention of Trees
All trees not specifically identified in the Arboriculture Assessment Report for removal are to be retained Tree Protection Measures to be carried out in accordance with the Arboriculture Impact Assessment prepared by Australis dated 26/04/2022 including the following chapters:

- 9.6 Project Arborist Monitoring
- 9.7 Project Arborist Supervision
- 9.8 Project Arborist Hold Points

7. Provision of Parking Spaces
The development is required to be provided with 116 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

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

9. 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.

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

The following must be provided:

- Vehicular Access to the development will not be allowed from Terry Road, it must be from the Mezzimo Street that is subject to completion under the preceding DA 679/2021/ZB.
- The driveway profiles must be confirmed the consistency of the Mezzimo Street.

- The proposed use of existing driveways in their current condition will not be supported.
- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

11. Security Bond Requirements

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

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

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

12. 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.

13. 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.

14. Acoustic Requirements

The recommendations found in Section 5.4 of the Acoustic Assessment and Report prepared by Acoustic Logic Pty Ltd, referenced as 20201061.1/2408A/R1/WY, dated 24 August 2021 and submitted as part of the Development Application are to be implemented as part of this approval.

15. Contamination Assessment & Site Remediation

The recommendations of the Combined Stage 1 and 2 Detailed Site Investigation and Report prepared by WSP Parsons Brinckerhoff, referenced as Project No. 2270171A-CLM-REP-002 RevC.docx, dated December 2016 and the Remediation Action Plan prepared by WSP Parsons Brinckerhoff, referenced as Project No. 2270171A-CLM-REP-003 RevD, dated August 2018 and submitted as part of the Development Application are to be implemented as part of this approval.

There is to be no disposal of contaminated soil, soil for which the contamination status is unknown or waste materials on land or under roads either private or roads that will become public land under the control of Council.

Any inconsistencies between the accepted RAP and this condition, this condition takes precedence.

16. 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.

17. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2-2002 for the standard 8.8m long Medium Rigid Vehicle (minimum 3.5m clear vertical clearance exception). The following requirements must also be satisfied.

- All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 3.5m. Any nearby areas where the clear headroom is less than 3.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.
- All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
- Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
- The requirement for reversing on site must be limited to a single reverse entry into the designated waste service bay (typical three point turn).
- The designated waste service bay must allow additional space servicing of bins (wheeling bulk bins to the back of the waste collection vehicle for rear load collection).
- The loading area must have a sufficient level of lighting and have appropriate signage such as “waste collection loading zone”, “keep clear at all times” and “no parking at any time”.

18. Commercial Waste and Recycling Collection Contract

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

19. Management of Construction and/or Demolition Waste

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring

public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place.

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

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

20. 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 2 x 1100 litre garbage and 6 x 240 litre recycle bins.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins as specified above.
- The layout of the waste storage area must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage area must be constructed of brickwork.
- The floor of the waste storage area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage area must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).
- All doors of the waste storage area, when fully opened, must be flush with the outside walls and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The waste storage area must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- The waste storage area must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area, it is not to conflict with the space designated for the placement of bins.
- The waste storage area must be provided with internal lighting such as automatic sensor lights.

- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage area must have appropriate signage (EPA approved designs can be found on the NSW EPA website) mounted in a visible location on internal walls and are to be permanently maintained by Owners corporation
- Finishes and colours of the waste storage area are to complement the design of the development.

Example Bin Measurements (mm)

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

21. Clause 94 – Consent Authority may Require Buildings to be Upgraded

Pursuant to Clause 94 of the Environmental Planning & Assessment Regulation 2000, the following upgrades must be undertaken with the construction certificate works and must be completed prior to an occupation certificate being issued:

Ross House

i. The existing building is to be upgraded to resist load & actions to which it may reasonably be subjected appropriate to BP1.1 & BP1.2 of the BCA.
ii. Existing glazing in the premises is to be upgraded so as to be suitable to avoid injury to occupants in accordance with BP1.3 of the BCA.
iii. Existing building elements are to be upgraded to be capable of maintaining structural stability during a fire and to avoid fire spread, appropriate to CP1 & CP2 of the BCA.
iv. The existing hose reel system is to be upgraded, appropriate to EP1.1 of the BCA, to ensure the following:
    a. Hose reels are sited at locations which are at appropriate distances to required exits, which will allow occupants to safely undertake initial attack on a fire.
    b. Coverage to the premises is adequate, taking into consideration the location of reels and the storeys they serve.
    c. Pressures and flows for the system are bought into conformity with current standards.
v. Emergency lighting is to be upgraded to provide a safe level of illumination during an emergency appropriate to EP4.1 of the BCA.
vi. Exit signage is to be upgraded to facilitate evacuation appropriate to EP4.2 of the BCA.
vii. A fire hydrant system is to be provided to satisfy the needs of the fire brigade appropriate to EP1.3 of the BCA.
viii. The existing premises is to be upgraded to ensure the affected parts are accessible, have accessways and have suitable facilities, appropriate to DP1, DP2, DP8 and FP2.1 of the BCA.
ix. Existing stairways are to be upgraded to provide safe movement and adequate egress in the building appropriate to DP2, DP4 & EP2.2 of the BCA.
x. A review of enclosures under existing stairways is to be undertaken to ensure the enclosing walls, doors and ceilings have the appropriate elements to restrict fire spread and permit safe egress appropriate to CP2, DP4 & EP2.2 of the BCA.
xi. Required balustrades and handrails are to be upgraded appropriate to DP2, DP3 & EP2.2 of the BCA.
xii. A review of smoke hazard management is to be undertaken to determine if any systems are required to be installed to ensure conditions in any evacuation route will remain tenable appropriate to EP2.2 of the BCA.
xiii. Existing penetrations through building elements which are required to have a fire resistance level with respect to integrity or insulation are to be upgraded and protected appropriate to CP8 of the BCA.

xiv. A review of arrangements for egress is to be undertaken to ensure occupants evacuate safely, with sufficient exits being provided, adequate widths of paths of travel, adequate widths through doorways, and connection to a public road, appropriate to DP4 and EP2.2 of the BCA.
xv. Existing openings in external walls between storeys is to be provided to the degree necessary in order to restrict fire spread, appropriate to CP2 of the BCA.
xvi. Existing external walls are to be reviewed and are to be upgraded where combustible elements are present, appropriate to CP1 & CP2 of the BCA.
xvii. Electricity meters, electrical distribution boards or ducts in a path of travel to an exit are to be protected by non-combustible construction or fire protective covering, with doorways or openings suitably smoke sealed.

Nelson Hall

i. The existing slab and external walls are to be upgraded to ensure the prevention of ground moisture rising through the slab, provision of a damp proof course to prevent moisture rising through walls, prevention of surface water entering the building & prevention of water penetrating the external walls, appropriate to FP1.2, FP1.4 & FP1.5 of the BCA.
ii. Existing stairways are to be upgraded to provide safe movement and adequate egress in the building appropriate to DP2, DP4 & EP2.2 of the BCA.
iii. Required balustrades and handrails are to be upgraded appropriate to DP2, DP3 & EP2.2 of the BCA.
iv. Existing door latches to required exits are be upgraded in accordance with the D2.21 of the BCA

22. Irrigation
An automatic watering system is to be installed to all garden beds. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or Private Certifier prior to issue of the construction certificate.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

23. Special Infrastructure Contribution – Growth Centres
A special infrastructure contribution is to be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011, as in force when this consent becomes operative.

Information about the special infrastructure contribution can be found on the Department of Planning and Environment website:

http://www.planning.nsw.gov.au/

Please contact the Department of Planning and Environment regarding arrangements for the making of a payment.

24. 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:-

Development Category	***Rate per M² of Floor Space: 3112.70***		***Total S7.11***	
Transport Facilities - Land	$	12.68	***$***	***39,463.85***
Transport Facilities - Capital	$	72.87	***$***	***226,813.96***
Administration	$	1.08	***$***	***3,377.12***
Water Management - Land (KCP)	$	13.29	***$***	***41,369.05***
Water Management - Capital (KCP)	$	14.18	***$***	***44,148.79***
Total	**$**	**114.10**	**$**	**355,172.76**

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 0555.

As per Council's exhibited Fees and Charges effective from 1 July 2022, **Council will no longer accept payments by cash or by cheque**. Payments will be accepted via Debit or Credit Card or Direct Debit from a bank account.

This condition has been imposed in accordance with Contributions Plan No 15.

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.

25. Notice of Requirements

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

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

26. Engineering Works

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

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

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

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

The Concept Civil Engineering Design prepared by Indesco dated April 2022 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Stormwater Management – Temporary Management

The development relies on a Temporary Onsite Detention and Treatment basin to be constructed at the north-eastern corner of the site pursuant to the DA 679/2021/ZB.

Stormwater from the development must be directed to the above basin as shown on the post development catchment plan 7784-DA drawing no. 140 Revision C attached to the civil concept plan.

Occupation certificate for any part of the development should not be issued prior to completion of this temporary basin unless Council's regional basin is completed.

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) Service Conduits

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

d) Stormwater Drainage

Tail out drains over adjoining properties are required to be provided, where necessary, of sufficient length and width to dissipate stormwater flows to an acceptable level from the end of all stormwater outlets.

Grassed swale drains or temporary piped drainage must be installed to intercept, control and redirect surface stormwater runoff from upstream undeveloped properties.

e) Stormwater Drainage – Creek Outlets

Piped stormwater outlets/ connections to a natural watercourse must comply with the requirements of Council, the Natural Resources Access Regulator (even where the receiving waterbody is not a natural watercourse) and Sydney Water, in the case of stormwater management land.

f) Water Sensitive Urban Design Elements

Water sensitive urban design elements including rainwater tanks and treatment measures are to be located generally in accordance with the civil plans and information submitted with the application.

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

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

All model parameters and data outputs are to be provided.

27. Landscape Plan

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

The plan must provide:

a) Additional dense landscaping which effectively screens the high terraced retaining walls surrounding the Overflow Parking area. This is to include a wide garden bed at the base of the first retaining wall to screen the first retaining wall from the Mezzomo Street. Retaining wall height is to inform the proposed plant selection; and

b) Landscape materials are to be indicated and detailed for all paths and hardstand surfaces surrounding Box Hill House, including those leading to the Heritage Garden, and Nelson Hall. Heritage advice is to be sought to ensure that materials proposed are to be sympathetic to the age of the heritage item; and

c) Details of the Accessible Park, including features, materials, colours etc. Heritage advice is to be sought to ensure that materials proposed are to be sympathetic to and do not detract from the heritage item.

28. 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

29. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. The location of fencing shall be per the Tree Protection Plan prepared by Australis dated 26/04/2022.

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

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

Fencing must be in place prior to works commencing (including demolition).

No fence relocation is permitted without Project Arborist supervision.

30. Tree Protection Signage

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

31. Mulching within Tree Protection Zone

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

32. Trenching within Tree Protection Zone

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

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

33. 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.

34. 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.

35. 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.

36. Consultation with Service Authorities

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

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

37. 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.

38. Details and Signage - Principal Contractor and Principal Certifier

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

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

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

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

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

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

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

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

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

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. Demolition Works and Asbestos Management

The demolition of any structure is to be carried out in accordance with the Work Health and Safety Act 2011. All vehicles transporting demolition materials offsite are to have covered loads and are not to track any soil or waste materials on the road. Should demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoard or fence. All demolition works involving the removal and disposal of asbestos must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the SafeWork NSW, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

DURING CONSTRUCTION

44. 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.

45. 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.

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

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

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

47. Stockpiles

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

48. Asbestos Removal

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

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

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

49. 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.

50. Project Arborist

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

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

51. Construction and Fit-out of Food Premises

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

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

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

52. 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 AND/OR SUBDIVISION CERTIFICATE

53. 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 (pursuant to Condition 27 of this consent) 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.

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Development and Plumbing section of the web site www.sydneywater.com.au and then refer to Water Servicing Co-ordinator under "Developing Your Land" or telephone 13 20 92 for assistance.

55. Provision of Electricity Services
Submission of a compliance certificate from the relevant service provider confirming satisfactory arrangements have been made for the provision of electricity services. This includes undergrounding of existing and proposed services where directed by Council or the relevant service provider.

56. Provision of Telecommunications Services
The submission of a compliance certificate from the relevant telecommunications provider, authorised under the Telecommunications Act confirming satisfactory arrangements have been made for the provision of, or relocation of, telecommunication services including telecommunications cables and associated infrastructure. This includes undergrounding of aerial telecommunications lines and cables where required by the relevant telecommunications carrier.

57. 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.

58. 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.

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

- Works as executed plans prepared on a copy of the approved plans;
- Records of inspections; and
- An approved operations and maintenance plan.

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

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

a) Restriction – Restricted Access

The subject site must be burdened with a restriction precluding access to Terry Road using the "restricted access" terms included in the standard recitals.

b) Restriction/ Positive Covenant – Water Sensitive Urban Design

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

c) Positive Covenant – Stormwater Pump

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

61. Registration of Preceding Subdivision

An Occupation Certificate cannot be issued for this development before the preceding subdivision pursuant to Development Consent DA 679/2021/ZB has been registered.

62. Validation report

A validation report shall be submitted to Council's Manager – Environment and Health and the Certifying Authority (if not Council). The validation report must include the following:

- The degree of contamination originally present;
- The type of remediation that has been completed; and
- A statement which clearly confirms that the land is suitable for the proposed use.

63. Food shop registration requirements

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

64. Acoustic Compliance Report

The acoustic consultant shall inspect the installation of the required noise suppressant components and other physical noise attenuation recommendations in the report titled DA Acoustic Assessment prepared by Acoustic Logic dated 7 October 2020. Certification is to be provided to the certifying authority prior to the issue of an Occupation Certificate.

65. Clearance Certificate

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

66. Public Pool/Spa Registration

The premise is to be registered with Council by completing and submitting a *Registration of Public Swimming and Spa Pools,* available on Council's website www.thehills.nsw.gov.au.

THE USE OF THE SITE

67. Schedule of Uses (Hours of Operation)

Activities are to be carried out in accordance with the following schedule:

Use	Staff	Visitors / Customers / Clients	Day	Hours
McCall Administration Administration Support for McCall Gardens in providing disability support for individuals with disability in the Hawkesbury, Hills and Blacktown LGA. Today McCall provides supported independent living, specialist disability accommodation and a range of	25 staff	4 visitors	Monday to Friday: Saturday: Sunday:	 7am – 6pm 9am – 5pm Closed

community programmes for individuals with disability.				
<u>Community Participation Programs (CPP)</u> Centre based community participation support programs and community based support programs. • Assistance with Daily Life (Core); • Assistance with Social and Community Participation (Core); • Improved Daily Living Skills (Capacity Building); • Improved Learning (Capacity Building); and • Increased Social and Community Participation (Capacity Building)	10 staff	20 visitors	Monday to Friday: Saturday: Sunday:	 6am – 10pm 6am – 10pm 6am – 10pm
<u>Allied Health</u> Allied health professionals provide a broad range of diagnostic, technical, therapeutic and direct health services to improve the health and wellbeing of clients supported by McCall Gardens	9 staff	6 visitors	Monday to Friday: Saturday: Sunday:	 8am – 6pm 9am – 5pm Closed
<u>School Leavers Employment Supports (SLES)</u> SLES is a program for NDIS participants leaving school to help you prepare for the workforce The SLES program is set up to support you in a way that ensures your individual support needs and unique skill sets are recognised. We tailor a package of living skills, job site training, foundation skills, personal development and pre-employment training all designed to help you build your ability and confidence to meet your employment goals.	4 staff	6 customers	Monday to Friday: Saturday: Sunday:	 8am – 6pm Closed Closed
<u>Hydrotherapy and Learn to Swim</u> The Facility is intended to host a number of programs lead by qualified staff that teach skills for life, from beginners right through to the elderly. Programs include Hydrotherapy, Aqua Aerobics, Learn to Swim & Squad	4 staff	Monday to Friday Max 30 children per hour Morning: 8am – 12pm Afternoons 3pm – 6pm	Monday to Friday: Saturday: Sunday:	 6am – 6pm 8am – 5pm 8am – 5pm
<u>Cafe</u> The café provides food and beverages primarily for staff and Clients/ Visitors	4 Staff	15 visitors	Monday to Friday: Saturday:	 6am – 5pm 6am – 5pm

during opening hours of the McCalls Community Hub. The Café is also used to teach basic food preparation skills			Sunday:	9am – 4pm
Box Hill House Like Minded Organization to McCall Gardens	6 Staff	2 Visitors	Monday to Friday: Saturday: Sunday:	8am – 6pm 9am – 5pm Closed
Nelson Hall Museum and archive of McCall Gardens	1 Staff Part Time	By Appointment	Monday to Friday: Saturday: Sunday:	9am – 5pm Closed Closed

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

68. 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*.

69. 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.*

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

The collection of waste and the delivery of goods shall be restricted to the following times;

Monday to Saturday – 7.00am to 8.00pm

Sunday and public holidays – 8.00am – 8.00pm

71. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the use of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area, which must include provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. All waste storage areas must be screened from view from any adjoining residential property or public place. Under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided onsite. 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.

72. Waste and Recycling Collection

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

73. Operation of a Commercial Swimming Pool

The swimming pool shall be operated in accordance with the *Public Health Act 2010,* Part 3, Division 3 Control of Public Swimming Pools and Spa Pools and the *Public Health Regulation 2012,* Part 3 Control of Public Swimming Pools and Spa Pools.

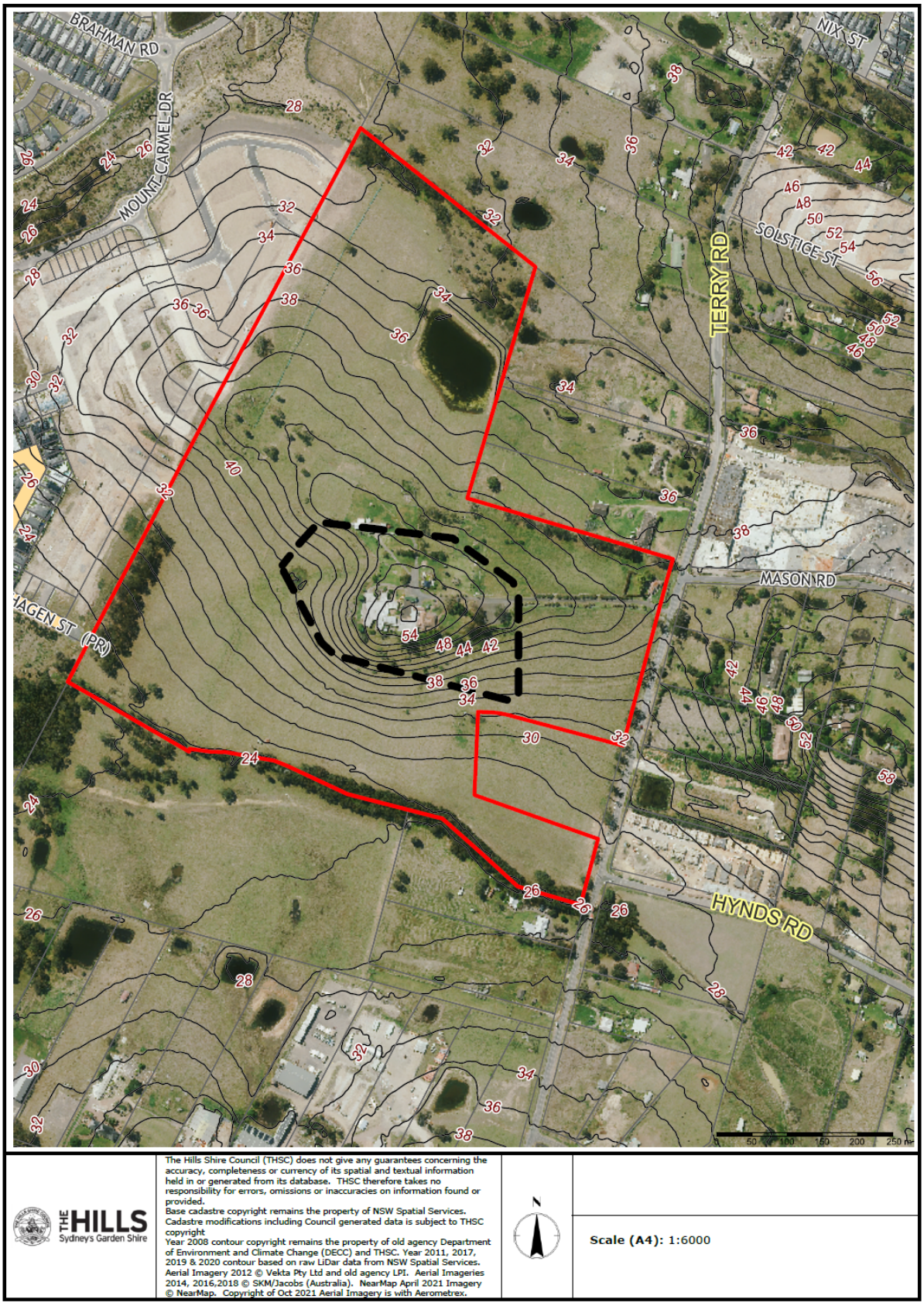
ATTACHMENTS

1. Locality Plan
2. Aerial Map
3. Zoning Map
4. Height of Buildings Map
5. Approved Subdivision 679/2021/ZB
6. Site Plan
7. Basement Plan
8. Lower Ground Plan
9. Upper Ground Plan
10. Elevations and Sections
11. Perspectives
12. General Terms of Approval Heritage NSW
13. Bushfire Safety Authority NSW Rural Fire Service
14. Clause 4.6 Variation Request

Document Set ID: 20137842
Version: 10, Version Date: 23/08/2022

ATTACHMENT 1 – LOCALITY PLAN

ATTACHMENT 2 – AERIAL MAP



THE HILLS Sydney's Garden Shire

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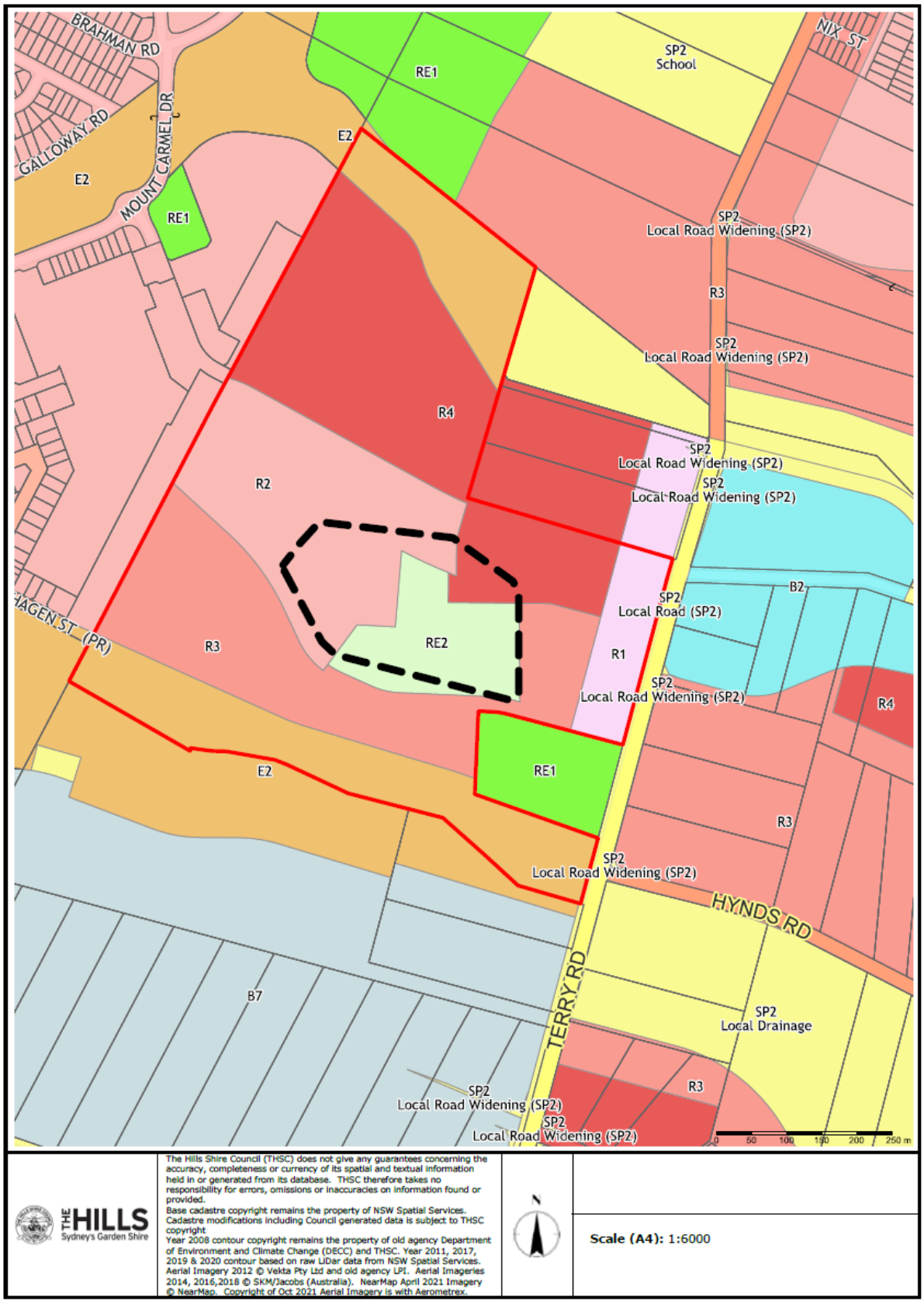
ATTACHMENT 3 – ZONING MAP



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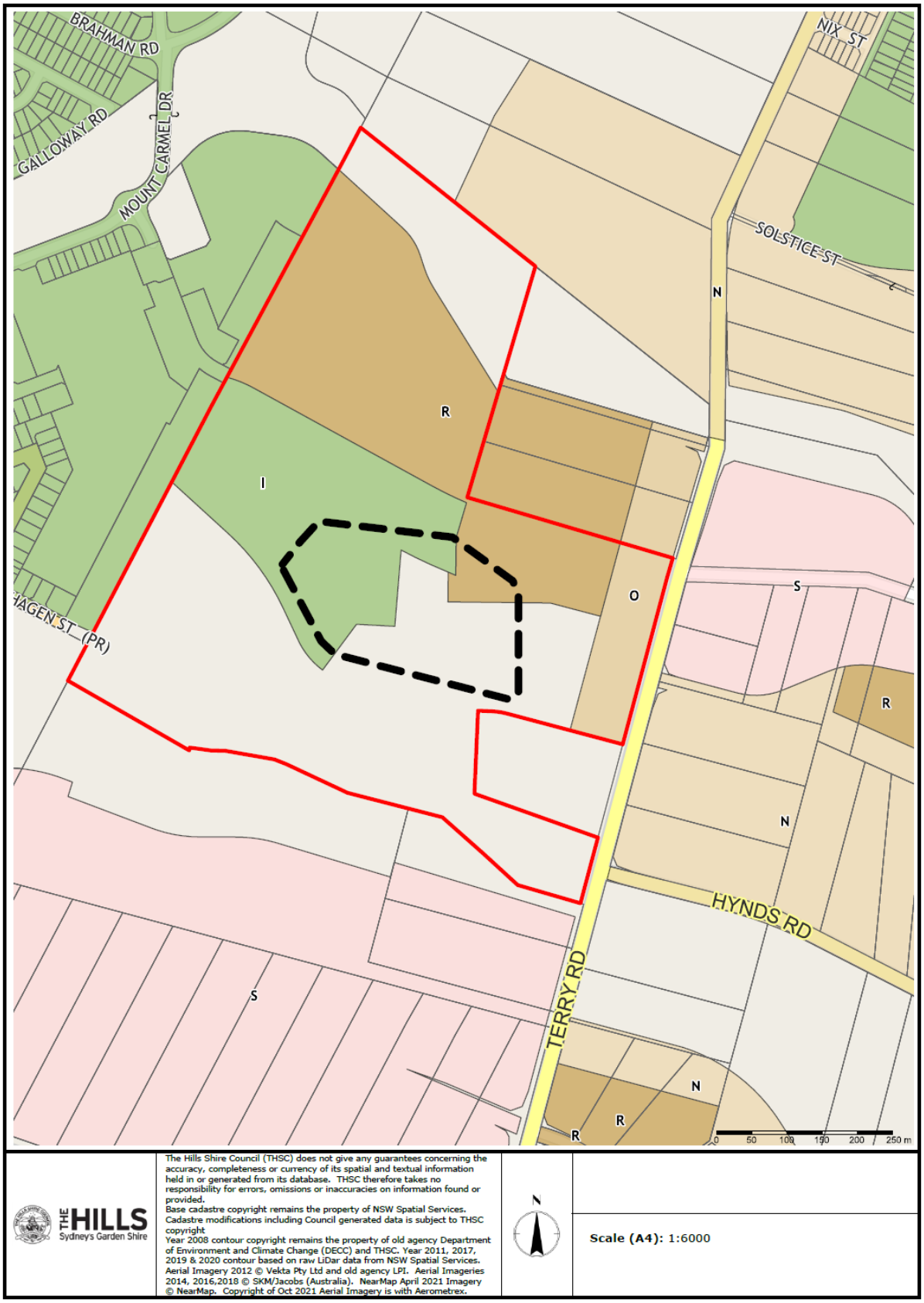
Version: 3, Version Date: 03/08/2022

ATTACHMENT 4 – HEIGHT OF BUILDING MAP



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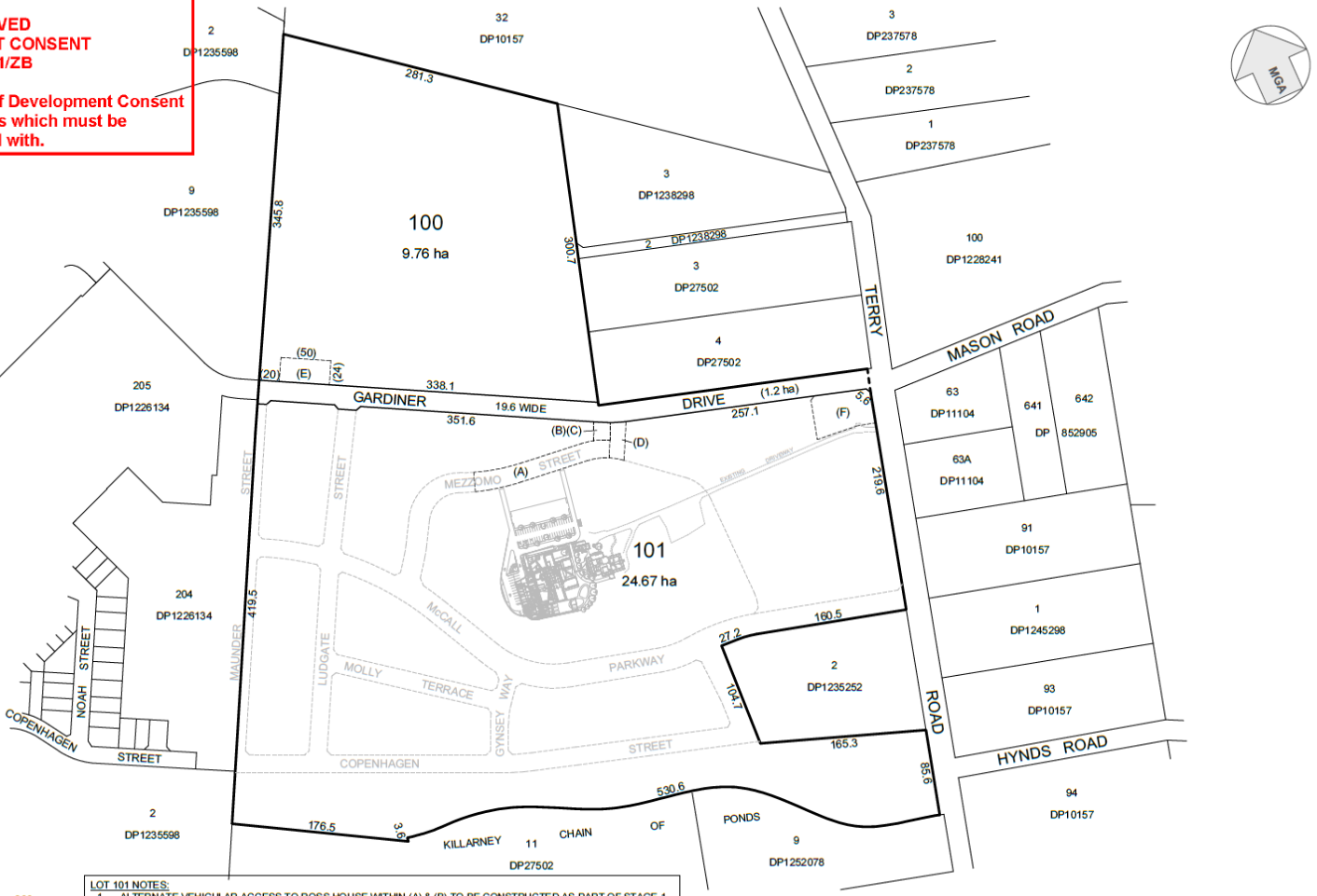
Version: 3, Version Date: 03/08/2022

THE HILLS SHIRE COUNCIL

APPROVED
DEVELOPMENT CONSENT
679/2021/ZB

Please refer to conditions of Development Consent for details of matters which must be complied with.



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LOT 101 NOTES:

1. ALTERNATE VEHICULAR ACCESS TO ROSS HOUSE WITHIN (A) & (B) TO BE CONSTRUCTED AS PART OF STAGE 1 WORKS.
2. DEDICATION OF THE ROAD (MEZZOMO STREET) (A), EASEMENT FOR PUBLIC ACCESS (B), EASEMENT FOR SERVICES (C) AND RIGHT OF FOOTWAY (D) BETWEEN GARDINER DRIVE AND FUTURE MEZZOMO STREET TO OCCUR AS PART OF THE STAGE 2C SUBDIVISION.
3. NO PUBLIC ACCESS SIGNAGE TO BE PUT IN PLACE UNTIL MEZZOMO STREET IS DEDICATED AND THE EASEMENT FOR PUBLIC ACCESS IS CREATED AS PART OF THE STAGE 2C SUBDIVISION.
4. UTILITY SERVICING EASEMENTS TO BE CREATED AS REQUIRED WITHIN (A) & (B) AS PART OF STAGE 1 SUBDIVISION. EASEMENTS WITHIN MEZZOMO STREET (A) TO BE RELEASED AS PART OF THE STAGE 2C SUBDIVISION.
5. EASEMENT FOR PUBLIC ACCESS (B), EASEMENT FOR SERVICES (C) AND PART OF RIGHT OF FOOTWAY (D) TO BE RELEASED AND THE LAND DEDICATED AS PUBLIC PATHWAY AND PUBLIC ROAD AT A LATER DATE WHEN MEZZOMO STREET IS CONSTRUCTED AND DEDICATED AS A LOOPED CRESCENT CONNECTION TO MCCALL PARKWAY AS PART OF STAGE 4A.

NOTES

1. LOT DIMENSIONS AND AREAS ARE APPROXIMATE ONLY
2. THIS PLAN HAS BEEN PREPARED FOR DEVELOPMENT APPLICATION PURPOSES ONLY AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.

LEGEND

(A) - FUTURE STAGE 2C DEDICATION OF MEZZOMO STREET
(B) - FUTURE STAGE 2C EASEMENT FOR PUBLIC ACCESS
(C) - FUTURE STAGE 2C EASEMENT FOR SERVICES
(D) - FUTURE STAGE 2C RIGHT OF FOOTWAY
(E) - PROPOSED EASEMENT FOR PUBLIC ACCESS 24 WIDE
(F) - PROPOSED EASEMENT TO DRAIN WATER VARIABLE WIDTH

PROUST&GARDNER
CONSULTING PTY LIMITED
SURVEYORS & PLANNERS
406 Pacific Highway
PO Box 132
Lindfield NSW 2070
Tel: 9416 1335
Fax: 9416 3845
Email: png@png.com.au

STAGE 1

PLAN OF PROPOSED SUBDIVISION OF LOT 1 DP1235252 TERRY ROAD, BOX HILL

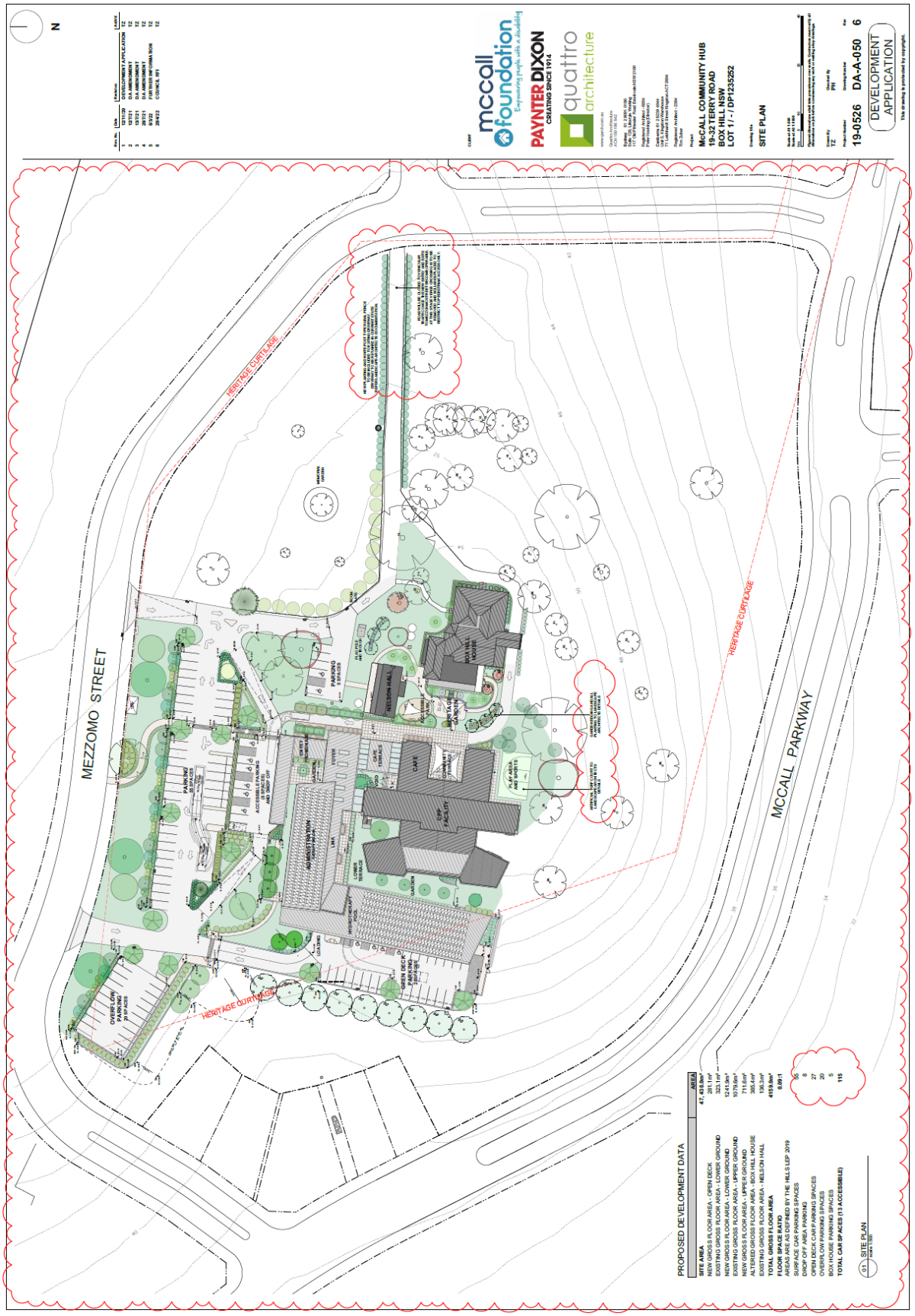
Scale : 1:4000 @ A3 Date : 01/03/2022 Plan No. : 24172-SUB 1 Issue: E

Filename : \\MIC\ROSERVER\Projects\24172 Lot 1 Terry Road Box Hill\Drawings\Subdivision Plans\24172-SUB 1.dwg

Client : INDESCO / McCall Gardens

ATTACHMENT 5 – APPROVED SUBDIVISION 679/2021/ZB

ATTACHMENT 6 – SITE PLAN



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Document Set ID: 20138222
Version: 3, Version Date: 03/08/2022

Rev. No.	Date	Revision	Auth'd
1	12/11/20	DEVELOPMENT APPLICATION	TZ
2	12/7/21	DA AMENDMENT	TZ
3	13/7/21	DA AMENDMENT	TZ
4	20/7/21	DA AMENDMENT	TZ
5	17/11/21	BIN ENCLOSURE	TZ
6	8/3/22	FURTHER INFORMATION	TZ
7	20/4/22	COUNCIL RFI	TZ

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quattro architecture

www.qarch.com.au
Quattro Architecture
ACN 150 199 942
Sydney 61 2 9091 0190
Suite 108, Lifestyle Working
117 Old Pittwater Road Brookvale NSW 2100
Registered Architect - 6954
Peter Hosking (Director)
Canberra 61 2 6239 4944
Unit 5, Kingston Warehouse
71 Lobb Ward Street Kingston ACT 2604
Registered Architect - 2394
Tim Zuber

Project
McCALL COMMUNITY HUB
19-32 TERRY ROAD
BOX HILL NSW
LOT 1 / - / DP1235252

Drawing title
BASEMENT PLAN

Scale at A1 1:200
Scale at A3 1:400
0 5 10 20

Figured dimensions shall take precedence over scale. Contractor must verify all dimensions on job before commencing any work or making shop drawings.

Drawn By	Checked By
TZ	PH

Project Number	Drawing Number	Rev
19-0526	DA-A-099	7

DEVELOPMENT APPLICATION

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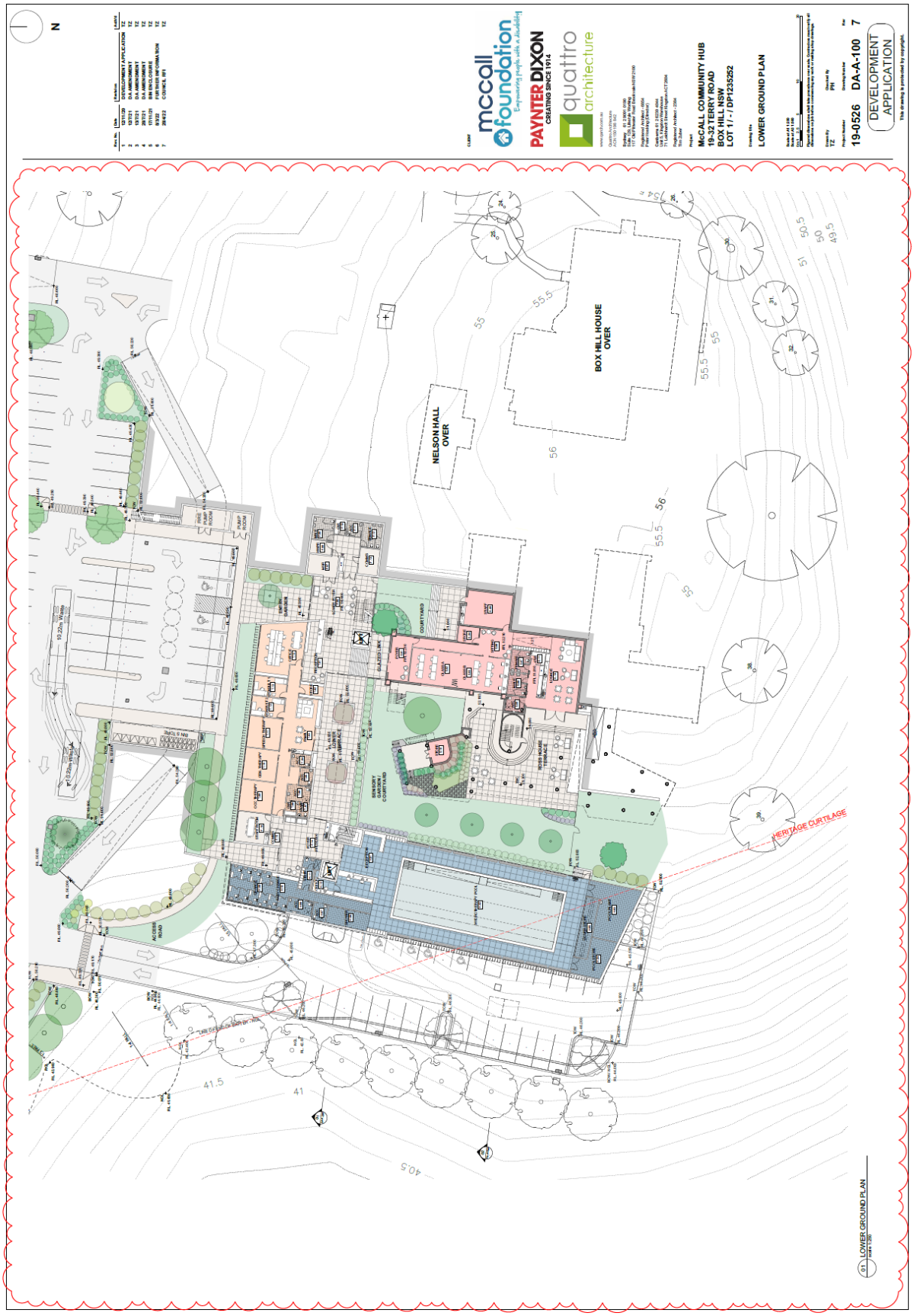
ATTACHMENT 7 – BASEMENT PLAN

ATTACHMENT 8 – LOWER GROUND PLAN



Document Set ID: 20138222
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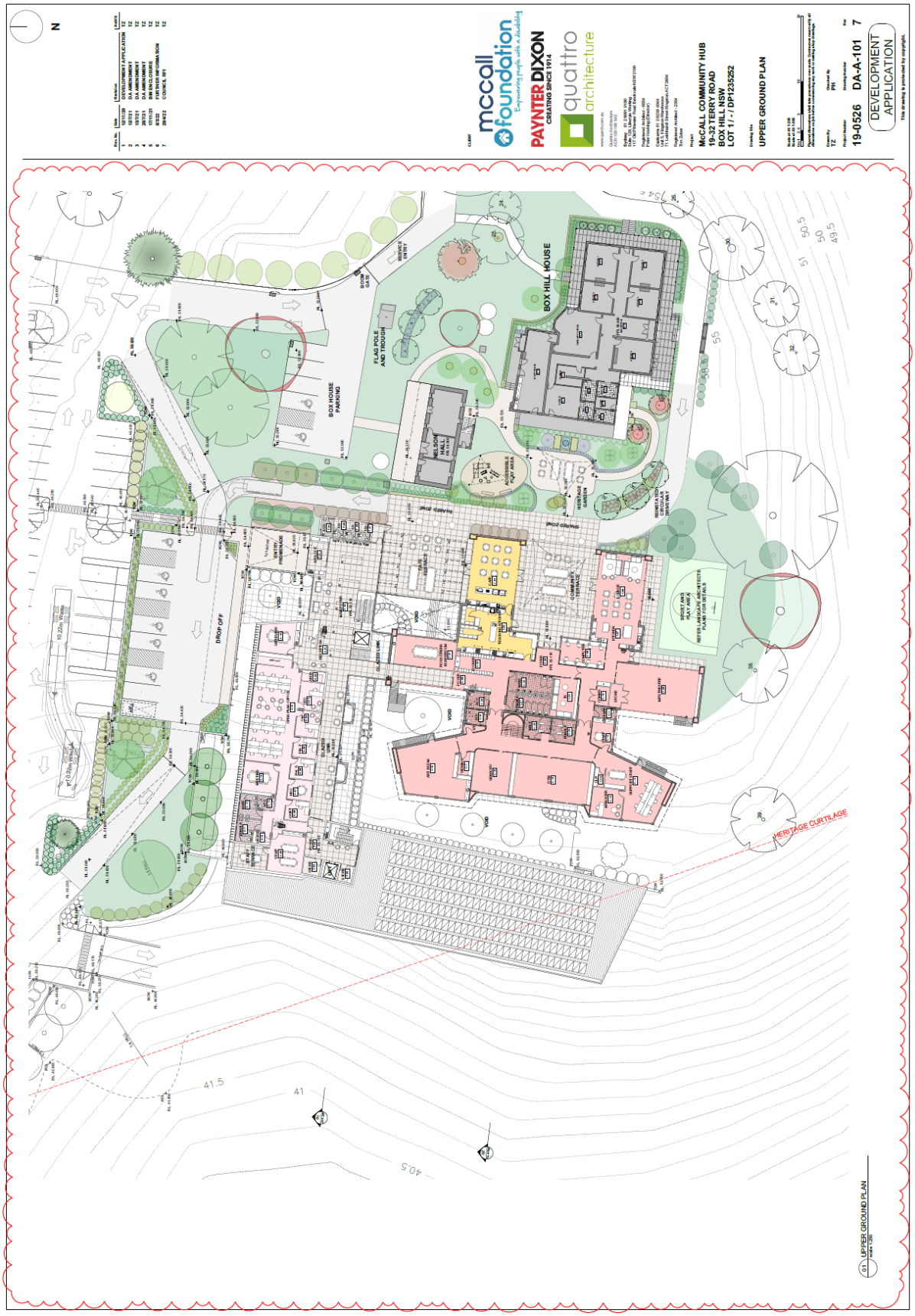
ATTACHMENT 9 – UPPER GROUND PLAN



Document Set ID: 20138222
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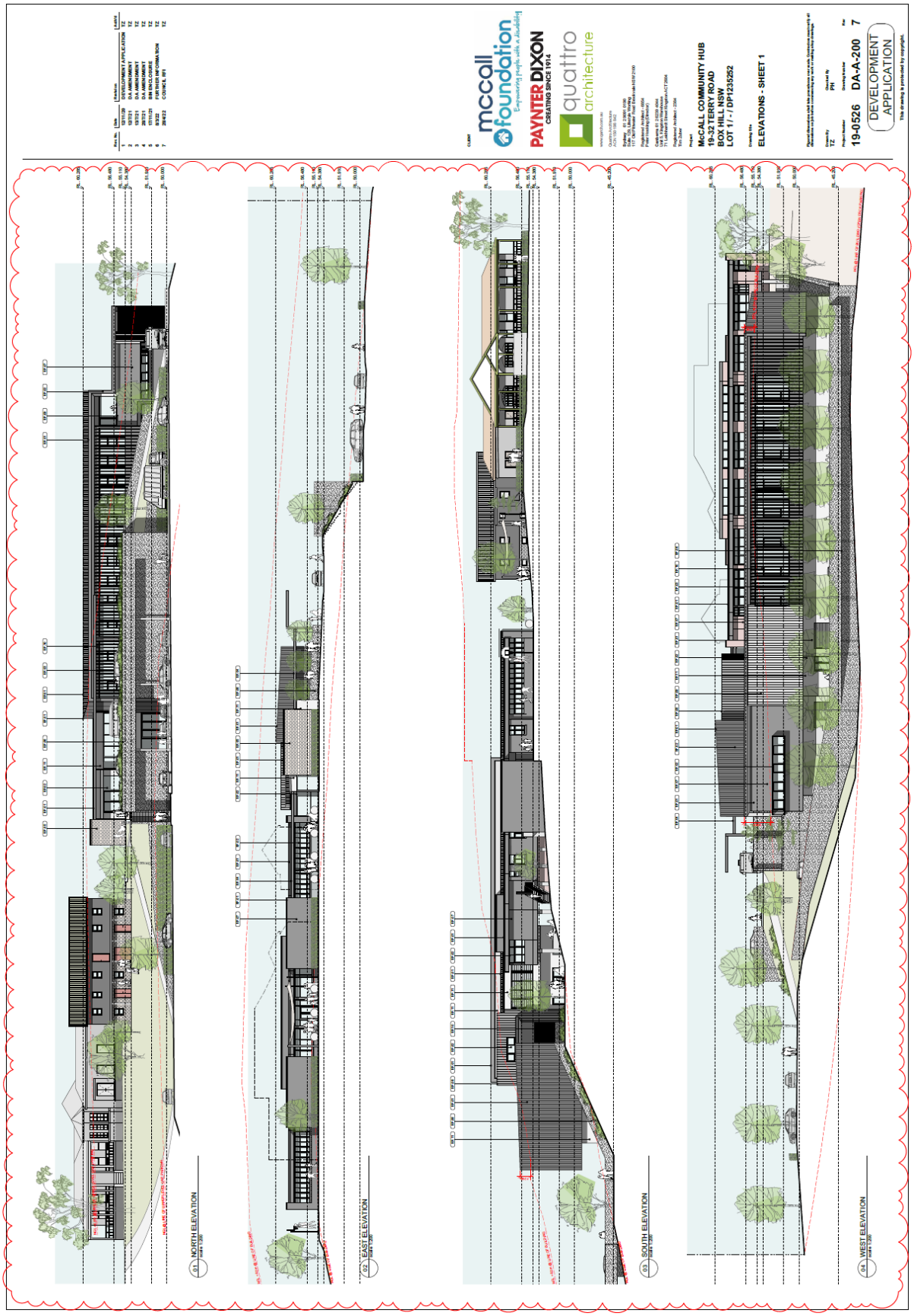
ATTACHMENT 10 – ELEVATIONS AND SECTIONS



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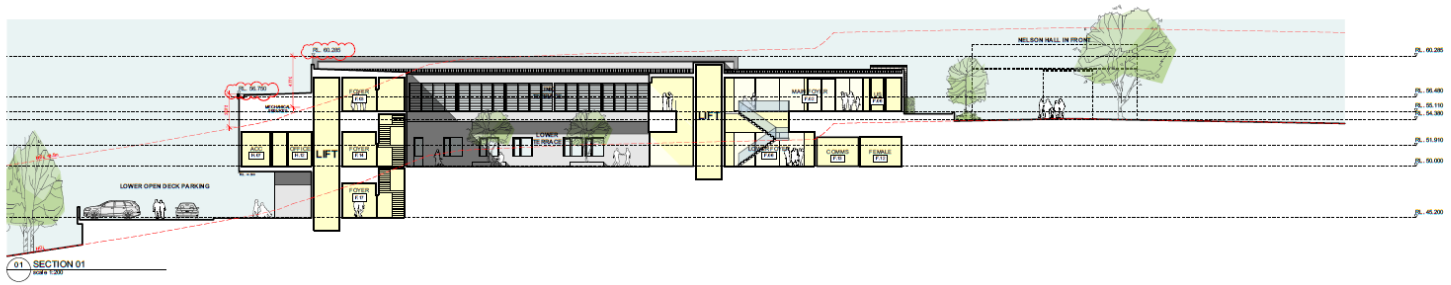
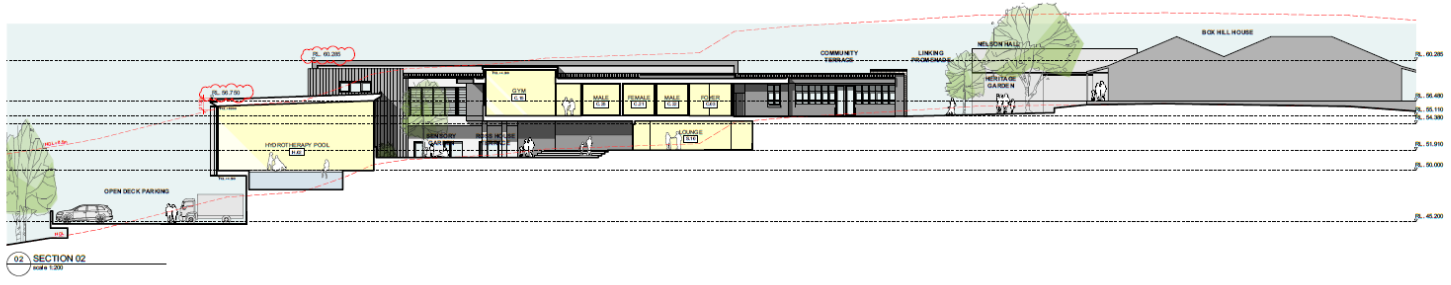


01 SECTION 01
scale 1:200



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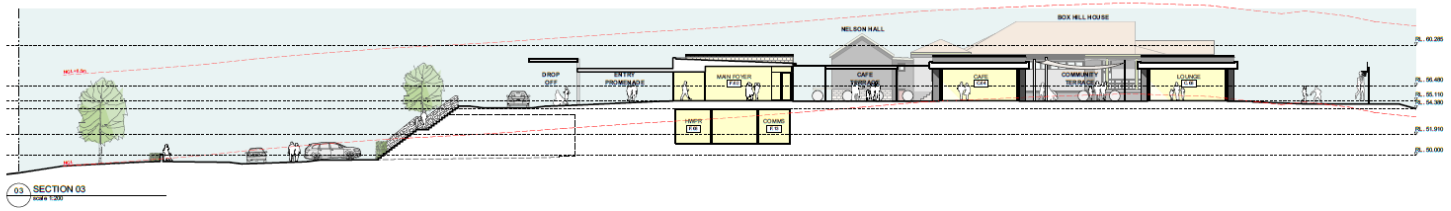
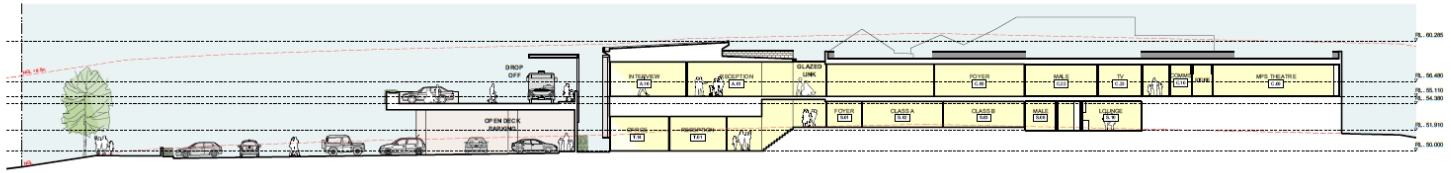
scale 1:200



03 SECTION 03
scale 1:200



04 SECTION 04
scale 1:200

N

Rev. No.	Date	Revision	Author
1	12/11/20	DEVELOPMENT APPLICATION	TZ
2	12/7/21	DA AMENDMENT	TZ
3	13/7/21	DA AMENDMENT	TZ
4	28/7/21	DA AMENDMENT	TZ
5	26/4/22	COUNCIL RFI	TZ
6	29/6/22	ADDITIONAL DIMENSIONS	TZ

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quattro architecture

www.qarchitects.au
Quattro Architecture
ACN 150 156 642

Sydney 01 2 9001 0180
Suite 104, Liberate Working
117 Old Pittwater Road Brookvale NSW 2100

Registered Architect - 6954
Peter Hosking (Director)

Canberra 01 2 6239 4944
Unit 5, Kingston Warehouse
71 Leichhardt Street Kingston ACT 2604

Registered Architect - 2264
Tim Zuber

Project

McCALL COMMUNITY HUB
19-32 TERRY ROAD
BOX HILL NSW
LOT 1 / - / DP1235252

Drawing title

SECTIONS - SHEET 1

Scale at A1 1:200
Scale at A3 1:400

Figured dimensions shall take precedence over scale. Contractors must verify all dimensions on job before commencing any work or making shop drawings.

Drawn By	Checked By
TZ	PH

Project Number	Drawing Number	Rev
19-0526	DA-A-250	6

DEVELOPMENT APPLICATION

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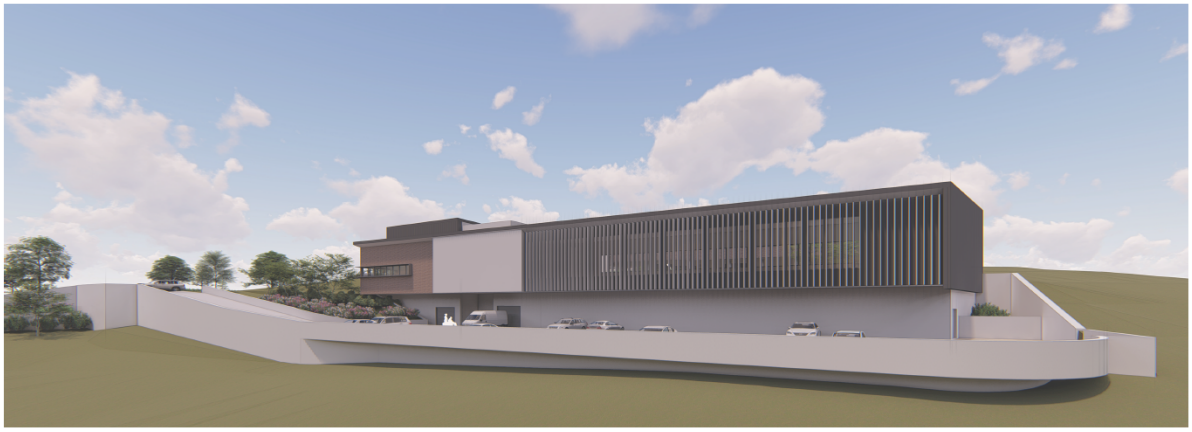
ATTACHMENT 11 – PERSEPCTIVES

02 3d PERSPECTIVE - NORTH EAST
scale 1:NTS



04 3d PERSPECTIVE - WEST
scale 1:NTS

04 3d PERSPECTIVE - SOUTH EAST
scale 1:NTS

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NSW GOVERNMENT | Heritage NSW

HMS Application ID: 1145
Your ref: CNR-17606 - 1057/2021/JP

Robert Buckham
Planner
The Hills Shire Council
PO BOX 7064
NORWEST NSW 2153

Email: rbuckham@thehills.nsw.gov.au

Dear Mr Buckham

HERITAGE COUNCIL OF NSW — AMENDED GENERAL TERMS OF APPROVAL
CLAUSE 55 AMENDMENT TO INTEGRATED DEVELOPMENT APPLICATION

Address: 10 Terry Road BOX HILL NSW 2765
SHR item: Box Hill House in grounds of McCall gardens, SHR no. 00613
Proposal: The proposed development comprises:

- Demolition
- Removal of approximately 25 trees
- Site Excavation and earthworks
- Restoration of Box Hill House and Nelson Hall for adaptive re-use
- Alterations and additions to Ross House including construction of a new two (2) storey Disability Support Centre (DSC)
- Carparking for up to 117 vehicles
- Vehicular access via Mezzomo Street
- New landscaping including the planting of 109 new trees

This clause 55 amendment proposes:

- Increase width of the two driveways from Mezzomo Street
- Confirmation that vehicle access to the existing driveway will be removed following operation of the two new driveways
- Redesign of lower level on-grade parking including provision of dedicated waste collection point
- Redesign of upper-level parking
- Increase in number of trees proposed to be removed (total 23 trees)
- Increase in number of trees planted (total 177 trees)
- Provision of four rainwater tanks (total capacity = 88,000L
- Amendments to hard and soft landscaping in response to Council's RFI

IDA modified: IDA/2021/23

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above modification to the integrated development application. In accordance with Section 4.47 of the Environmental *Planning and Assessment Act 1979*, the following amended terms of approval are granted:

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APPROVED DEVELOPMENT

1. Development must be in accordance with the following information:

   a) Architectural, Engineering & Landscape drawings by Quattro Architects, Indesco and Space Landscape Designs as listed below:

Architectural Plans by Quattro Architecture			
Dwg No	**Dwg Title**	**Date**	**Rev**
Project Name: McCall Community Hub			
DA-A-000	Cover Page	28/4/22	4
DA-A-020	Site Analysis Plan	28/4/22	3
DA-A-025	Staging plan	28/4/22	3
DA-A-026	Area Plan	28/4/22	2
DA-A-027	Neighbouring Lot Analysis	28/4/22	3
DA-A-030	Site Demolition Plan	28/4/22	4
DA-A-031	Nelson Hall Modification plan	28/4/22	3
DA-A-032	Box Hill House Demolition Plan	28/4/22	3
DA-A-033	Box Hill House Proposed Plan	28/4/22	3
DA-A-034	Box Hill House Proposed Elevation	28/4/22	3
DA-A-035	Box Hill House Proposed Work	28/4/22	3
DA-A-036	Ross House Lower Ground Demolition Plan	28/4/22	C
DA-A-037	Ross House Upper Ground Demolition Plan	28/4/22	3
DA-A-038	Ross House Demolition Elevation	28/4/22	3
DA-A-040	Ground Disturbance Plan	28/4/22	3
DA-A-050	Site Plan	28/4/22	6
DA-A-055	Surface Parking Details	28/4/22	5
DA-A-070	Shadow Diagrams – Winter Solstice	28/4/22	3
DA-A-071	Shadow Diagrams – Summer Solstice	28/4/22	3
DA-A-099	Basement Plan	28/4/22	7
DA-A-100	Lower Ground Plan	28/4/22	7
DA-A-101	Upper Ground Plan	28/4/22	7
DA-A-102	Roof Plan	28/4/22	6
DA-A-150	Details Plans – Sheet 1	28/4/22	5
DA-A-151	Details Plans – Sheet 2	28/4/22	3
DA-A-152	Details Plans – Sheet 3	28/4/22	5
DA-A-153	Details Plans – Sheet 4	28/4/22	C
DA-A-154	Details Plans – Sheet 5	28/4/22	5
DA-A-200	Elevations Sheet 1	28/4/22	7
DA-A-250	Sections Sheet 1	28/4/22	5
DA-A-400	3D Perspective Views – Sheet 1	28/4/22	3

DA-A-401	3D Perspective Views – Sheet 2	28/4/22	3
DA-A-402	3D Perspective Views – Sheet 3	28/4/22	3
DA-A-1000	External Finishes	28/4/22	3
Civil Engineering Design Plans by Indesco			
Dwg No	**Dwg Title**	**Date**	**Rev**
Project Name: McCall Gardens Community Hub			
7748-DA-000	Cover Sheet	April 2022	-
7748-DA-001	General Notes Sheet 1 of 2	18.03.2022	D
7748-DA-002	General Notes Sheet 2 of 2	18.03.2022	D
7748-DA-005	McCall Gardens Community Master Staging Plan	18.03.2022	D
7748-DA-010	General Arrangement and Key Plan	18.03.2022	D
7748-DA-015	Tree Removal Plan	18.03.2022	A
7748-DA-020	Erosion and Sediment Control Plan Sheet 1 of 3	18.03.2022	D
7748-DA-021	Erosion and Sediment Control Plan Sheet 2 of 3	18.03.2022	D
7748-DA-022	Erosion and Sediment Control Plan Sheet 3 of 3	18.03.2022	D
7748-DA-023	Erosion and Sediment Control Plan Sheet Notes and Details	18.03.2022	D
7748-DA-050	Bulk Earthworks Plan	18.03.2022	D
7748-DA-055	Site Sections Sheet 1 of 3	18.03.2022	D
7748-DA-056	Site Sections Sheet 2 of 3	18.03.2022	D
7748-DA-057	Site Sections Sheet 3 of 3	18.03.2022	D
7748-DA-100	Engineering Plan Sheet 1 of 3	18.03.2022	D
7748-DA-101	Engineering Plan Sheet 2 of 3	18.03.2022	D
7748-DA-102	Engineering Plan Sheet 3 of 3	18.03.2022	D
7748-DA-103	Basketball Court Engineering and Cut Fill Plan	17.03.2022	A
7748-DA-110	Chainage Plan Sheet 1 of 2	18.03.2022	D
7748-DA-111	Chainage Plan Sheet 2 of 2	18.03.2022	D
7748-DA-115	Driveway Longitudinal Sections Sheet 1 of 4	18.03.2022	D
7748-DA-116	Driveway Longitudinal Sections Sheet 2 of 4	18.03.2022	D
7748-DA-117	Driveway Longitudinal Sections Sheet 3 of 4	18.03.2022	D
7748-DA-118	Driveway Longitudinal Sections Sheet 4 of 4	18.03.2022	D
Landscape Drawings by Space Landscape Designs			
Dwg No	**Dwg Title**	**Date**	**Rev**
Project Name: McCall Community Hub			
L-000	Landscape Master Plan	05/05/2022	M
L-010	Carpark Landscape Plan	05/05/2022	J

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L-020	Basement Landscape Plan	05/05/2022	J
L-030	Lower Ground Landscape Plan	05/05/2022	I
L-040	Upper Ground Landscape Plan	05/05/2022	K
L-050	Details and Specifications	05/05/2022	F

b) '*Statement of Environmental Effects McCall Community Hub*' by dfp planning consultants, dated December 2020.

c) '*Heritage Impact Statement – McCall Community Hub ('Box Hill House in the grounds of McCall Gardens')*' by Mackay Strategic, dated December 2020.

d) '*McCall Community Hub Historical Archaeological Assessment- Box Hill House*' by AECOM, dated 17/12/2020.

e) '*Treeaz Assessment of tree health and longevity (sule) and fauna habitat value - Redevelopment of Ross House, McCall Community Hub*' by Anderson Environmental, dated 18/11/2020.

f) '*Box Hill House Conservation Management Plan*' by AECOM, dated 7/12/2017, endorsed by HC on 19/3/2018.

g) '*Ross House (with Box Hill House in ground of McCall Gardens) Conservation Management Plan Addendum*' by Mackay Strategic, dated August 2020.

h) '*Architect Statement (Project Scope and Rationale) – Development Application McCall community Hub proposed disability support centre*' by Quattro Architecture', No Date.

i) '*McCall Gardens Community, Box Hill Aboriginal Cultural Heritage Assessment Report*' by AECOM dated 19/10/2020.

j) ACHAR Review Letter – 'Impacts Aboriginal Sites from stage development at McCall Gardens Community' by AECOM, dated 4/9/2020.

EXCEPT AS AMENDED by the following terms of approval:

RETENTION OF MEMORIALS, FLAGPOLE, WATER TROUGH AND PLAQUES

2. The flagpole, sandstone water trough and plaque located south of the existing swimming pool shall be retained in the new development.

3. All existing memorials within the wider landscape are to be kept, stored appropriately during works, and reused within the new landscape.

Reason: To ensure significant elements are not impacted by the proposed works.

INFORMATION TO BE PROVIDED WITH FUTURE S.60 APPLICATION

4. Details of new fittings, fixtures and any impacts for new services for the new kitchen and bathrooms at Box hill House.

5. Details of the fit out for the proposed Museum and meeting room at Nelson Hall.

6. Details of the fittings, fixtures and materials schedule for the interior of Ross House.

7. Details of locations and materials for the external lighting, fences and signage to be installed as part of the project (including any service trenching).

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8. The proposed treatment for the proposed circular driveway around Box Hill House should be sympathetic to the significant heritage landscape of the site and to the materiality of Box Hill House. Details of the proposed treatment must be provided with the future s.60 application.

Reason: To ensure that the aesthetic values of the site and its landscape are maintained, and all aspects of the works can be assessed as being appropriate to the site.

FABRIC & COLOUR SCHEMES

9. Where new fabric is introduced to reconstruct historic built elements, it should match original fabric where possible (including use of recycled materials) but should be evident on close inspection as new work.

10. Interior colour schemes for Box Hill House, Nelson Hall and Ross House should be based on historic colour schemes revealed by on-site examination.

Reason: To ensure that significant fabric and spaces are not impacted by the new works.

SERVICES INSTALLATION

11. Insertion of new services (for waste, electricity, gas, drainage and communication) within Box Hill House, Nelson Hall and Ross House should avoid damage to fabric, be concealed from view and be located within areas of lesser significance and in inconspicuous positions or cavities.

Reason: to ensure that new services will not impact significant fabric or spaces.

HISTORICAL ARCHAEOLOGY

12. The Applicant shall submit an addendum to the archaeological assessment and research design which provides a staged test and potential salvage excavation program with hold points for detailed design consultation based on the results of the test excavation. This will be undertaken by a suitably qualified and experienced historical archaeologist as part of the section 60 application.

13. The applicant shall submit the name of a nominated Excavation Director suitable to satisfy the Excavation Director Criteria of the Heritage council of NSW for the proposed activity and significance level.

14. Following the receipt of the addendum to the archaeological assessment and research design, the Heritage Council of NSW reserves the right to issue Archaeological Conditions as part of the Section 60 Approval to manage the archaeology. Matters such as (but not limited to) fieldwork methodology, artefact analysis, final reporting may be included as part of these archaeological conditions.

Reason: To ensure the significant archaeological resource at the site is appropriately managed.

HERITAGE CONSULTANT

15. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

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SPECIALIST TRADESPERSONS

16. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

SITE PROTECTION

17. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

HERITAGE INTERPRETATION PLAN

18. An interpretation plan must be prepared in accordance with Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) prior to the issue of a Construction Certificate/ Government certification.

19. The interpretation plan must detail how information on the history and significance of name of item will be provided for the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.

20. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate

Reason: Interpretation is an important part of every proposal for works at heritage places.

LANDSCAPING

21. A Landscape Management Plan should be prepared for the McCall Community Hub, including provisions to maintain the current rural setting; retention of the view corridor to Rouse Hill House; and a program for replacement of significant senescent trees and vegetation.

Reason: to ensure the highly significant landscape within the SHR site is maintained appropriately into the future.

PHOTOGRAPHIC ARCHIVAL RECORDING

22. A photographic archival recording must be prepared prior to the commencement of works and at the completion of works across the site and specifically within Box Hill House, Nelson Hall and Ross House. This recording must be in accordance with the Heritage NSW publication '*Photographic Recording of Heritage Items using Film or Digital Capture*' (2006). The digital copy of the archival record must be provided to Heritage NSW.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS

23. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered,

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work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

ABORIGINAL OBJECTS

24. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the *National Parks and Wildlife Act 1974*. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

COMPLIANCE

25. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

SECTION 60 APPLICATION

26. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

Advice
Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Right of Appeal
If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please contact Lily Chu, Senior Assessments Officer, at Heritage NSW on 9873 8595 or Lily.Chu@environment.nsw.gov.au.

Yours sincerely

'Michael Ellis.

Michael Ellis
Manager, Assessments
Heritage NSW
Department of Planning & Environment
As Delegate of the Heritage Council of NSW
14 June 2022

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ATTACHMENT 13 – BUSHFIRE SAFETY AUTHORITY NSW RFS

NSW GOVERNMENT

NSW RURAL FIRE SERVICE

The Hills Shire Council
PO Box 7064
BAULKHAM HILLS BC NSW 2153

Your reference: 1057/2021/JP (CNR-17606)
Our reference: DA20210210000524-Original-1

ATTENTION: Robert Buckham

Date: Tuesday 6 April 2021

Dear Sir/Madam,

Integrated Development Application
s100B – SFPP - Infill –
10-32 Terry Road Box Hill NSW 2765, 1//DP1235252

I refer to your correspondence dated 04/02/2021 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

Asset Protection Zones
Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

1. From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the area around the building must be managed as an inner protection area (IPA) for a distance of 100 metres in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

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- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

Access - Internal Roads

Intent of measures: to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area.

2. Access roads for special fire protection purpose (SFPP) developments must comply with general requirements of Table 6.8b of *Planning for Bush Fire Protection 2019:*

- SFPP access roads are two-wheel drive, all-weather roads;
- access is provided to all structures;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- access roads must provide suitable turning areas in accordance with Appendix 3 of *Planning for Bush Fire Protection 2019*; and
- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression.

Water and Utility Services

Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

3. The provision of water, electricity and gas services must comply with Table 6.8c of *Planning for Bush Fire Protection 2019.*

Landscaping Assessment

Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

4. Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area, suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do no touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Emergency and Evacuation Planning Assessment

Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of Special Fire Protection Purpose developments.

5. A Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document *A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*. The Bush Fire

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Emergency Management and Evacuation Plan should include planning for the early relocation of occupants.

Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

For any queries regarding this correspondence, please contact Adam Small on 1300 NSW RFS.

Yours sincerely,

Emma Jensen
Team Leader, Dev. Assessment & Planning
Planning and Environment Services

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NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

SFPP - Infill –
10-32 Terry Road Box Hill NSW 2765, 1//DP1235252
RFS Reference: DA20210210000524-Original-1
Your Reference: 1057/2021/JP (CNR-17606)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Emma Jensen
Team Leader, Dev. Assessment & Planning
Planning and Environment Services

Tuesday 6 April 2021

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planning consultants

REVISED Clause 4.6 Variation Request to the Height of Buildings Development Standard under Clause 4.3 of Appendix 11 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Proposed McCall Community Hub

10-32 Terry Road, Box Hill

Prepared for: McCall Gardens Community Foundation Limited
May 2022

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1 Introduction

1.1 Commission

DFP has been commissioned by McCall Gardens Community Foundation Limited ("McCall Gardens" or "the Applicant") to prepare a written request ("Variation Request") pursuant to clause 4.6 of Appendix 11 of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (the Growth Centres SEPP) for the proposed development for McCall Community Hub (the Proposal) at 10-32 Terry Road, Box Hill (the Site).

This variation request replaces the previous Variation Request dated 30 September 2021 and has been prepared to reflect the proposed development as amended.

The proposal as amended comprises:

- Site remediation;
- Demolition of existing driveway, carpark, ancillary buildings and structures, and Day Program building;
- Demolition of rear additions to Box Hill House;
- Removal of 23 trees;
- Site excavation and earthworks;
- Restoration of Box Hill House and Nelson Hall for adaptive re-use;
- Alterations and additions to Ross House including construction of a part two (2) part three (3) storey Disability Support Centre (DSC);
- Carparking for up to 118 vehicles;
- Vehicular access via Mezzomo Street; and
- New hard and soft landscaping including the planting of 177 trees.

The Proposal exceeds the height of buildings development standard under clause 4.3 of Appendix 11 of the Growth Centres SEPP having a maximum height of 15.35m above the existing ground level.

Notwithstanding the contravention of the development standard, the Proposal is considered to be consistent with the objectives of the development standard and the objectives of the zone within which the development is to be carried out and there are sufficient environmental planning grounds to justify the contravention in this instance including:

- The upper level of the new accommodation maintains the existing ground floor level and places the remainder underneath into the steep site slope;
- The proposed building is at a significant distance from future residential development;
- The proposed development is unlikely to result in any adverse amenity impacts including acoustic impacts, overshadowing and overlooking;
- Positive heritage conservation outcomes through siting of the proposed development and facilitation of conservation works to Box Hill House and Nelson Hall; and
- The proposal provides for upgrade and expansion of a long standing and significant community facility.

This written request has been prepared to provide a detailed assessment in accordance with the statutory requirements of clause 4.6 so that the consent authority can exercise its power to grant development consent, notwithstanding the contravention to the height of buildings development standard.

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1 Introduction

1.2 Material Relied Upon

This Variation Request has been prepared by DFP based on the amended Architectural Drawings prepared by Quattro Architecture and other supporting drawings and reports which are appended to the response to Council's request for additional information package.

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2 The Nature of the Variation

Clause 4.3 of Appendix 11 and the Height of Buildings Map of the Growth Centres SEPP designate a maximum 8.5m height of buildings on the part of the site where the development (see **Figure 1**).

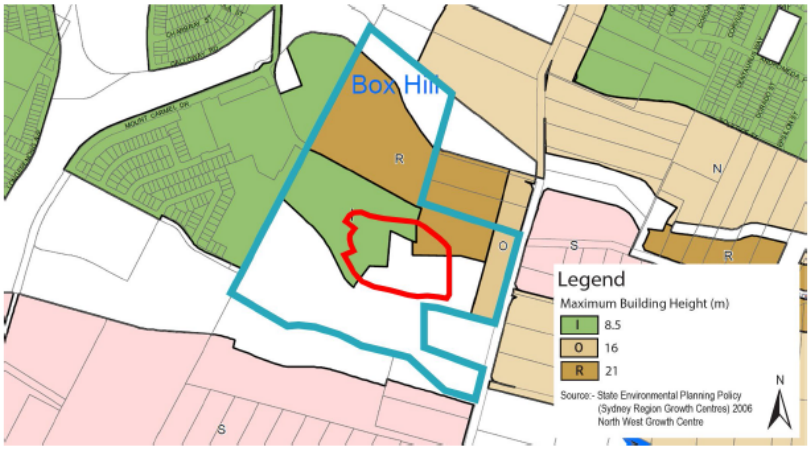

Figure 1 Extract of Height of Building Map under Growth Centres SEPP

The Growth Centres SEPP defines ***building height*** *(or* ***height of building****)* as:

> *building height (or height of building) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The proposed development does not comply with the 8.5m height of buildings development standard having a maximum height of 15.35m above the existing ground level. Therefore, the proposed development exceeds the maximum height of buildings development standard by 6.85m, which is equivalent to a variation of 80.6%.

The extent of the non-compliance is shown in extracts of the elevations at **Figure 2** and **Figure 3.**

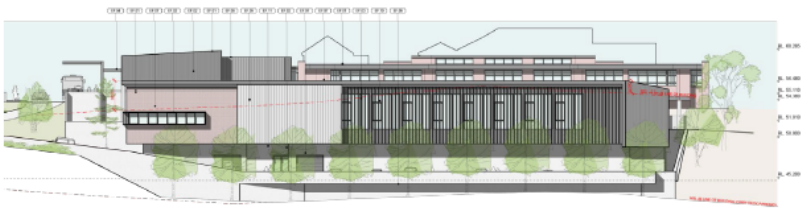

Figure 2 West elevation (Quattro Architecture)

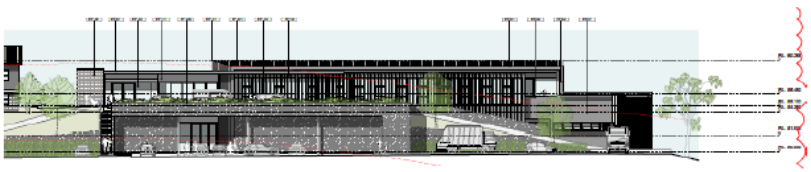

Figure 3 Extract of north elevation (Quattro Architecture)

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2 The Nature of the Variation

A Height Plane Diagram has been prepared by Quattro Architecture that identifies the location and extent of the non-compliance with the height standard (**Figure 4**).

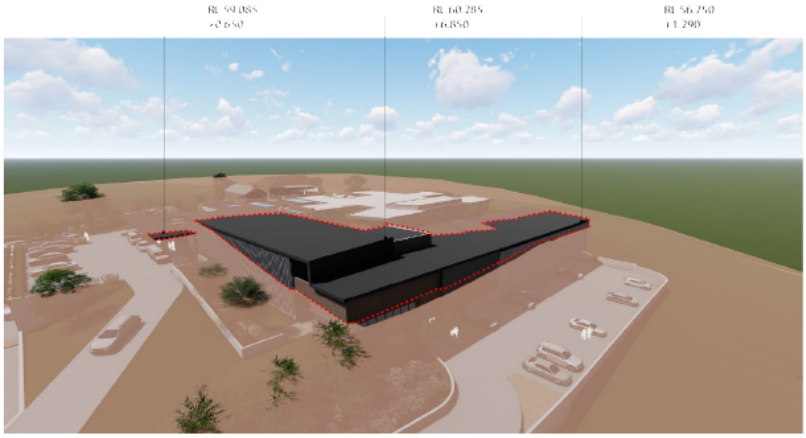

Figure 4 Height plane diagram

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3 Clause 4.6 Assessment

3.1 Clause 4.6(1) - Objectives

Clause 4.6(1) of Appendix 11 of the Growth Centres SEPP states the objectives of the clause 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.*

In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ("Initial Action"), Preston CJ ruled that there is no provision that requires the applicant to demonstrate compliance with these objectives or that the consent authority be satisfied that the development achieves these objectives. Furthermore, neither clause 4.6(3) nor clause 4.6(4) expressly or impliedly requires that development that contravenes a development standard "*achieve better outcomes for and from development*".

Accordingly, the remaining subclauses of clause 4.6 provide the preconditions which must be satisfied before a consent authority may grant development consent to a development that contravenes a development standard imposed by an environmental planning instrument. These preconditions are discussed hereunder.

3.2 Clause 4.6(2) – Consent May be Granted

Clause 4.6(2) provides that:

> *(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.*

The height of buildings control in clause 4.3 of Appendix 11 of the Growth Centres SEPP is a development standard, defined in Section 1.4 of the EP&A Act as follows:

> *"**development standards** means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*
>
> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*

The height of buildings development standard is not expressly excluded from the operation of clause 4.6 (see **Section 3.7** and **Section 3.9**).

3.3 Clause 4.6(3) – Consent Authority to Consider Written Justification

Clause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:

> *(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.*

This report and information referred to herein, constitute a written request for the purposes of cl4.6(3) and the following subsections address the justifications required under that subclause.

It will be a matter for the consent authority to consider this written request prior to granting development consent to the DA and as discussed in the Judgment of *Al Maha Pty Ltd v*

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Huajun Investments Pty Ltd [2018] NSWCA 245 ('Al Maha') the consent authority or the Court must, in determining the DA, clearly enunciate that it has satisfied itself of the matters in clause 4.6(4). In the case of a consent authority, this might be by way of a statement in the reasons for approval authored by the consent authority.

3.4 Clause 4.6(4)(a) – Consent Authority to be Satisfied

Clause 4.6(4) provides that consent must not be granted for development that contravenes a development standard unless:

> *(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.*

The following subsections of this written request address these matters.

3.4.1 Clause 4.6(4)(a)(i) - Written request to adequately address the matters in cl4.6(3)

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that this written request adequately address the matters in clause 4.6(3) as follows:

(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.

Compliance is Unreasonable or Unnecessary

In his Judgment of *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* ('Micaul') Preston CJ confirmed that an established means of demonstrating that compliance with a development standard is unreasonable or unnecessary is to establish that a development would not cause environmental harm and is consistent with the objectives of the development standard.

It is considered that the potential adverse impacts of the proposed development can be appropriately mitigated or minimised as described in **Table 1**.

Table 1 Environmental Impact Mitigation and Management

Issue	Discussion
Heritage	The site contains an item of State heritage significance being "Box Hill House in the Grounds of McCall Gardens" (SHR No 00613). The proposed new wing to the north and west of Ross House is predominately located within the boundaries of the heritage curtilage. A Heritage Impact Statement has been prepared by Mackay Strategic that provides an assessment of the impacts of the proposed development on the significance of the heritage item. The HIS concludes that overall the proposed development will provide a substantial positive heritage outcome that supports the ongoing conservation of the site and ensures the continuation of the historic use of the site as a facility for the care of people with an intellectual disability. In relation to the proposed new wing, the HIS states: *A major new wing is proposed to be added to the north and west of Ross House, which would alter its visual setting and sit within a significant view corridor, but this wing would not be visible in views looking west from Box Hill House. In views from the west the new wing would make a similar visual contribution to the*

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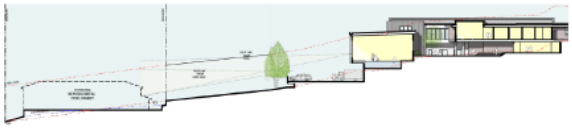
Table 1 Environmental Impact Mitigation and Management	
Issue	**Discussion**
	current Ross House building. The new wing features design lines and materials that are consistent with Ross House, while identifiable as new work. The maximum RL of the ridge to Box Hill House is RL 62.880m, which is higher than the maximum RL of the parapet to the new wing of Ross House being RL 60.285m. The HIS provides recommendations to mitigate any potential impacts of the new building on the heritage significance of the item.
Visual Privacy	The proposed development has been designed to minimise the impacts of overlooking on the proposed future residential development located to the west. The proposed new wing and associated car park is set back a minimum of 22m from the future residential development (**Figure 5**). The use of vertical blades and landscape screening will also provide visual privacy between the new building and the future residential development.  *Figure 5 Relationship between new wing and future residential development*
Solar Access	Shadow diagrams have been prepared by Quattro Architecture for both the winter and summer solstices (21 June and 21 December). The shadow diagrams illustrate the new building will not result in any overshadowing of any future proposed residential allotments or any public domain.
Views	Refer to discussion below.
Visual Impact	Refer to discussion below

Views

The endorsed Box Hill House Conservation Management Plan (prepared by AECOM) identified the following key views (**Figure 6**):

- View 1: Approach to Box Hill House from Terry Road along driveway;
- View 2: Views from Ross House towards the west and the Blue Mountains;
- View 3: View from Box Hill House south towards the Killarney Chain of Ponds and Windsor Road;
- View 4: Views between Box Hill House and Rouse Hill House; and
- View 5: Views between Windsor Road and Box Hill House.

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3 Clause 4.6 Assessment

Figure 6 Significant views (Box Hill House Conservation Management Plan)

The proposed new wing will not have any impact on views 1, 3, 4 and 5. The new wing has been sited outside of these key view corridors being located to the north and west of Ross House.

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Figure 7 3D View looking along the driveway towards Box Hill House and Nelson Hall. The new wing adopts a recessive and neutral colour palette and will be screened by new planting

Figure 8 3D View looking from the south-east towards Box Hill House and Ross House. The new wing is not visible in this perspective

The proposed new wing will impact on View 2 however this is considered to be acceptable for the following reasons:

- The roofline of the new building sits below the roof line of Ross House and Box Hill House;
- The new building will continue to enjoy a westerly aspect;
- In views from the west, looking towards Box Hill House, the complex of buildings will continue to feature a more modern rectangular building in the foreground (**Figure 9**); and
- The McCall Community Hub will continue to read as a remnant homestead on a hilltop.

Figure 9 View of the new building from the west. New tree planting along the western and southern elevations of the new wing will assist in screening the new wing

Visual Impacts

A number of architectural treatments have been identified to reduce the overall bulk and scale of the proposed development. These include:

- Stepping the building form up the slope;

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3 Clause 4.6 Assessment

- Utilising a linear building form;
- Ensuring significant setbacks between the new building and the future residential development; and
- Use of low-pitched roofs.

New landscaping along the western boundary will assist in screening the new building and reducing its visual impact to future residential properties.

In addition, there has been consideration of the scale of the new building relative to the future residential development directly to the west of the McCall Community Hub. Views have been prepared by Quattro Architecture to illustrate the new building in the context of potential two-storey residential development (**Figures 10** and **11**).

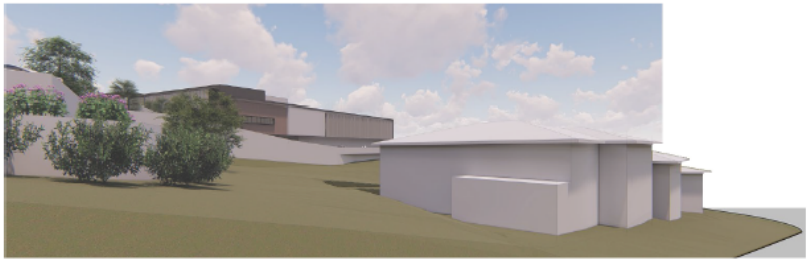

Figure 10 View from Mezzomo Street with new residential development in the foreground and the McCall Community Hub in the background.

Figure 11 View from the intersection of McCall Parkway and Mezzomo Street with potential residential development in the foreground and the McCall Community Hub in the background

Furthermore, the proposed development is considered to be consistent with the objectives of the height of buildings development standard as described in **Table 2**.

Table 2 Assessment against the objectives of the height of buildings development standard

Objective	Assessment
(a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct,	The 8.5m height of buildings development standard has been established with regard to the R2 Low Density Residential zoning of this part of the site. Box Hill House retains its landmark presence on the knoll of Box Hill. It is the most prominent building on the site with the other buildings
(b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,	The proposed additions to the north and west of Ross House will have limited visibility from Box Hill House because they will be screened by Nelson Hall and the existing retained Ross House building. Furthermore, these structures will be set further down the slope of the knoll on which Box Hill House and Nelson Hall stand. The part of the proposed development that exceeds the height standard is a minimum of 22 metres from the future residential development to the west. The Ground Floor level comprises a Hydrotherapy pool, storage spaces and change rooms. There is limited opportunity to overlook future residential development to the west. The glass wall of the hydrotherapy pool will have vertical sunscreen louvres limiting views.

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Table 2 Assessment against the objectives of the height of buildings development standard	
Objective	**Assessment**
	New landscaping along the western elevation will also assist in screening the new building and softening its visual impact. The shadow diagrams submitted with the application demonstrate that there will be no overshadowing of residential lands.
(c) to facilitate higher density development in and around commercial centres and major transport routes.	Not relevant to this development.

Sufficient Environmental Planning Grounds

In the Judgment of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* ("Four2Five") Pearson C indicated there is an onus on the applicant to demonstrate, through the written request, that there are "*sufficient environmental planning grounds*" such that compliance with the development standard is unreasonable or unnecessary. Furthermore, that the environmental planning grounds must be particular to the circumstances of the proposed development rather than public benefits that could reasonably arise from a similar development on other land.

In Initial Action, Preston CJ indicated that it is reasonable to infer that "*environmental planning grounds*" as stated in under clause 4.6(3)(b), means grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EP&A Act.

Alternative Options Considered

Three (3) options were considered for the design of the new facilities on the site:

- Option 1: Demolition of Ross House and construction of a new building containing the Disability Support Centre;
- Option 2: Adaptive re-use of Ross House and construction of a part two (2) and part three (3) storey building to accommodate the required facilities; and
- Option 3: Adaptive re-use of Ross House and construction of a new height compliant wing to accommodate the required facilities.

Option 1 was discarded as it was decided to retain Ross House for its heritage significance. This strategy has been supported by Heritage NSW.

Whilst Option 3 could comply with the 8.5m height of building development standard, in order to accommodate the range of facilities required, the development would have a much larger footprint. This would reduce the open space around the building and have a greater impact on the overall landscape setting. It would also reduce the setbacks between the McCall Community Hub and the adjoining residential development. Operationally, there would be difficulties with having linked facilities and services located at different levels of the development.

Option 2 is the preferred option from a heritage, operational, architectural and landscape setting perspective as it:

- Minimises the heritage impact on Box Hill House, Nelson Hall and Ross House;
- Consolidates the building footprint maximising landscaped deep soil open space and providing operational benefits; and
- The floor levels of the new wing have been established with regard to the existing floor levels of Ross House to provide seamless transitions between Ross House and the new wing.

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3 Clause 4.6 Assessment

Built Form and Architecture

Quattro Architecture provided the following commentary in the Architect's Statement in relation to building height:

> *The proposed building breaches the LEP height limit as defined in clause 4.6. This occurs along the western façade of the building, namely in the proposed hydrotherapy facility. The breach is generally in the order of 4-6m tapering back to the east. The breach occurs due to a number of drivers largely driven by heritage, accessibility and the sites steep topography.*
>
> *There are key heritage considerations in the design of the proposed facility. A critical point is that the floor levels of the existing buildings must be maintained. The result is that the current floor levels of Ross House, in particular, have significant impact on any new additions.*
>
> *The existing built form also limits alternate locations of any proposed new development in ensuring that existing buildings have appropriate curtilage and that heritage significant view corridors and landscape features are maintained. It must also be noted that Box Hill House and Nelson Hall still remain the tallest buildings within the development, ensuring that they maintain appropriate hierarchy within the site and beyond.*
>
> *Given the nature of the use of the proposed development and its intended users, access is a fundamental design driver. The additional wings to Ross House have been designed to provide equitable and best practice accessibility. A key outcome of the design is to group facilities which are most likely to be used by those with more significant physical disabilities on a single level. The result of this is a fit-for-purpose outcome which places great importance on the amenity and dignity of its users.*
>
> *The sites topography also has significant impact on the building height. The site falls dramatically from a small plateau on the crest of Box Hill which contains the existing built form. The result of this is that any new development will need to be located on a significant slope. The proposed design works with this slope to minimise overall cut and fill and takes advantage of the topography to provide naturally ventilated open deck parking over 2 levels and then stepping back to built form above. The sites topography is so steep that it would not be possible to construct any development, sharing a floor level, to the west of Ross House without breaching the LEP height limit.*
>
> *In short, the developments height is set by the existing floor levels of existing built form with heritage significance and that this level must be maintained to provide a fit-for-purpose outcome. The sites steep topography and lack of alternate locations for development are also key issues of influence.*
>
> *Several architectural design devices have been utilised to limit the impact of the proposed height of the western façade of the development. These include:*
>
> - *stepping the building form,*
> - *utilising a linear building proportion located parallel with the topography,*
> - *a significant setback on the lower and upper ground levels,*
> - *low pitched roof forms,*
> - *human scale building materials,*
> - *building articulation and fenestration.*

Table 3 identifies some of the other environmental planning grounds to support the proposed variation.

Table 3 Environmental planning grounds supporting the proposed variation

Environmental Planning Ground	Discussion
Topography	Box Hill House and Nelson Hall are located at the knoll of Box Hill and will remain the dominant items in views in an arc from the north west through north, east and south to the south west. The existing Ross House already intrudes on the visual curtilage of Box Hill House on the west. The proposed new structures will have a similar maximum roof height to that of Ross House. The roof over the hydrotherapy pool has been stepped down to follow the site's topography.

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3 Clause 4.6 Assessment

Table 3 Environmental planning grounds supporting the proposed variation	
Environmental Planning Ground	**Discussion**
Accessibility	The new wing to Ross House has been designed to provide for equitable access throughout the building. The key users of the building are people with disabilities and therefore facilities have been grouped together on the same level to provide ease of movement
Heritage	The proposed new structures will be mainly placed in the view shadow of the existing Ross House at lower levels than Box Hill House and Nelson Hall, retaining the expansive visual curtilage in an arc from the north west through north, east and south to the south west. The project will facilitate removal of unsympathetic additions and alterations to Box Hill House and Nelson Hall, conservation woks to the significant building fabric and reconstruction of lost elements of the original building based on documentary evidence.

In addition, in Micaul and Initial Action, Preston CJ clarified that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. As summarised in **Table 1**, the proposal satisfactorily manages and mitigates adverse amenity impacts.

Accordingly, it is considered that there are sufficient environmental planning grounds to justify the contravention of the height of buildings development standard in this instance.

3.4.2 Clause 4.6(4)(a)(ii) – Public Interest

Pursuant to clause 4.6(4)(b) and as discussed by Preston CJ in Initial Action, if the development is consistent with the objectives of the development standard and the objectives of the zone, the consent authority can be satisfied that the development will be in the public interest.

An assessment of the proposal against the objectives of the height of buildings development standard is provided at **Table 2** and an assessment of the proposed development against the objectives of the R2 Low Density Residential Zone expressed in the Land Use Table to clause 2.3 of Appendix 11 of the Growth Centres SEPP is provided in **Table 4**.

Table 4 Assessment against the objectives of the R2 Low Density Residential Zone	
Objective	**Assessment**
• *To provide for the housing needs of the community within a low density residential environment*	Not relevant to the proposed development
• *To enable other land uses that provide facilities or services to meet the day to day needs of residents*	The proposed McCall Community Hub provides a range of facilities that serve the needs of intellectually disabled persons. The proposed development will significantly add to, and improve, the facilities to perform this valuable community service.
• *To allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours.*	Not relevant to the proposed development
• *To support the well-being of the community, by enabling educational, recreational, community, religious and other activities where compatible with the amenity*	The proposed McCall Community Hub provides a range of facilities that serve the needs of intellectually disabled persons. The proposed community service development will significantly add to, and improve, the facilities to perform this valuable community service. The proposed development is separated from future residential development and would not create any adverse amenity impacts

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3 Clause 4.6 Assessment

Table 4 Assessment against the objectives of the R2 Low Density Residential Zone	
of a low density residential environment.	

These assessments demonstrate that the proposed development is consistent with the relevant objectives of the development standard to be varied and the relevant objectives of the zone within which the development is to be carried out. Accordingly, it follows that the proposed development is in the public interest.

3.5 Clause 4.6(4)(b) – Concurrence of the Secretary

On 21 February 2018, the Secretary of former Department of Planning and Environment issued a Notice ('the Notice') under clause 64 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6 of the *Standard Instrument – Principal Local Environmental Plan* (the SILEP) or SEPP 1 subject to certain conditions.

The Appendix 11 of the Growth Centres SEPP adopts clause 4.6 of the SILEP and therefore, that prerequisite of the Notice is met.

Pursuant to the Notice, as the proposed development is regionally significant development and will be determined by the Sydney Central City Planning Panel, the Secretary's concurrence can be assumed.

3.6 Clause 4.6(5) – Concurrence Considerations

Clause 4.6(5) is not relevant in this instance as concurrence can be assumed pursuant to the Notice.

3.7 Clause 4.6(6) – Subdivision on Certain Land

Clause 4.6(6) is not relevant to the proposed development as it does not relate to subdivision of land.

3.8 Clause 4.6(7) – Keeping of Records

Clause 4.6(7) is an administrative clause requiring the consent authority to keep a record of its assessment under this clause after determining a development application.

3.9 Clause 4.6(8) – Restrictions on use of cl4.6

Clause 4.6(8) of Appendix 11 of the Growth Centres SEPP states as follows:

> *(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.*

Clause 4.6(8) is not relevant to the proposed development as it is subject to a DA and does not constitute Complying Development, does not seek to vary any requirements of SEPP BASIX and does not relate to a standard under clause 5.4.

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4 Conclusion

The proposed development contravenes the height of buildings development standard under clause 4.3 of Appendix 11 of the Growth Centres SEPP.

The height of buildings development standard under clause 4.3 of the Growth Centres SEPP is a development standard and is not excluded from the application of clause 4.6.

This written request to vary the development standard has been prepared in accordance with clause 4.6(3) of the LEP and demonstrates that strict compliance with the development standard is unreasonable and unnecessary because, notwithstanding the contravention of the height of buildings development standard, the proposed development is consistent with:

- the objectives of the development standard pursuant to clause 4.3 of Appendix 11 of the Growth Centres SEPP; and
- the relevant objectives of the R2 Zone.

Therefore, the proposed development is in the public interest.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the height of buildings development standard including:

- The upper level of the new accommodation maintains the existing ground floor level places the remainder underneath into the steep site slope;
- The proposed building is at a significant distance from future residential development;
- The proposed development is unlikely to result in any adverse amenity impacts including acoustic impacts, overshadowing and overlooking;
- Positive heritage conservation outcomes through siting of the proposed development and facilitation of conservation works to Box Hill House and Nelson Hall;
- The proposal provides for upgrade and expansion of a long standing and significant community facility;

Accordingly, this written request can be relied upon by the consent authority when documenting that it has formed the necessary opinions of satisfaction under cl4.6(4) of the LEP.

The consent authority can assume the concurrence of the Secretary pursuant to the Notice issued on 21 February 2018 and can exercise its power pursuant to clause 4.6(2) to grant development consent to the proposed development notwithstanding the contravention of the development standard.

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