

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-221
DA Number	DA 1154/2021/JP
LGA	The Hills Shire Council
Proposed Development	A 6-8 Storey Commercial Office Building with Ground Floor and Roof Top Food and Drink Premises
Street Address	7 Maitland Place Norwest
Applicant	Haitchin Commercial Pty Ltd
Consultant/s	Dowling Urban – Planner Turner – Architects Naturally Trees – Arborist Eco Logical Australia - Flora and Fauna Assessment City Plan – BCA Assessment Vista Access Architects – Access Report AT& L – Engineers EI Australia – Geotechnical Engineer and Contamination Report SESL Australia – Soil Volume Calculation & Design JHA Services – Green Star Report, Noise Impact Assessment Arcadia – Landscape Architect Elephants Foot – Waste Management Plan Craig & Rhodes – Site Survey TTPP - Transport Impact Assessment
Date of DA lodgement	9 February 2021
Number of Submissions	One
Recommendation	Approval, subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV exceeding \$30 million (\$30,830,333)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy Infrastructure 2007 • State Environmental Planning Policy No 55 — Remediation of Land • The Hills Local Environmental Plan 2019 • The Hills Development Control Plan 2012 <ul style="list-style-type: none"> - Part B Section 6 – Business - Part C Section 1 – Parking - Part C Section 3 – Landscaping • Any relevant planning agreement that has been entered into under section 7.4 <ul style="list-style-type: none"> - Voluntary Planning Agreement
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Plans • Clause 4.6 written submission • Design Review Panel Report
Clause 4.6 requests	<ul style="list-style-type: none"> • The Hills LEP 2019 • Clause 4.3 Height of Buildings • B7 Business Park Zone

Summary of key submissions	<ul style="list-style-type: none"> Traffic and parking concerns during construction
Report prepared by	Cynthia Dugan – Principal Coordinator Development Assessment
Report date	November 2021 (Electronic Determination)

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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

EXECUTIVE SUMMARY

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

- This application is accompanied by a request to vary Clause 4.3 Building Height development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan. Clause 4.3 of LEP 2019 limits the height of the development to RL 116 metres or 30.6m. The proposed development will have a maximum building height of RL 117.45 metres or 32.45m when measured from the existing ground level of RL85.4. This represents a variation of 1.45m (4.73.%) to the height standard. A Clause 4.6 written submission has been prepared and submitted with the application. It is considered strict compliance is unreasonable and unnecessary in this instance and the variation can be supported.
- The proposal complies with all other provisions of The Hills LEP 2019. The proposal comprises a Floor Space Ratio (FSR) of 1.5:1 (gross floor area of 7,071m²) which complies with the maximum FSR standard of 1.5:1 under the LEP.
- The proposal has been reviewed by Council's Design Excellence Panel (DEP) and demonstrates design excellence in accordance with Clause 7.7 of the LEP.
- The proposal has been assessed under the provisions of The Hills DCP 2012 and variations have been identified with respect to setbacks, loading bays and car parking. These variations are supported as the proposal demonstrates that the objectives of the controls are still achieved.
- The application was notified for 14 days and one submission was received during the notification period. The concerns raised primarily relate to the necessity of an on-site detention system and requests that vehicular access/egress of construction vehicles is

not via Spurway Drive. These concerns are addressed in the report and do not warrant refusal of the application.

The application is recommended for approval subject to conditions.

BACKGROUND

On 21 April 2017, LEP amendment (Notification No. 155) was notified on the NSW legislation website and came into force. The Instrument amended the LEP as follows:

- Rezoned 7 Maitland Place from B7 Business Park to part R4 High Density Residential and part B7 Business Park (2-6 Maitland Place remains R4 High Density Residential);
- Applied a “base floor space ratio” of 1:1 and an “incentivised floor space ratio” of 3:1 to portions of the site zoned R4 High Density Residential;
- Increased the maximum building height from RL116 metres to RL169 metres (up to approximately 25 storeys) for portions of the site zoned R4 High Density Residential;
- Increased the maximum floor space ratio from 1:1 to 1.5:1 (base floor space ratio) for portions of the site zoned B7 Business Park;
- Reduced the minimum lot size applicable to 7 Maitland Place from 8,000m² to 4,000m² (a minimum lot size of 1,800m² would continue to apply to 2-6 Maitland Place); and
- Included a new local provision within the LEP which ensures that the “incentivised floor space ratio” for residential development can only be achieved where the proposed development complies with Council requirements for apartment size, mix and car parking – this reflects the agreed methodology between Council and State Government for ensuring the provision of housing mix and diversity within the Sydney Metro Northwest Corridor (this local provision is also identified as a provision which cannot be varied under Clause 4.6 of the LEP).

It is noted that the planning proposal facilitated a Voluntary Planning Agreement (9/2018/VPA) between Council and the owners of the subject site at 7 Maitland Place for a total contribution value of \$7.8 million comprising the construction and dedication of a new local road through the site to connect to Spurway Drive at no cost to Council, as well as a monetary contribution towards traffic, open space and public domain works to be completed in the future.

The works required under the planning agreement for the new local road (Maitland Place extension) were approved on 6 June 2019 under Development Application No. 2267/2018/ZA at Lot 1 DP 866565 7 Maitland Place, Norwest. The consent also included a subdivision creating two mixed use development lots (proposed Lot 10) comprising an area of 9,625m² and mixed use lot (proposed Lot 11) comprising an area of 4,953m². The subject application is proposed on the eastern lot, Lot 11 which is zoned B7 Business Park and has a site area of 4,714m². The extension of Maitland Place would be constructed in its entirety to an enhanced collector public road standard (with a 13m wide carriageway) between Maitland Place (existing) and Spurway Drive and dedicated to Council as a public road. It is noted that physical connection to Spurway Drive (currently a private road) will not occur until Spurway Drive is upgraded and dedicated as a public road as required in Development Consent 634/2017/ZB over Lot 2 DP 1246113.

Development Application No. 634/2017/ZB at Lot 101 DP 1176747, Lot 32 DP 247442, Lot 33 DP 247442 Lots 32-33 DP 247442, Private Road and Seventh Day Adventist Church, RMB 47 Spurway Drive, Baulkham Hills was approved on 29 August 2017 for the Subdivision creation two residue lots including a new road. The new road known as Spurway Drive (Lot 2) is to be

dedicated as a public road to Council. The subject application contains a northern frontage to this new road (Spurway Drive).

On 12 December 2019, the Sydney Central City Planning Panel approved Development Application 1235/2018/JP for the Construction of 4 x 6 to 25 storey residential flat buildings comprising 290 units and 4 levels of basement parking. This development is located on the western, R4 High Density Residential zoned portion of the site.

The subject Development Application was lodged on 9 February 2021 for a commercial development on the eastern, B7 Business Park zoned portion of the site (approved as Lot 11 in the subdivision development consent 2267/2018/ZA).

Additional information was requested on 10 March 2021, 9 and 21 April 2021 and 31 May 2021 regarding engineering, environmental health, ecology, landscaping and waste management concerns.

Amended plans were received on 20 April 2021 indicating a redistribution of retail floor space from the ground level to the rooftop.

The Design Excellence Panel reviewed the proposal on 12 May 2021. It is noted that the DEP reviewed a previous proposal for this site at pre-lodgement stage under 125/2020/PRE. At the latest DEP meeting, the Panel concluded that the application generally satisfies the requirements of the design excellence cause and subject to recommendations made by the Panel, the application exhibits design excellence.

Additional information was requested on 10 June 2021 and 28 July 2021, regarding Engineering and Traffic matters.

Amended plans were received on 17 September 2021. The amended Development Application was renotified from 22 September 2021 to 13 October 2021.

DETAILS AND SUBMISSIONS

Zoning:	B7 Business Park
Area:	17,390m ² (Total Site Area) 4,714m ² (B7 Business Park)
Existing Development:	Vacant land
Contributions	A Planning Agreement is in place which requires a total contribution value of \$7.8 million comprising the construction and dedication of a new local road through the site to connect to Spurway Drive at no cost to Council, as well as a monetary contribution towards traffic, open space and public domain works to be completed in the future (refer Attachment 17). Clause 9.2 of the VPA requires any development consent for non-residential land uses to be levied a contribution payment under Council's Section 7.12 Contributions Plan. In this regard, a contribution of \$339,133.66 is required to be paid for the development. Refer condition 21.
Notice Adj Owners:	Yes, 14 days on two occasions
Number Advised:	295
Submissions Received:	One

PROPOSAL

The proposal is for a 6 – 8 storey commercial building to be used for office premises and food and drink premises on the ground floor and roof top totalling 7,071m² GFA. The specific uses are detailed below:

- 95 small to large office units,
- Ground floor and roof top café/restaurants with associated outdoor seating,
- Basement car parking spaces for 265 commercial and visitor spaces,
- Bicycle and motorbike parking and change room facilities for bicycles,
- Private, communal and publically accessible open spaces,
- On-site loading and waste facilities,
- Vehicle access from Columbia Place, and
- Associated landscaping, rooftop gardens and on-site facilities.

A maximum height of RL 117.450m is proposed. This is a variation of 1.45m to the RL 116m height of building development standard.

A Clause 4.6 written submission has been lodged to vary Clause 4.3 height of buildings standard of the Hills LEP 2019.

STRATEGIC PLANNING FRAMEWORK

a. Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan, *A Metropolis of Three Cities* has been prepared by the NSW State Government to set a 40 year vision and established a 20 year plan to manage growth and change for Greater Sydney in the context of social, economic and environmental matters. The Plan sets a new strategy and actions to land use and transport patterns. The Plan seeks to integrate land use planning with transport and infrastructure corridors to facilitate a 30-minute city where houses, jobs, goods and services are co-located and supported by public transport (Objective 14). To achieve this, the Plan seeks to develop a network of 34 strategic centres, one of which is Norwest Business Park, which extends into the suburb of Bella Vista and incorporates the subject site. The Plan aims to ensure economic corridors are better connected and more competitive.

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

The proposed development would provide additional jobs and a choice of modern office space close to where people live, in a location that has good access to services. The proposal will enhance the global competitiveness of Norwest Business Park.

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

b. Central City District Plan

The plan requires integration of land use planning and transport to facilitate walkable 30-minute cities amongst the 34 strategic centres identified. Norwest, being within the Sydney

Metro Northwest Rail Corridor should seek to facilitate growth and change that enables efficient access to jobs, services, residential opportunities and a wide range of other uses through reduced travel times (Planning Priority C9). The site would support the objectives of the B7 Business Park Zone and the role of the employment precinct.

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

ISSUES FOR CONSIDERATION

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

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

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

The proposed development has a capital investment value of \$30,830,333 (excluding GST) thereby requiring referral to, and determination by, a Regional Planning Panel.

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

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

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

Clause 7 of the SEPP states:-

- 1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Comment:

A Stage 1 Environmental Site Assessment and Hazard Materials Survey have been undertaken by Environmental Investigations Australia. The investigation found that to ensure the site is suitable for the proposed development in accordance with SEPP 55, an unexpected

finds protocol is to be implemented to ensure any potential contamination sources are identified and managed in accordance with the NSW EPA legislation and guidelines; undertake further groundwater investigation to assess the groundwater pH conditions if basement excavations are to occur on site which intercepts groundwater and/or requires dewatering; undertake appropriate waste classification for all materials to be removed from site, in accordance with the DECCW (2014) Waste Classification Guidelines; and any material being imported to the site should be assessed for potential contamination in accordance with NSW EPA guidelines as being suitable for the intended use or be classified as VENM. In addition, the Hazard Materials Survey concluded that the buildings on site contain negligible hazardous materials however also recommends a number of handling recommendations and material specific work plans for the relevant hazardous materials identified during demolition works.

In this regard, condition 31 is recommended in the development consent to ensure that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP 55.

3. State Environmental Planning Policy (Infrastructure) 2007

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

Traffic generating development

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

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

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

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

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

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

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

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

(a) give written notice of the application to the RMS within 7 days after the application is made, and

(b) take into consideration:

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

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

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

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

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

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

Comment:

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP requires development to be referred to the Transport for NSW (previously Roads and Maritime Service) where a development includes more than 200 car parking spaces. The proposed development results in a total of 265 car parking spaces.

The Development Application was referred to Transport for NSW for review. Transport for NSW have provided the following comment:

1. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for determination prior to the issue of a construction certificate.

2. Council should give consideration to a reduction in the number of car parking spaces to encourage sustainable transport.

3. Council needs to be satisfied that the existing transport network could accommodate the transport requirements of the proposed development.

The submission of a Construction Traffic Management Plan prior to the issue of a construction certificate is recommended as a condition of development consent. Refer condition 38.

The DCP requires 271 spaces for the proposal based on a rate of 1 space per 25m². 265 car parking spaces are provided for the development which results in a shortfall to the car parking controls. Refer to Section 5 for further discussion. A Traffic and Parking Study has been submitted with the application which demonstrates that sufficient parking will be provided to meet the needs of future users of the development.

Council's Traffic Section has reviewed the Development Application and concluded that as the net increase of trips generated from the approved residential and proposed commercial development is 38 and 20 trips per vehicle during the morning and afternoon peak hours

respectively, the additional traffic generated from the proposed development is within an acceptable range which is unlikely to change the Level of Service at the intersection of Solent Circuit and Maitland Place.

In this regard, the potential for traffic safety and road congestion of the development have been satisfactorily addressed and satisfies Clause 104 (3) of SEPP (Infrastructure) 2007.

4. The Hills Local Environmental Plan 2019

a. Permissibility

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

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

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

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

Neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include neighbourhood supermarkets or restricted premises.

Note—

See clause 5.4 for controls relating to the retail floor area of neighbourhood shops.

Clause 5.4 (7) **Neighbourhood shops** *If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.*

The proposed ground floor plan includes a tenancy for use as “specialty retail/commercial”. It is noted that under the LEP, commercial premises and therefore retail premises including specialised retail premises are prohibited land uses within the B7 Business Park zone. In this regard, the use of the tenancy under this application will be amended in red on the approved plans for use as a “neighbourhood shop” (refer condition 1).

Subject to the above condition, the proposed uses are permitted within the B7 Business Park zone under the provisions of LEP 2019.

b. Zone Objectives

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

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

- *To make provision for high technology industries that use and develop advanced technologies, products and processes.*

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

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

c. Development Standards

The following addresses the principal development standards of the LEP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1 Minimum Lot Size	4,000m ²	4,714m ² (Lot 11 approved under 2267/2018/ZA)	Yes
4.3 Height	RL 116	RL 117.45	No, a Clause 4.6 written submission has been provided to vary this standard. Refer to discussion below.
4.4 Floor Space Ratio	1.5:1 7,071m ²	1.5:1 7,071m ²	Yes
7.7 Design Excellence	Development consent must not be granted unless the development exhibits design excellence	Proposal referred to Council's Design Excellence Panel.	Yes, refer to discussion below.

(i) Height

Clause 4.3 of LEP 2019 limits the height of the development site to RL116m or 30.6m. The proposed maximum building height is RL117.45 or 32.45m when measured from the existing ground level of RL85.4. This represents a variation of 1.45m (4.73%) to the height standard. The extent of the variation is summarised in the below table:

Building Element	Maximum Height	Departure from Maximum RL 116m Height Standard
Roof Plant	RL 117.45	1.45m (4.6%)
Lift Overrun	RL116.75	0.75m (2.4%)
Roof Level	RL 114.95m	Complies
Parapet	RL 113.6m	Complies

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 14.

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 Secretary has been obtained.*

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

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

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

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

area specified for such a lot by a development standard.

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

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

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

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

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there is sufficient environmental planning grounds to justify contravening the development standard as described in the Clause 4.6 request.
- The proposed development remains consistent with the objectives, nature and intent of the zone objectives and height standard of the LEP.
- The development as proposed is based on a well-reasoned design strategy that includes the breach of the height standard to achieve a better planning and design outcome, particularly for the useability of the building, that is appropriate for the site and its context.
- The proposed variation does not result in any significant adverse environmental impacts on the amenity of the surrounding public domain adjoining the development but which will provide positive visual impacts especially to adjoining apartments overlooking the building's rooftop.
- The proposed development is wholly consistent with the objectives of the development standard, including the underlying reason for the adopted RL applying to the site, but which might be defeated by strict compliance.
- The use of the clause is justified in meeting its aims to provide an appropriate degree of flexibility in applying the height of building development standard to achieve better outcomes for and from development in this circumstance.
- Strict compliance with the height of building control in this circumstance would result in unnecessary planning and design limitations and consequently, a diminished urban design outcome.
- The unstated objective of the RL 116m limit is to help preserve view corridors, especially from the Bella Vista Farm which is located 1.8kms to the south west of the site. A variation of 1.45m would be imperceptible at this distance from Bella Vista Farm and of little relevance given the effected potential view line adjoins taller buildings of up to 25 storeys under an RL 169 height limit.

- The application demonstrates that the area of height exceedance cannot be viewed from the frontages as a result of its small footprint and setbacks from the building edge.
- The roof feature may become visible from longer views but will remain compatible with the respective streetscapes by its design being integrated with the design and materials of the building as a whole.
- The height exceedance is considered to remain compatible with the streetscape and adjoining development given its location within a higher density mixed use precinct.
- Overshadowing from the exceedance is limited to afternoon only as demonstrated by the submitted shadow diagrams as a result of its set back from the building edge. The limited impact of overshadowing will further diminish over the longer term when the adjoining site is redeveloped with a larger built form characterised by more recent commercial developments in the locality.
- In terms of visual and privacy impacts to adjoining developments, the approved adjoining residential tower should be positively affected by the elaborate treatment of screen plant and lift overrun that would otherwise be potentially visible from overlooking residential apartments.

Comment:

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

The proposed departure to the building height development standard is limited to an architectural roof feature which aesthetically screens a roof plant and lift overrun whilst enabling the roof top to be used for outdoor recreational uses designed in a landscaped setting which will not cause adverse impacts on the amenity of adjoining properties with respect to overshadowing, privacy, view loss and perceived bulk and scale. Refer figures 1 and 2.



Figure 1: Elevation indicating height exceedance



Figure 2: Perspective indicating 'architectural roof feature' design element

The building comprises a 1.45m (4.73%) height exceedance to the roof plant and a 0.75m (2.4%) height exceedance to the lift overrun. The roof plant is centrally located and would not result in additional overshadowing impacts to adjoining development and results in negligible visual amenity impacts when viewed from the street. The Applicant has submitted shadow diagrams demonstrating that this variation results in negligible overshadowing impacts. Refer Attachment 10.

The development has been designed to provide a unique built form outcome that will align with the strategic objectives envisaged under the site specific planning proposal. The proposed development complies with the FSR standard for the site and is compatible with the scale and character of the adjoining developments that will be up to 25 storeys in height. The commercial mixed use development is consistent with the objectives of the B7 Business Park zone which promotes a range of uses that would encourage additional employment opportunities. The food and drink premises and neighbourhood shop would provide services that meet the day to day needs of workers in the area.

The proposal responds to the site's constraints, being located on a narrow allotment which was supported under the site specific planning proposal and subdivision approved under Development Consent 2267/2018/ZA. The development has been designed to respond to the topography of the land and the bulk and scale of the development and is considered appropriate within the business park as the unique architectural landscape elements and interesting fenestration and articulation provides a high level of visual amenity to the streetscape. The height exceedance does not impact any heritage view corridors extending to and from State Significant Heritage Item Bella Vista Farm or towards the Blue Mountains. The variations to the height standard are considered negligible when viewed from the public domain. In this regard, there are sufficient environmental planning grounds to justify the contravention.

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

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

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

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

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

(ii) Clause 7.7 Design Excellence

Clause 7.7 of the LEP specifies an objective to deliver the highest standard of architectural and urban design and applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more. The Clause also prescribes that development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) whether the development detrimentally impacts on view corridors,*
- (d) whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,*
- (e) the requirements of any development control plan to the extent that it is relevant to the proposed development,*
- (f) how the development addresses the following matters:*
 - (i) the suitability of the land for development,*
 - (ii) existing and proposed uses and use mix,*
 - (iii) heritage issues and streetscape constraints,*
 - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) bulk, massing and modulation of buildings,*

- (vi) *street frontage heights,*
- (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
- (viii) *the achievement of the principles of ecologically sustainable development,*
- (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
- (x) *the impact on, and any proposed improvements to, the public domain,*
- (xi) *the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*

(g) *the findings of a panel of 3 or more persons that has been convened by the consent authority for the purposes of reviewing the design excellence of the development proposal.*

Comment:

The design excellence of the proposal was considered at two Design Excellence Panel meetings convened by Council and held on 12 August 2020 (prior to lodgment of the Development Application) and 12 May 2021. The meeting minutes of the Design Excellence Panel are included at Attachment 15. At the end of the last meeting, the Design Excellence Panel concluded that:

“The Panel is of the opinion that the application satisfies the requirements of the Design Excellence clause and exhibits Design Excellence. Subject to Council’s DA Officer being satisfied that the applicant has addressed the issues raised in this report, the project need not return to the panel for further consideration.”

The following comments and recommendations were made by the Design Review Panel:

- The application presents an appropriate response to its immediate context and provides a sound precedent for contemporary office development within a traditional business park setting.
- The bulk, scale and massing is greater than that envisaged in the planning proposal and the generous open terraces add volume to the building envelope. The Panel supports the revised balcony sizes in relation to the tenancy sizes.
- Maximise deep soil planting wherever possible and a minimum of 1.5m soil depth over basements to sustain larger trees. More detail and resolution to ensure soil depths are achieved. Suitability of soil depths are to be confirmed with Council’s Landscape Assessment Officer.
- The landscape drawings presented a well considered response to existing site conditions and the cultural history on the Spurway Driveway and Matiland Place frontages.
- The established setbacks to Spurway Drive and Columbia Way is to be respected to ensure continuity within the existing street corridor.
- Columbia Way is a main thoroughfare and the setback should be increased.
- The proposed setback to Maitland Place may be acceptable, subject to Council’s consideration and impact on the landscape amenity for the interface.
- The proposed layouts provide sufficient flexibility to meet the commercial demands within the locality.

- The additional height of 1.45m to the LEP standard does not create adverse visual impacts. The location of the services provision is central and setback from all building facades, and will not impose on the amenity of pedestrians in the public domain.
- The applicant has considered the impact of the proposal on the public domain and amended the design appropriately as per previous advice provided at prelodgement stage.
- The main entry should be visible from the street with clear sight lines between the foyer and external public domain areas. The landscaping plans should demonstrate these sight lines are achieved.
- The upper level breakout areas on the roof top appear to provide suitable amenity for a contemporary workforce. Soil depths and detailed documentation to be provided. The Panel questioned whether fully enclosed rooftop areas, surrounding by a 1.8m high glass balustrade is required and recommended any balustrade to be limited to 1.2m in height and setback from the parapet edge by a minimum of 2m.
- Commends the WSUD treatments and incorporation of overland flow paths into the landscape design as a naturalised system.
- OSD should not be located in landscaped setback areas.
- Utility services should be suitably screened and integrated into the building fabric.
- Commends a 5-star Greenhouse energy rating for the development.
- Provision of outdoor breakout and passive recreation areas in the main setbacks provides alternative casual meeting spaces for workers in addition to providing street activation.
- Consideration of 'calming' the facades addressing Maitland Place and Columbia Way. The green terrace boxes may potentially detract from the appearance of the building and its architectural integration into the landscape.
- Supports the public art initiatives presented as a positive addition to the Norwest Business Park.

The application has been amended to address the above recommendations. In particular the following is noted:

- The bulk, scale and massing is considered suitable in its context. Balcony sizes have been reduced and are considered to be appropriate for the commercial tenancies.
- Details regarding deep soil planning, soil depths and landscaping have been provided to the satisfaction of Council's Landscape Assessment Officer. The following comment has been provided by Council's Landscape Assessment Officer:

The provided landscape plans provide an ambitious and wildly creative proposal. The opportunities the design would provide for interaction with the natural environment and education of the indigenous ecological character of the local area are genuine. The design is user-focussed, in which landscaped areas are not relegated to the usual left-over areas for landscape screening or mass planting, but are whimsical spaces (e.g the hammock edge and tree cut-outs to the Forest Canopy Deck) designed to be enjoyed by those within the office tenancies and the general community.

The landscape design is a great example of how landscaping can enable a commercial development to sit lightly within the landscape, despite a significant basement footprint.

The landscape, architectural, and hydraulic elements are incredibly well integrated, and the visual communication of the Landscape Report is of the highest quality.

- The building footprint, including basements, has been shifted 1.6m north towards Spurway Drive to ensure a 13.5m setback to Columbia Way can be achieved as recommended by the DRP. The form of the northern and southern planter projections has been modified across the typical levels to ensure there is no encroachments into either setback zone to Columbia Way or Spurway Drive. The basement encroachments into the setback zones maintain a minimum of 1.5m soil depth over to ensure adequate soil depth can be provided for deep soil landscaping.
- Whilst the recommendations of the DRP are noted, acoustic screening including balustrading of 1.8m is required along the roof terrace to mitigate any noise impacts from the rooftop restaurant to the adjoining approved residential development to the west. This acoustic screen will comprise cladding and 12mm toughened glass with silicone joint closed gaps. The design of this acoustic fencing will be integrated into the building.
- The hydraulic and gas services have been removed from the public domain and relocated to sit below the deck in the south western corner of the site. The services are adequately screened whilst maintaining access.
- The projected balcony boxes are a key feature to the building design and character, expressing a playfulness along the façade and providing a point of difference from conventional office design. The distance of the projections from the main facade glass line has been reduced by 0.5m to 0.6m from the face of the façade for the majority of all balconies. This amendment addresses the DRP's concern regarding the integration of the façade within the landscape and taking measures to 'calm' the façade.
- The stormwater management including swales, rainwater tanks, bio-retention systems are integrated into the landscape design of the development.

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

With regard to Clause 7.7(4)(b), the building form, arrangement and external appearance of the development will improve the quality and amenity of the public domain.

With regard to Clause 7.7(4)(c), the the proposal will result in negligible impacts to the adjoining "Avenue of Trees" along Spurway Drive which is identified as a item of local significance under Item 26 of Schedule 5 of the LEP.

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

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

With regard to Clause 7.7(4)(f), the relevant matters are addressed as satisfactory.

With regard to Clause 7.7(4)(g), the findings of Council's Design Excellence Panel have been considered and the concerns raised have been satisfactorily addressed.

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

(iii) Clause 5.10 Heritage

Clause 5.10 (5) of the LEP requires that the consent authority may, before granting consent to any development on land that is within the vicinity of land on which a heritage item is located requires a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.

The site adjoins land at *RMB 47 Spurway Drive and Castle Hill Country Club, Spurway Drive* which is listed in Schedule 5 of The Hills Local Environmental Plan 2019 as an item of environmental heritage. Council's heritage inventory sheet provides the following statement of significance of the heritage item:

“Araucarias and mature eucalypts are evidence of European settlement and use of this land since early 19th century”

Whilst no heritage impact statement was provided, Council's Forward Planning Team have reviewed the Heritage assessment and have concluded that the proposed works are reasonable and is unlikely to adversely impact the heritage significance of *“Avenue of trees leading to Castle Hill Country Club”*. Accordingly, no objection is raised to the proposed development on heritage grounds, subject to recommended condition 4 which requires all colours and materials be in accordance with the details submitted with the development application.

In this regard, the proposal satisfies the provisions under Clause 5.10 of the LEP.

5. Compliance with The Hills Development Control Plan 2012

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

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 6 – Business Clause 2.5 Setbacks	<u>Front Setbacks</u> Minimum 20m for all public roads within the Norwest Business Park.	<u>Columbia Way</u> 13.5m – 15.3m	No, refer to discussion below.
	Building setbacks on corner lots are to be splayed to provide adequate sight lines at road intersections.	<u>Maitland Place</u> 6m – 18.9m	No, refer to discussion below.
	Front setback along Spurway Drive: 15m	Building setbacks on corner lot are splayed.	Yes
	<u>Side/Rear Setbacks</u> Minimum 10m except in the case of car parking	<u>Spurway Drive</u> 15.4m – 19.6m	Yes
		10m (building) 3m (driveway)	Yes No, refer to

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	where a 5m setback applies provided the first 5m is landscaped to screen car parking.		discussion below.
Part B Section 6 – Business Clause 2.18 Loading Docks and Part C Section 1 – Parking	For offices (GFA), 1 loading bay is required for 1,860m ² , 1 for next 3,720m ² , 1 for next 3,720m ² and 1 for each extra 9,250m ² . Therefore, 3 bays required for office GFA of 7,071m ²	2 loading bays	No, shortfall of 1 loading bay however considered to be commensurate with size of mixed use commercial development. Refer to discussion below.
Part C Section 1 - Parking	<p><u>Commercial premises</u> require 1 space per 25m². For 6,440m² GFA, 258 spaces required.</p> <p><u>Restaurant or café</u> within commercial office building requires 1 space per 25m². For 370m² GFA, 12 spaces required.</p> <p><u>Neighbourhood shop</u> requires 1 space per 18.5m². For 63m² GFA, 4 spaces are required.</p> <p>Total required: 274 spaces</p>	<p>B1 – 85 spaces and 3 tandem spaces B2 – 87 spaces and 5 tandem spaces B3 – 80 spaces (including 2 service and 6 visitors) and 5 tandem spaces</p> <p>Total car parking spaces provided on submitted plans: 252 spaces and 13 tandem spaces</p>	No, shortfall of 22 car parking spaces for the development. This is further discussed below.

a. Setbacks

i) Front Setback

The DCP requires a 20m building setback to all public roads within the Norwest Business Park except for a 15m setback to Spurway Drive. Whilst the proposal provides a compliant setback to Spurway Drive, the development includes a 6m minimum setback to Maitland Place and a 13.5m minimum setback to Columbia Way.

The Applicant has provided the following justification for the variation:

Whilst the setbacks adopted for Columbia Way and Maitland Place do not meet the numerical standard, they are considered to achieve the objectives by providing for attractive streetscapes, minimal overshadowing and privacy impacts to adjoining uses and a desirable and aesthetically pleasing working environment. Adequate site distances are still provided and no ecological endangered communities are at risk.

Comment:

The relevant objectives of Clause 2.5 Setbacks under Part B Section 6 Business are:

- To provide an attractive streetscape and substantial areas for landscaping and screen planting.
- To ensure adequate sight distance is available for vehicles entering and leaving the site.
- To minimise overshadowing of adjoining properties.
- To protect privacy and amenity of any adjoining land uses.
- To provide a desirable and aesthetically pleasing working environment.
- To ensure endangered ecological communities are protected.

The proposal is located on lot 11 of an approved subdivision under development consent 2267/2018/ZA. The irregular shaped lot has a width of between 33m – 55.9m. A development with a compliant scheme cannot be achieved on this lot. Refer to Figure 3 below.

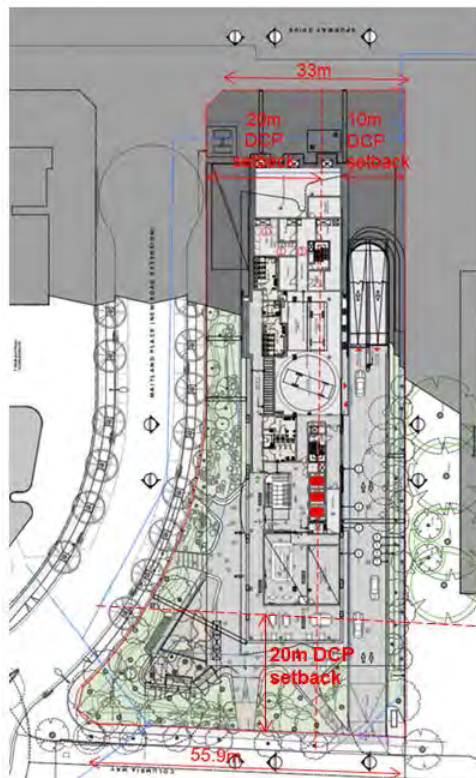


Figure 3: Development with compliant setbacks

The Design Review Panel has provided the following comment in relation to the setback variations:

“The Panel acknowledges the narrow site width resulting from the modified subdivision plan and relocation of the proposed road further east. This has implications on the proposed street setbacks. The proposed setback extension of Maitland Place may be acceptable subject to Council’s consideration and clarification of landscape detail with Council’s Landscape Assessment officer.”

The Panel does not accept that a 10m is an acceptable setback for Columbia Way...the Panel considers that the setback to Columbia Way should be a minimum of 13.5m, to better align with the character of existing setbacks along the northern side of Columbia Way (ranging from 16 – 28m) and allow for enhancement of the role of Columbia Way as an accessible and well-utilised pedestrian and vehicle thoroughfare in the future. This increased setback would “future-proof” the development on the site against any potential changes to the alignment of width of Columbia Way, if the Council were to determine this as being necessary as a result of traffic modelling, infrastructure analysis and precinct planning for the Norwest Strategic Centre which is currently underway”.

As a result of these recommendations, considerable changes have been made to the landscape design along the Maitland Place and Columbia Way frontages with a substantial increase in native landscape buffer along all frontages. The proposal now comprises 2,300m² native and indigenous buffer planting and 121 new trees and established tree canopies. Refer to Figures 4 and 5 below.

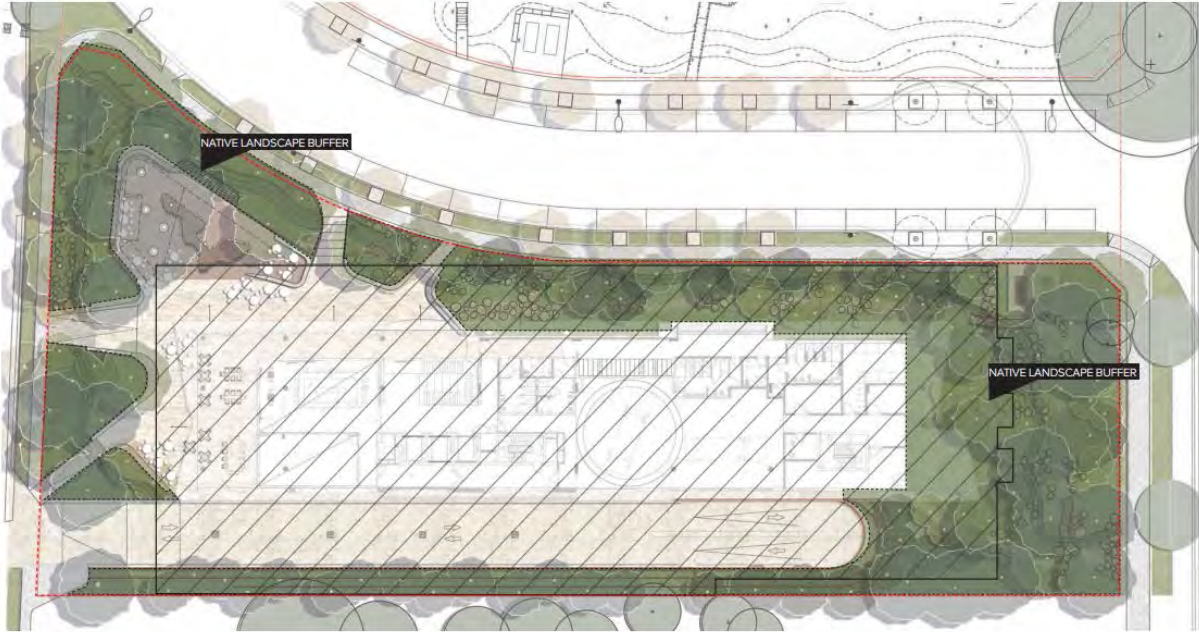


Figure 4: Design Diagram indicating landscape buffers along street frontages

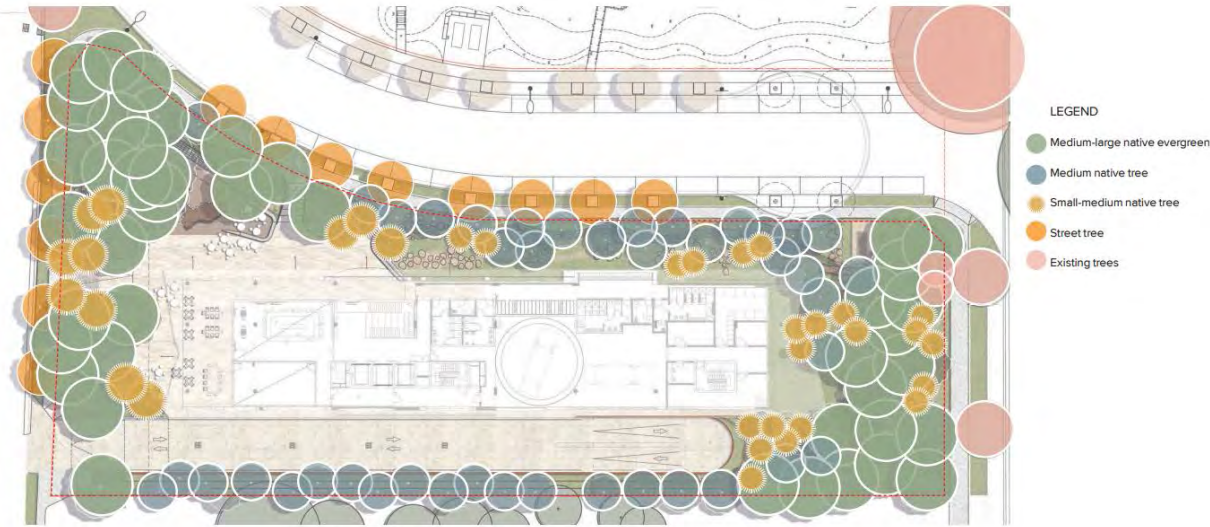


Figure 5: Design Diagram indicating tree densities

The Maitland Place frontage includes a plaza entry with stepped amphitheatre connecting into inside stair, seating edge to the plaza and gravel discovery path with sandstone stepping elements through native palm groves. Soil depths of at least 1.5m have been provided on podiums to ensure the 52% of the site area has sufficient soil to accommodate indigenous canopy tree planting. Refer figure 6 below.

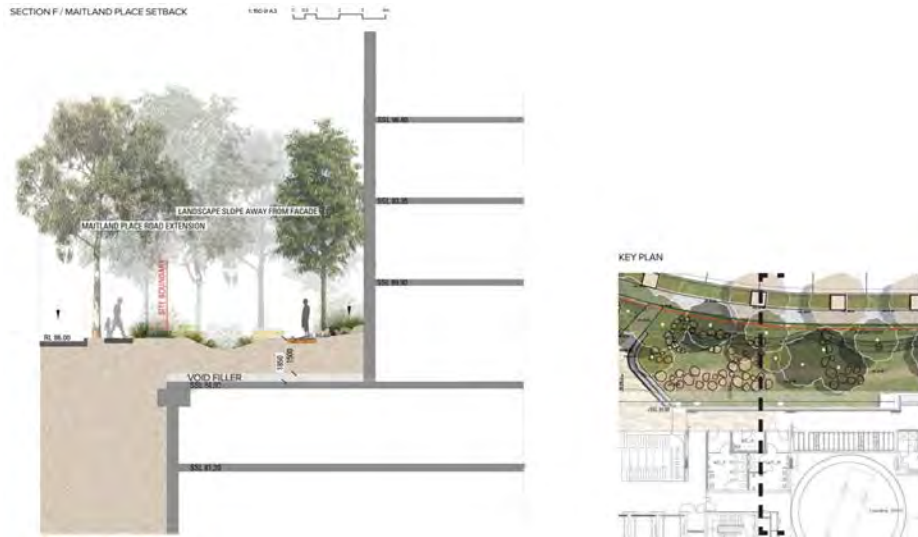
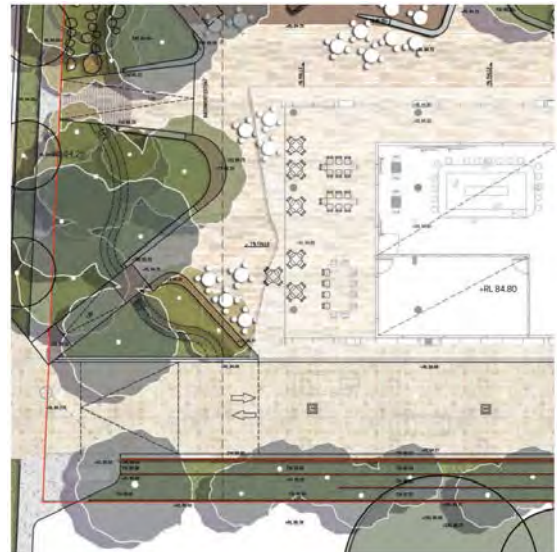


Figure 6: Section along Maitland Place setback

The building setback to Columbia Way has been increased from 10m to a minimum of 13.5m as recommended by the Design Excellence Panel. The landscaping along the Columbia Way includes substantial medium/large native evergreen trees and incorporates a “floating forest canopy deck” with cut-outs for trees, dining and flexible seating. Refer figures 7, 8 and 9 below.



Figures 7 and 8: Plans indicating Columbia Way frontage



Figure 9: Section of Columbia Way frontage

It has been demonstrated that the proposed development can achieve an attractive streetscape, substantial areas for landscaping and screen planting, provides a safe, desirable and aesthetically pleasing working environment whilst maintaining the amenity of adjoining properties.

In this regard, the variations to the front setback control is supported.

ii) Side Setback

The DCP requires a minimum 10m side setback to adjoining industrial or business uses except in the case of car parking where a 5m setback applies provided the first 5m is landscaped to screen car parking. The subject proposal includes a 10m building setback however the driveway along the eastern property boundary results in a 3m setback to the eastern side setback.

Comment:

As above, the relevant objective of the Setbacks control is to *minimise overshadowing of adjoining properties, protect privacy and amenity of any adjoining land uses and provide a desirable and aesthetically pleasing work environment.*

Given the orientation of the lot and that the variation only relates to carparking, further overshadowing of adjoining properties will not occur. With respect to the privacy and amenity of adjoining land uses, suitable landscape buffering has been provided along the eastern property boundary. The submitted landscape plans indicate that 17 medium native trees/hedges and 1 medium/large native evergreen tree would be provided. This would ensure there is sufficient screening to protect the privacy and amenity of the adjoining commercial land use to the east.

In this regard, the variation to the side setback control is supported.

b. Loading and Delivery Requirements

The DCP requires that for offices, 1 loading bay is required for 1,860m² Gross Floor Area, 1 for the next 3,720m², 1 for next 3,720m² and 1 for each extra 9,250m². In accordance with this rate, 3 loading bays are required for office GFA of 7,071m². The proposal provides for 2 loading bays.

Comment:

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

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

It is considered that the loading and delivery proposed with the development is sufficient for the mixed use development. The Applicant has indicated that a loading dock management plan could be prepared to manage the operation of the two loading docks and the courier bays. To avoid any vehicular conflicts and ensure the safe operation of loading docks condition 72 has been recommended in the consent requiring a Dock Management Plan to be prepared to the satisfaction of Council to promote safe and efficient operation of the proposed loading docks and to avoid approaching trucks having to wait on public roads. The plan must address the following:

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

The proposal demonstrates that each of the loading bays could accommodate a Medium Rigid Vehicle with the use of a turntable. In this regard, sufficient and suitable on-site access for service vehicles has been provided for the purpose of loading and unloading goods.

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

c. Car Parking

The DCP requires that commercial offices and restaurants/cafes within commercial office buildings be provided with 1 car space per 25m² GFA. The DCP also requires that the neighbourhood shop be provided with 1 car space per 18.5m² GFA. Application of these rates results in a requirement of 274 car parking spaces for the proposed development. The proposal provides 252 car parking spaces (not including tandem spaces) which results in a shortfall of 22 spaces.

The Applicant has provided the following justification:

- *During the morning and mid-afternoon, a large portion of the visitors to the retail store and restaurant are expected to be commercial staff, therefore, there would be an overlapping of parking demand, which the DCP parking rates do not take account of.*
- *During the evening, the restaurant peak is expected to occur. During this time (i.e. after 5pm, all parking within Basement 1 is to be available for use by visitors. The parking demand of the office tenancies will significantly reduce after 5pm.*
- *During the day, there is potential for additional parking availability for visitors. Basement 1 includes 38 spaces that are identified as pooled spaces. Tenancies with 3-4 car spaces would be provided with 1 space within Basement 1 and their remaining spaces in Basement 2. A Special Condition By-Law requires that this 'pooled space' in*

basement 1 be available to visitors if no one is parked there. Therefore the development effectively includes 38 car spaces that would be shared by office staff and retail visitors.

Comment:

The objective of Clause 2.1 General Parking Requirements under Part C Section 1 Parking is as follows:

- (c) To provide sufficient parking and is convenient for the use of residents, employees and visitors of the development*

The DCP car parking rates were adopted by Council under LEP 2012. It is noted that the DCP applies a rate of 1 space per 40m² GFA to commercial offices within the Centres of Castle Hill Major Centre, Baulkham Hills Town Centre and Rouse Hill Major Centre. This rate is consistent with the rate recommended by RMS in their Guide for Traffic Generating Developments for commercial centres. The Sydney Region Plan identifies three strategic centres within The Hills Local Government Area. They include Norwest Business Park and Castle Hill and Rouse Hill Town Centres. A Project Coordination Group consisting of Transport for NSW, Department of Planning, Industry and Environment, Transport for NSW and Council officers are nearing completion of transport modelling for the strategic centres. This study will inform suitable DCP parking rates for developments within Norwest Business Park.

If the commercial centres DCP rate was to be applied, 177 parking spaces would be required for the commercial building. It is considered that the rate proposed of 1 space per 28m² (between Council's existing DCP rate of 1 space per 25m² GFA and the commercial centres and RMS' rate of 1 space per 40m² GFA) is suitable for the mixed use development on the site.

The mixed use development also comprises café/restaurant uses with expected peak patronage after 5pm. The Applicant has indicated that 38 spaces in Basement 1 have been identified as pooled spaces that could be used by visitors of the café/restaurants. In this regard, condition 10 is recommended in the development consent requiring that at least 16 car spaces are to be for the exclusive use of the café/restaurants and neighbourhood shop at all times and 38 car spaces located on Basement 1 are to be shared with patrons of the café/restaurants after 5pm on Monday to Friday and on weekends. This equates to 54 spaces (approximately 20% of the total car spaces) available for use for restaurant patrons during peak periods.

Subject to the above condition, the variation to the car parking control is supported as the proposal has demonstrated that sufficient parking is provided for the use of employees and visitors of the development and therefore meets the objectives of the control.

6. Issues Raised in Submissions

The Development Application was notified between 16 February 2021 to 16 March 2021 and in response, one submission was received. Following the submission of amended plans, the Development Application was renotified on 22 September 2021 to 13 October 2021. No further submissions were received. The issues raised in the submission are addressed in the table below:

ISSUE/OBJECTION	COMMENT	OUTCOME
Necessity to construct a significant OSD system for the subject development. The objector notes that the	The subject site falls within the Norwest Business Park development area. As such there is an overarching management	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>adjoining residential development approved under 1235/2018/JP did not require an OSD system and questions why these adjoining allotments created from the same subdivision have different requirements for OSD compliance.</p>	<p>plan/ strategy based on all developments within the area to have 60% impervious area and 40% pervious area. As the development has less than 60% impervious area, OSD is not required. If the impervious area exceeded 60%, OSD for the additional impervious area would be required and requested by Council's Engineering section.</p> <p>With respect to water quality management, the Applicant has provided a rainwater tank, swales, stormwater filter cartridges and bio retention basins which meet Council's water quality targets. The Applicant provided an electronic copy of the MUSIC model to Council staff which was reviewed and found to be satisfactory.</p> <p>It is considered that the proposal satisfies Council's requirements and the objectives of the DCP controls for stormwater management by providing for the disposal of stormwater from the site in efficient, equitable and environmentally sensible way.</p>	
<p>Confirmation that all assembly and all construction vehicles during excavation and construction will enter and exit via Maitland Place rather than Spurway Drive.</p>	<p>A condition of consent is recommended requiring a construction management plan be submitted to Council to minimise potential impacts on the surrounding road network (refer condition No. 38). It is noted that the condition also recommends that where practicable, all construction vehicles are to enter via Maitland Place or Columbia Way.</p>	<p>Issue addressed. Refer condition 38.</p>

7. EXTERNAL REFERRALS

TRANSPORT FOR NSW COMMENTS

The application was referred to the Transport for NSW as the proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP (Infrastructure) 2007. The submission received by Transport for NSW has been discussed in detail in Section 3 above.

NSW POLICE COMMENTS

The application was referred to the NSW Police. No objections were raised to the proposal subject to condition 7.

ENDEAVOUR ENERGY COMMENTS

The application was referred to Endeavour Energy. No objections were raised to the proposal, subject to condition 8.

SYDNEY WATER COMMENTS

The application was referred to the Sydney Water due to the proximity to Sydney Water assets. No objections were raised to the proposal, subject to condition 9.

NORWEST ASSOCIATION COMMENTS

Norwest Association Limited has provided their consent for the Development Application in letter dated 7 January 2021. Refer Attachment 20. It is noted that the Association operates effectively as the body corporate of the Norwest Business Park. Council, at its meeting on 4 August 1992, adopted the 'Delegated Authority' procedure as set out in the Master Scheme. Section 6.2 of the Master Scheme states:

"...the Association must first approve a proposal, through the operation of the Planning and Design Review Panel before a development application can be lodged with Council."

In addition to Norwest Association consent, the Association has included a number of conditions in their letter of approval including a car parking provision requiring a total of 284 car parking spaces and a car pool requirement of not less than 20% of all spaces be directly accessible and unallocated to tenancies to accommodate visitor and casual parking. These conditions exceed the requirements under the DCP and as assessed by Council staff. In addition, a number of conditions include a separate agreement between the Applicant and the Association. In this regard, only some of the requested conditions have been included in the recommended development consent. Refer condition 6.

8. INTERNAL REFERRALS

SUBDIVISION ENGINEERING COMMENTS

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

TRAFFIC MANAGEMENT COMMENTS

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

TREE MANAGEMENT COMMENTS

The application was referred to Council's Landscape Assessment Officer. The following comment was made:

The provided landscape plans provide an ambitious and wildly creative proposal. The opportunities the design would provide for interaction with the natural environment and education of the indigenous ecological character of the local area are genuine. The design is user-focussed, in which landscaped areas are not relegated to the usual left-over areas for landscape screening or mass planting, but are whimsical spaces (e.g the hammock edge and tree cut-outs to the Forest Canopy Deck) designed to be enjoyed by those within the office tenancies and the general community.

The landscape design is a great example of how landscaping can enable a commercial development to sit lightly within the landscape, despite a significant basement footprint.

The landscape, architectural, and hydraulic elements are incredibly well integrated, and the visual communication of the Landscape Report is of the highest quality.

No objections were raised to the proposal, subject to conditions of consent.

ENVIRONMENTAL HEALTH COMMENTS

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

RESOURCE AND RECOVERY COMMENTS

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

FORWARD PLANNING COMMENTS

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

CONCLUSION

The Development Application has been assessed under the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2019, State Environmental Planning Policy (Infrastructure) 2007, The Hills Development Control Plan 2012 and is considered satisfactory subject to conditions of consent.

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

The variations to the DCP have been assessed on merit and are considered worthy of support. It is considered that the proposal is consistent with the built form outcomes envisaged under the site specific planning proposal and desired future character of the Norwest Precinct. The proposal provides for a unique, high quality architectural design, provides appropriate activation of the street frontages and amenity for future occupants of the site and adjoining properties.

The issues raised in the submission received have been considered in this report and do not warrant amendment or refusal of the Development Application.

Accordingly, approval is recommended subject to conditions of consent.

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 inconsistent with the planning principles, vision and objectives outlined within “Hills 2026 – Looking Towards the Future” as the proposed development does not provide for balanced urban growth as the provision for efficient and safe transport infrastructure required to accommodate the development has not been resolved.

The Hills Local Strategic Planning Statement

The Hills Future 2036 Local Strategic Planning Statement was made on 6 March 2020. The proposal has been considered against the outcomes planned within the Local Planning Strategic Planning Statement and Implementation Plan. In particular, Planning Priority 2 seeks to build strategic centres to realise their potential by planning flexible, diverse places targeted to attract high levels of private sector investment that will co-locate a range of activities within strategic centres. The proposal provides 7,071m² floor space for a mixed use commercial development comprising offices, cafés and a neighbourhood shop which would not only increase employment opportunities but provide for a range of activities and services within the Norwest strategic centre. In this regard, the proposal is consistent with the outcomes planned under the The Hills Local Strategic Planning Statement.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

- 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 and the B7 Business Park zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance and there are sufficient environmental grounds to justify the contravention and
- The site is considered suitable for the development.
- The proposal is in the public interest.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

The amendments in red require the following:

- The tenancy annotated “retail/commercial use” is only to be used as a Neighborhood Shop as defined under the LEP. Any changes to the use of this shop will require separate development consent unless otherwise allowed by the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- No signage is approved under this consent.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION/ISSUE	DATE
DA-100-102	Site Plan	DA	18/12/2020
DA-111-001	Basement 03 Plan	DA.03	15/9/2021
DA-111-002	Basement 02 Plan	DA.03	15/9/2021
DA-111-003	Basement 01 Plan	DA.03	15/9/2021
DA-111-004	Ground Level Plan	DA.03	15/9/2021
DA-111-005	Mezzanine Level Plan	DA.03	15/9/2021
DA-111-010	Level 1 Plan	DA.03	15/9/2021
DA-111-020	Level 2 Plan	DA.03	15/9/2021
DA-111-030	Level 3 Plan	DA.03	15/9/2021

DA-111-040	Level 4 Plan	DA.03	15/9/2021
DA-111-050	Level 5 Plan	DA.03	15/9/2021
DA-111-060	Level 6 Plan	DA.03	15/9/2021
DA-111-070	Level 7 Roof Garden	DA.03	15/9/2021
DA-111-080	Roof Level	DA.03	15/9/2021
DA-250-010	North Elevations	DA.03	15/9/2021
DA-250-020	South Elevations	DA.03	15/9/2021
DA-250-030	West Elevation	DA.03	15/9/2021
DA-250-040	East Elevation	DA.03	15/9/2021
DA-350-010	Section AA	DA.03	15/9/2021
DA-350-020	Section BB	DA.03	15/9/2021
DA-350-030	Section CC	DA.03	15/9/2021
DA-830-001	Materials Schedule	DA.03	15/9/2021
DA-830-010	Material Detail – Columbia way Forecourt West	DA.03	15/9/2021
DA-830-011	Material Detail – Main Entry	DA.03	15/9/2021
DA-830-012	Material Detail – Corner Spurway Drive & New Road	DA.03	15/9/2021
DA-830-013	Material Detail – Spurway Drive East	DA.03	15/9/2021
DA-830-014	Material Detail – Columbia way Forecourt East	DA.03	15/9/2021
DA-830-015	Material Detail – High Levels	DA.03	15/9/2021
Page 99 of Landscape Development Application Report	Planting Schedule prepared by Arcadia Landscape Architecture	H	Sept 2021
Page 100 of Landscape Development Application Report	Landscape Plan Ground	H	Sept 2021
Page 101 – 103 of Landscape Development Application Report	Softworks Plans Ground Level	H	Sept 2021
Page 104 - 105 of Landscape Development Application Report	Softworks Plans Level 7	H	Sept 2021
Page 106 - 107 of Landscape Development Application Report	Softworks Plans Level 1-6 Typical	H	Sept 2021
Page 110 - 111 of Landscape Development Application	Landscape Detail and Specifications	H	Sept 2021

Report			
DA-111-001/005, 010, 020, 030, 040, 050, 060, 070	Street/Unit Numbering Plans (12 Pages – for numbering purposes only) – prepared by Council staff	DA.03	15/09/2021

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

2. Construction Certificate

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

3. Building Work to be in Accordance with BCA

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

4. External Finishes

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

5. Compliance with Transport for NSW requirements

Compliance with condition 1 of Transport for NSW requirements in letter dated 9 March 2021, reference SYD21/00204/01, attached to this consent.

6. Compliance with Norwest Association Requirements

Compliance with the following requirements of Norwest Association Limited:

- The Applicant is required to reinstate any works, infrastructure, paving or landscaping adjacent to the site boundary disturbed during the construction phase and the existing brick-paved footpath along the full frontage of the site is to be constructed 1.5m wide and laid on a concrete base.
- The Applicant is to provide certification by a suitably qualified landscape architect at the completion of the landscaping that the landscaping installed fully satisfies the design intent and complies with the approved landscape plans.
- On-site detention is to be provided in accordance with the Norwest Association Rainwater Harvesting Policy No. 2.
- A separate Development Application is to be submitted for any proposed signage, with signage and external lighting to be fully integrated with the landscaping.
- All building works are to be undertaken as specified and without impacting upon adjoining properties by way of dust, noise and waste removal.
- All roof top plant and solar panels are to be screened from public view.
- The Green Travel Plan is to be implemented to encourage use of sustainable modes of travel including public transport, car share, flexible work hours, cycling and walking, as outlined in the Stantec Travel Plan Report dated April 2020.

7. Compliance with NSW Police Requirements

The following is required or as otherwise agreed by NSW Police in writing:

Surveillance:

- Installation of a security intercom system is required to access the basement car park and main lobbies. Each tenancy is to contain an intercom system to enable access for visitors to the basement car park and lobby. Security access is to be utilised at the entrance of the basement.

- CCTV coverage is required to be installed to monitor all common areas and entry/exits points. Use of height indicator stickers on entrance/exit doors is required on entry/exit doors.
- Vegetation to be kept trimmed at all times and a regular maintenance schedule needs to be implemented to ensure that the vegetation does not become overgrown.
- 3-5m of cleared space is to be provided on either side of residential pedestrian pathways and bicycle routes. Thereafter vegetation can be stepped back in height to maximise sightlines.

Lighting:

- Lighting is to meet minimum Australian Standards. Special attention is to be made to lighting at entry/exit points from the building, the car park and driveways.

Territorial Reinforcement:

- All public access points are to be well marked.

Environmental Maintenance:

- Use of anti-graffiti building materials.
- A maintenance schedule to remove any graffiti or repair damaged property should be implemented.

Access Control:

- Warning signs should be strategically posted around the building to warn intruders of what security treatments have been implemented to reduce opportunities for crime e.g. "Warning, trespasser will be prosecuted" or "Warning, these premises are under electronic surveillance". This should be visible from all restricted areas (not open to the public).
- Ensure improved strength and better quality locking mechanism to security roller shutters/garage doors.
- Fire doors are to be alarmed and a magnetic strip is required so that the door will shut closed.
- Caged storage units are to be built up to the ceiling with a door with better quality locking mechanisms to be used.
- Ensure there are no outer ledges capable of supporting hands/feet and balustrades cannot provide anchor points for ropes.
- Any fencing proposed is to be placed vertically. If spacing is left between each paling, it should be at a width that limits physical access.
- High quality letter boxes that meet AS ISO9001:2008 are required. The letterboxes are to be under CCTV surveillance.
- Park smarter signage to be installed around the car park.
- Access points are to have the contact details for a site manager clearly visible.
- Access to the car park should be by controlled swipe card (or similar) or key pad.

8. Endeavour Energy Requirements

Compliance with the recommended Endeavour Energy requirements as outlined in their letter dated 26 February 2021, attached to this consent.

9. Sydney Water Requirements

Requirements for Business Customers for Commercial and Industrial Property Developments.

Trade Wastewater Requirements

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

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

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

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

Backflow Prevention Requirements

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

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

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

Before you install a backflow prevention device:

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

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

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

10. Provision of Parking Spaces

The development is required to provide 265 off-street car parking spaces (including 13 tandem spaces). These car parking spaces shall be available for off street parking at all times as follows:

Uses	Provision of Car Parking Spaces
Commercial Offices	247 spaces
Café/Restaurants	12 spaces
Neighbourhood Shop	4 spaces
Service Bays	2 spaces

With respect to the above arrangement, the following specific requirements apply and are required to be prepared in a carpark management statement to be submitted to Council prior to the issue of an Occupation Certificate:

- 38 of the 247 spaces dedicated to the office component are to be freely available after 5pm on week nights and on weekends for exclusive use of the patrons of the café/restaurants.

- The security point obstructing access to the commercial office spaces needs to be open from 5pm onwards so that the car parking spaces are open/ available for the exclusive use of the patrons of the café/restaurants.

These requirements must be accounted for as part of any planned subdivision of the development later. Specifically, shared spaces across lots require easements and the shared use needs to be clearly explained in the management statement.

11. Separate application for signs

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

12. Separate Development Application – Food and Drink Premises and Neighborhood Shop Occupations

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

13. Irrigation

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

14. Tree Removal

Approval is granted for the removal of five (5) trees numbered and located 53-57 within the Aboricultural Impact Appraisal prepared by Naturally Trees dated 27 July 2020.

All other trees are to remain and are to be protected during all works.

15. Planting Requirements

All tree, shrub, and ground cover planting as part of the approved landscape plan prepared by Arcadia Issue H dated September 2021 are to be provided in pot sizes and quantities as per the approved Planting Schedule.

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

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

16. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with remedial work to be carried out in accordance with the Aboricultural Impact Appraisal prepared by Naturally Trees dated 27 July 2020.

17. 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.

18. Disposal of Surplus Excavated Material

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

19. 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.
- The turntable dimensions must be suitable for use by a 8.8m long medium rigid vehicle (dimensions as per Australian Standard 2890.2-2002) and must be able to withstand the loads imposed by a 28 tonne gross vehicle mass. The turntable must be maintained in accordance with manufactory standards.
- 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”.

20. Waste and Recycling Collection Contract

There must be a contract in place with a licenced contractor for the removal and lawful disposal of all waste generated on site. Written evidence of a valid and current collection and

disposal contract must be held on site at all times and produced in a legible form to any authorised officer of the Council who asks to see it.

21. Section 7.12 Contribution

Pursuant to section 4.17 (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 7.12 Contributions Plan, a contribution of **\$339,133.66** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 7.12 Contributions Plan.

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

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

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

22. Water Sensitive Urban Design Handover Process

An operations and maintenance plan must be prepared for all WSUD proposals. The operations and maintenance plan must include:

- The location and type of each WSUD element, including details of its operation and design;
- A brief description of the catchment characteristics, such as land uses, areas etc;
- Estimated pollutant types, loads and indicative sources;
- Intended maintenance responsibility, Council, landowner etc;
- Inspection method and estimated frequency;
- Adopted design cleaning/ maintenance frequency;
- Estimate life-cycle costs;
- Site access details, including confirmation of legal access, access limitations etc;
- Access details for WSUD measure, such as covers, locks, traffic control requirements etc;
- Description of optimum cleaning method and alternatives, including equipment and personnel requirements;
- Landscape and weed control requirements, noting that intensive initial planting is required upfront to reduce the requirement for active weed removal;
- A work method statement;
- A standard inspection and cleaning form.

For the purposes of complying with the above a WSUD treatment system is considered to include all functional elements of the system as well as any landscaped areas directly surrounding the system.

23. Road Opening Permit

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

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

24. Separate Application for Strata Subdivision

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

25. 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.

26. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

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

27. Staging Requirements/ Completion of Preceding Subdivision

A building works Construction Certificate for this development cannot be issued until after a subdivision works Construction Certificate has been issued for the preceding subdivision approved by Development Consent 2267/2018/ZA.

An Occupation Certificate for this development cannot be issued until after a Subdivision Certificate has been issued for the preceding subdivision approved by Development Consent 2267/2018/ZA.

28. Contamination

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

29. Litter Control

A sufficient number of litter bins must be provided on the premises for litter disposal.

30. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by JHA Services Pty Ltd, referenced as 200254, dated 10/11/21 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- An acoustic barrier is to be installed around the rooftop plant. The barrier shall have a minimum surface mass of 12kg/m² and shall be 300mm higher than the tallest element of the plant. The acoustic barrier shall be continuous with no gaps. All bracing and structural support required to comply with loadings and building regulations shall be provided and reviewed by a structural engineer.
- An acoustic screen shall be provided on the western boundary of the rooftop restaurant. The height of the screen shall be minimum 1.8m and to be solid and continuous without gaps as per figure 7 and section 5.3 of the report.
- Noise controls will need to be incorporated with the design of the mechanical plant rooms to ensure that the cumulative noise levels from plant to the nearest noise sensitive receivers meets the NSW NPI noise level criteria. The design of the noise controls shall be implemented as per section 5.1 of the report.
- The ground floor retail shall be limited to have an operating capacity of 100 people internally plus 40 patrons in the outdoor seating area.
- The rooftop restaurant shall be limited to have an operating capacity of 75 internally plus 45 patrons in the outdoor seating area.
- No music permitted in the outdoor seating area.
- Only low level background music within the internal premises is permitted. The background music is to be no more than 10dB below the patron noise (in both the ground floor tenancies and roof top tenancy).

31. Contamination Assessment & Site Remediation

The recommendations of the Site Assessment and Report prepared by Environmental Investigations, referenced as E22702 AA dated 14 October 2015 and submitted as part of the Development Application are to be implemented as part of this approval.

32. Property Numbering and Cluster Mail Boxes for Multi Dwelling Housing, Residential Flat Buildings, Mixed Use Development, Commercial Developments and Industrial Developments

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

The overall property address for this development is: 7 Maitland Place Norwest

Approved unit numbering is as per plans submitted marked as GA Plans DWG No: DA-111-001/005, 010, 020, 030, 040, 050, 060, 070 Rev: DA.03. and marked up as 'Numbering Plans' by Council's Land Information Team within consent documentation; and as follows:

Level

Ground	G01 – G02
One	101 - 113
Two	201 - 216

Three	301 - 316
Four	401 - 416
Five	501 - 516
Six	601 - 616
Seven	701 - 703

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

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

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

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

Mail Boxes

Australia Post requires cluster mail boxes within a foyer to be as close to the footpath or road as possible.

Australia Post requires cluster mail boxes to be perpendicular to the footpath or road and within easy reach for the postal delivery officer. For resident's useability and convenience, they are to be located close 7 Maitland Place.

The number of mail boxes to be provided is to be equal to the number of units plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietors additional mail box is to be located within the cluster located at 7 Maitland Place.

Location of mail boxes on plans are to be approved to Australia Post for mail delivery. Plans are to be provided to Gregory Dimmock at the Seven Hills Delivery Centre via email Gregory.dimmock@auspost.com.au or phone 02 9674 4027. Australia Post approval is required to be provided to Council.

Strata Developments

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

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

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

33. Engineering Works

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

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

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

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

The concept engineering plan prepared by AT&L Revision D dated 14/08/2021 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

- **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.

- **Disused Layback/ Driveway Removal**

All disused laybacks and driveways must be removed and replaced with full kerb and gutter together with the restoration and turfing of the adjoining footpath verge area.

- **Stormwater Management Requirements**

The following water sensitive urban design elements included as part of the civil works plans by AT&L Revision D dated 14/08/2021 and the civil report also by AT&L Revision C dated 14/09/2021 submitted with the development application must be provided as part of the development works.

- a) Grass-lined swales
- b) Oceanprotect Oceanguard (or an approved equivalent).
- c) Oceanprotect Stormfilter Devices (or an approved equivalent).
- d) A 100,000 litre rainwater reuse tank.
- e) Two bio-retention systems

The civil works plans and the civil report mentioned above submitted with the development application are for development application purposes only and are not to be used for construction. The detailed design must reflect the approved concept plan.

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

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

- 65% reduction in the annual average load of total phosphorous
- 45% reduction in the annual average load of total nitrogen

All model parameters and data outputs are to be provided.

The design and construction of the stormwater management system must be approved by either Council or an accredited certifier. A Compliance Certificate certifying the detailed design of the stormwater management system can be issued by Council.

34. 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.

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

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

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

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

- a) Sediment fencing.
- b) Barrier fencing and no-go zones.
- c) Stabilised access.
- d) Waste receptacles.
- e) Stockpile site/s.

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

An ESCP is required for this development.

36. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$146,640.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site (120m) multiplied by the width of the road (13m).

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

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

37. Erosion & Sediment Control Plan

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

- a) Allotment boundaries
- b) Location of the adjoining roads
- c) Contours
- d) Existing vegetation
- e) Existing site drainage
- f) Critical natural areas
- g) Location of stockpiles
- h) Erosion control practices
- i) Sediment control practices
- j) Outline of a maintenance program for the erosion and sediment controls

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

38. Construction Management Plan

A construction management plan must be submitted demonstrating how the potential for conflict between resident and construction traffic is to be minimised and managed. The construction management plan must be submitted before a Construction Certificate is issued and complied with for the duration of works. Where practicable, all construction vehicles are to enter via Maitland Place or Columbia Way.

PRIOR TO WORK COMMENCING ON THE SITE

39. 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.

40. Erection of Signage

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

- The name, address and telephone number of the Principal Certifier (Council);
- The name and telephone number (including after hours) of the person responsible for carrying out the works;
- That unauthorised entry to the work site is prohibited.

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

41. Contractors Details

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

42. 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.

43. Consultation with Service Authorities

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

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

44. 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.

45. Stabilised Access Point

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

46. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. The location of fencing shall be in accordance with the Tree Management Plan TMP01 within the Aboricultural Impact Appraisal prepared by Naturally Trees dated 27 July. 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.

47. 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.

48. 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.

49. Trenching within Tree Protection Zone

Any trenching for installation of 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.

50. 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.

51. 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.

52. Construction and/or Demolition Waste Management Plan Required

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

53. 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.

54. Erosion and Sediment Control/ Soil and Water Management

The approved ESCP or SWMP measures must be in place prior to works commencing and maintained during construction and until the site is landscaped and/or suitably revegetated. 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.

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

For major works, these measures must be maintained for a minimum period of six months following the completion of all works.

55. 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.

56. Excavation/ Anchoring Near Boundaries

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

- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or Transport for NSW in the case of a classified road.
- Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment.
- All anchors must be temporary. Once works are complete, all loads must be removed from the anchors.
- A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed.
- The anchors must be located clear of existing and proposed services.

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

57. Sydney Water Building Plan Approval

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

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

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

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

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

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

DURING CONSTRUCTION

58. Survey Certificate

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

59. Hours of Work

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

Monday to Saturday - 7.00am to 6.00pm;

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

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

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

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

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

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

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

61. 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. Such works include the excavation for retaining walls to the boundary adjacent neighbouring trees of 15 Columbia Way, and any works within other trees on site to be retained, and street trees within the nature strip of Columbia Way and Spurway Drive.

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.

62. 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)*.

63. 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.

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

64. Landscaping Prior to Issue of any Occupation Certificate

Landscaping of the site shall be carried out prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plan by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan prepared by Arcadia Issue H dated September 2021.

65. 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.

66. 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.

67. 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/ Positive Covenant – Onsite Stormwater Detention

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

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 using the “basement stormwater pump system” terms included in the standard recitals.

d) Positive Covenant – Onsite Waste Collection

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

68. Water Sensitive Urban Design Certification

An Occupation Certificate must not be issued prior to the completion of the WSUD elements conditioned earlier in this consent. The following documentation must be submitted in order to obtain an Occupation Certificate:

- WAE drawings and any required engineering certifications;
- Records of inspections;
- An approved operations and maintenance plan; and
- A certificate of structural adequacy from a suitably qualified structural engineer verifying that any structural element of the WSUD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

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

69. Pump System Certification

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

70. Noise management plan

A noise management plan for the rooftop restaurant and ground level outdoor dining is to be prepared and submitted that includes the following;

- A clear commitment by the operator to minimising noise from the premises on nearby residential receivers;
- Details regarding noise minimisation strategies that will be implemented by the operators (in addition to the those specified in the acoustic report);
- Provision of information for neighbours including a copy of the noise management plan to any potentially impacted neighbour, and contact details of the person responsible for investigating noise complaints;
- On receipt of a complaint, the operators shall investigate and mitigate the noise concern as necessary. Complaints are to be kept in a complaints register. The complaints register shall include the time and date, contact details for the complainant, details for the noise issue, any action taken and any other information deemed relevant to the complaint.
- Record keeping; the food business shall keep a copy of the noise management plan and the complaints register and minutes of any meeting with the residents. Records are to be kept for a period of 2 years.

The noise management plan is to be complied with at all times and is to be kept at the premises at all times when the premises is operating. The noise management plan and complaints register is to be provided to Council upon request.

71. Section 73 Compliance Certificate

A Section 73 Compliance Certificate issued under the Sydney Water Act 1994 must be obtained from Sydney Water confirming satisfactory arrangements have been made for the provision of water and sewer services. Application must be made through an authorised Water Servicing Coordinator. The certificate must refer to this development consent and all of the lots created.

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

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

72. Safe Operation of Loading Docks

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

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

THE USE OF THE SITE

73. Hours of Operation

The hours of operation being restricted to the following: -

Commercial Offices

Monday to Sunday 24 hours a day

Food and Drink Premises

Monday to Sunday 7am – 10pm

Neighbourhood Shop

Monday to Sunday 7am - 10pm

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

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

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

Delivery of goods shall be restricted to the following times;

Monday to Saturday – 7am to 10pm

Sunday and public holidays – 8am to 10pm

75. 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. 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.

76. 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.

77. 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*.

78. Grease Trap (Food Premises)

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

79. Offensive Noise - Acoustic Report

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

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

80. Noise to Surrounding Area

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

81. Operational noise level limit

The operational noise limit for the development shall be in accordance with the noise levels as outlined in the acoustic report prepared by JHA Services referenced as 200254 dated 10/11/21. These limits are;

Location	Time of day	Intrusive criteria LAeq(15min)	Amenity criteria LAeq(15min)
Residential	Day (7am-6pm)	47	
	Evening (6pm-10pm)	46	
	Night (10pm-7am)	40	
Business park (B7)	When in use		63
Healthcare	Noisiest 1 hour		48

82. Final Acoustic Report

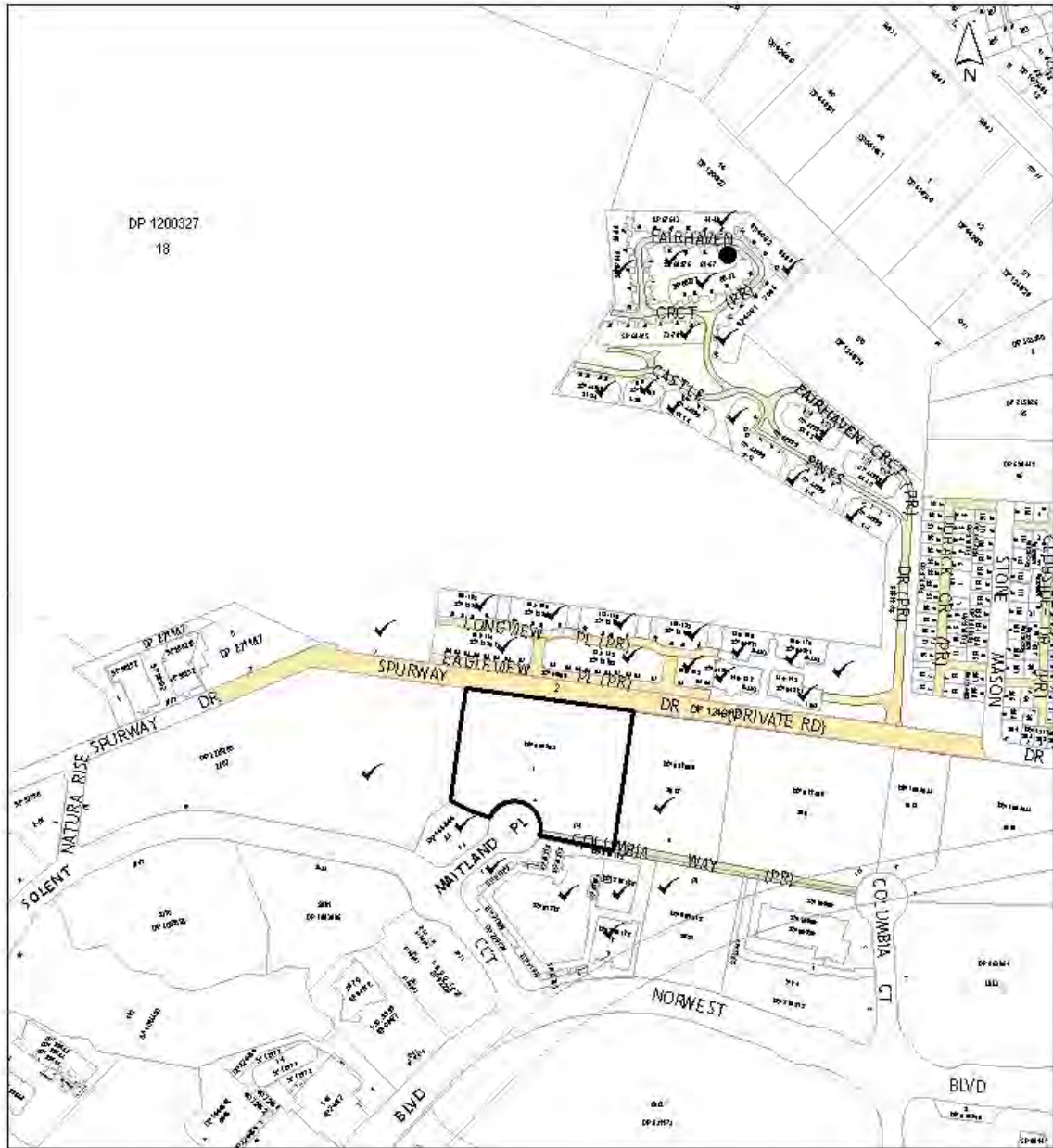
Within three months from the issue of an Occupation Certificate, an acoustical compliance assessment is to be carried out by an appropriately qualified person, in accordance with the NSW EPA's - Industrial Noise Policy and submitted to Council's Manager - Environment and Health for consideration.

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

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map
4. LEP Height of Buildings Map
5. LEP Floor Space Ratio Map
6. Site Plan
7. Floor Plans
8. Elevations
9. Sections
10. Shadow Diagrams
11. Landscape Plan
12. Finishes Schedule
13. Perspectives
14. Clause 4.6 Written Submission
15. Design Excellence Panel Minutes
16. Approved Subdivision Plan
17. Planning Agreement 7 Maitland Place, Baulkham Hills
18. Transport for NSW comments
19. Endeavour Energy comments
20. Norwest Association Limited Approval

ATTACHMENT 1 – LOCALITY PLAN



DP 1200327
18

- SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

HILLS DISTRICT HISTORICAL SOCIETY
ALSO NOTIFIED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE
BASED CADASTRE COPY RIGHT LAND & PROPERTY INFORMATION NSW (L.P.), CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPY RIGHT.

ATTACHMENT 2 – AERIAL MAP



 SUBJECT SITE

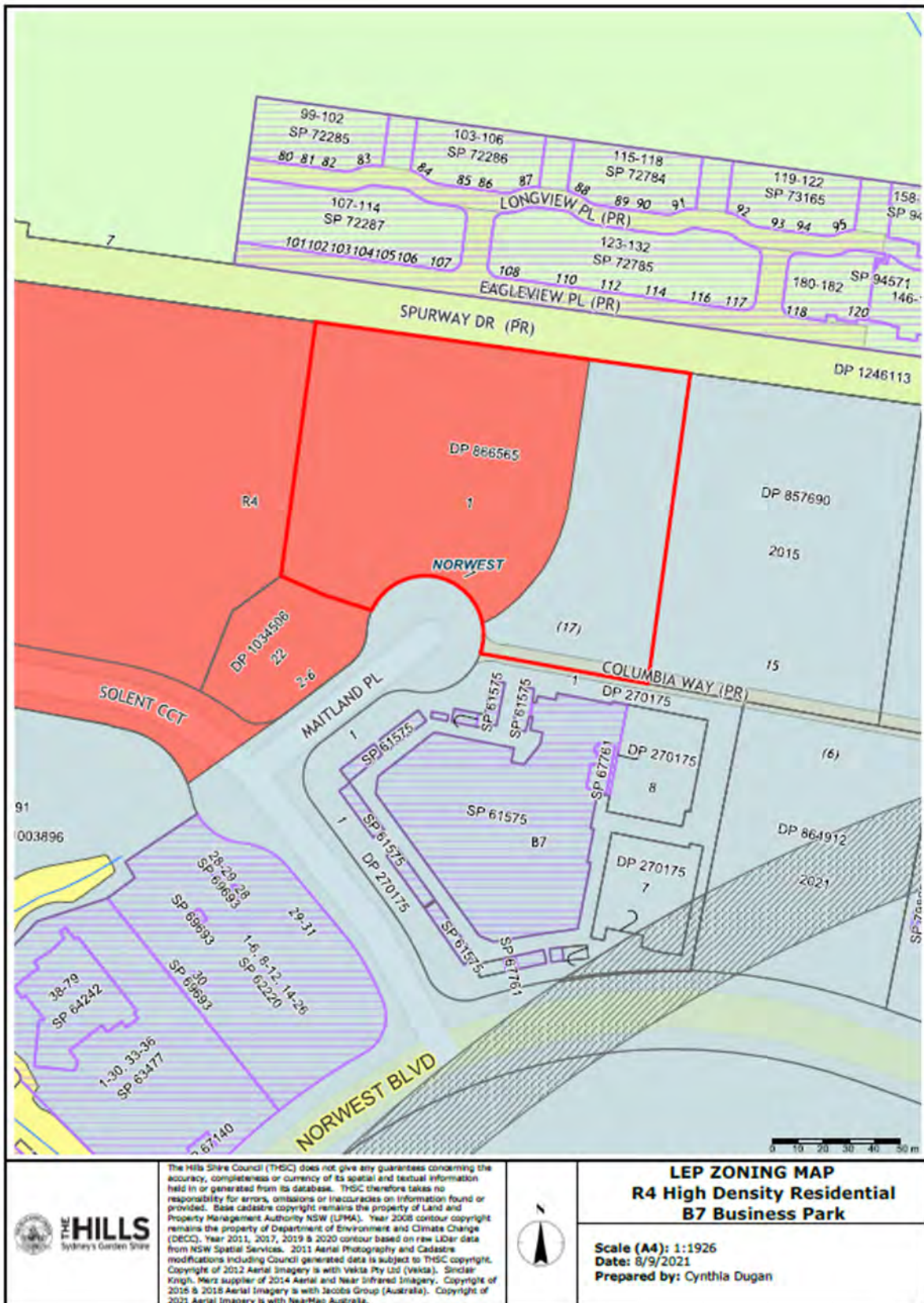
THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

BASED CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LPI). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

ATTACHMENT 3 – LEP ZONING MAP

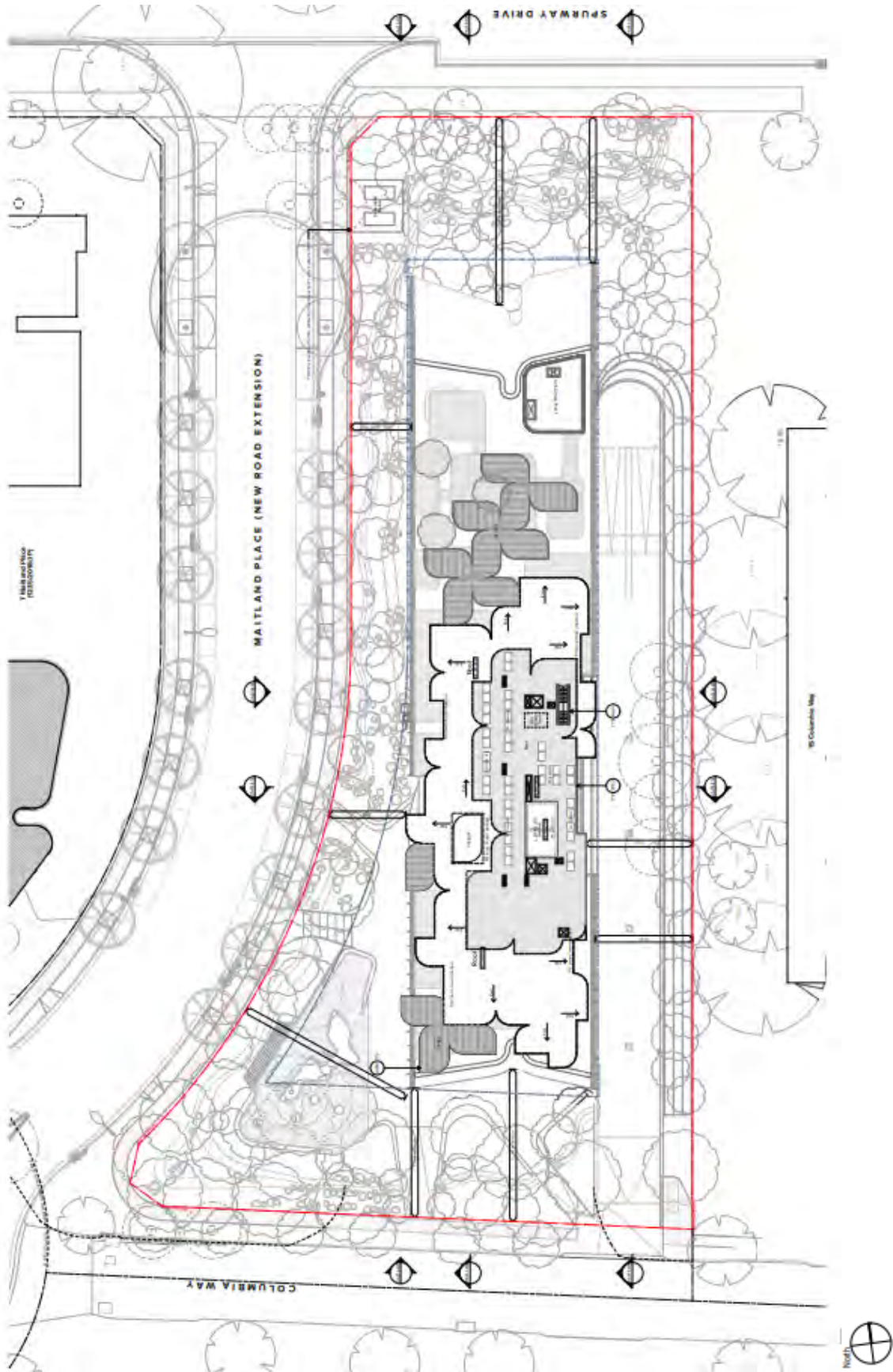


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LEP ZONING MAP
R4 High Density Residential
B7 Business Park

Scale (A4): 1:1926
 Date: 8/9/2021
 Prepared by: Cynthia Dugan

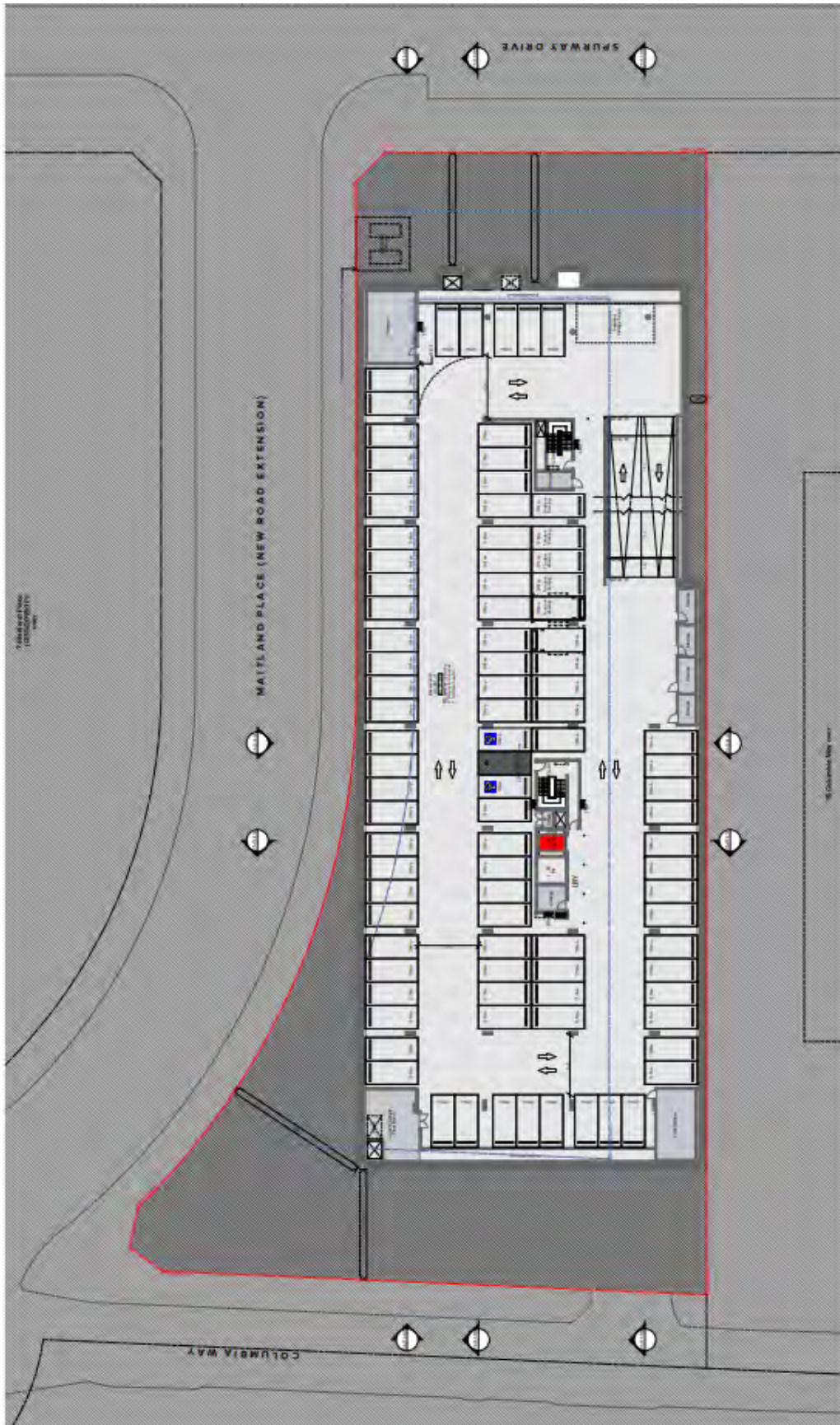
ATTACHMENT 6 – SITE PLAN/ROOF LEVEL



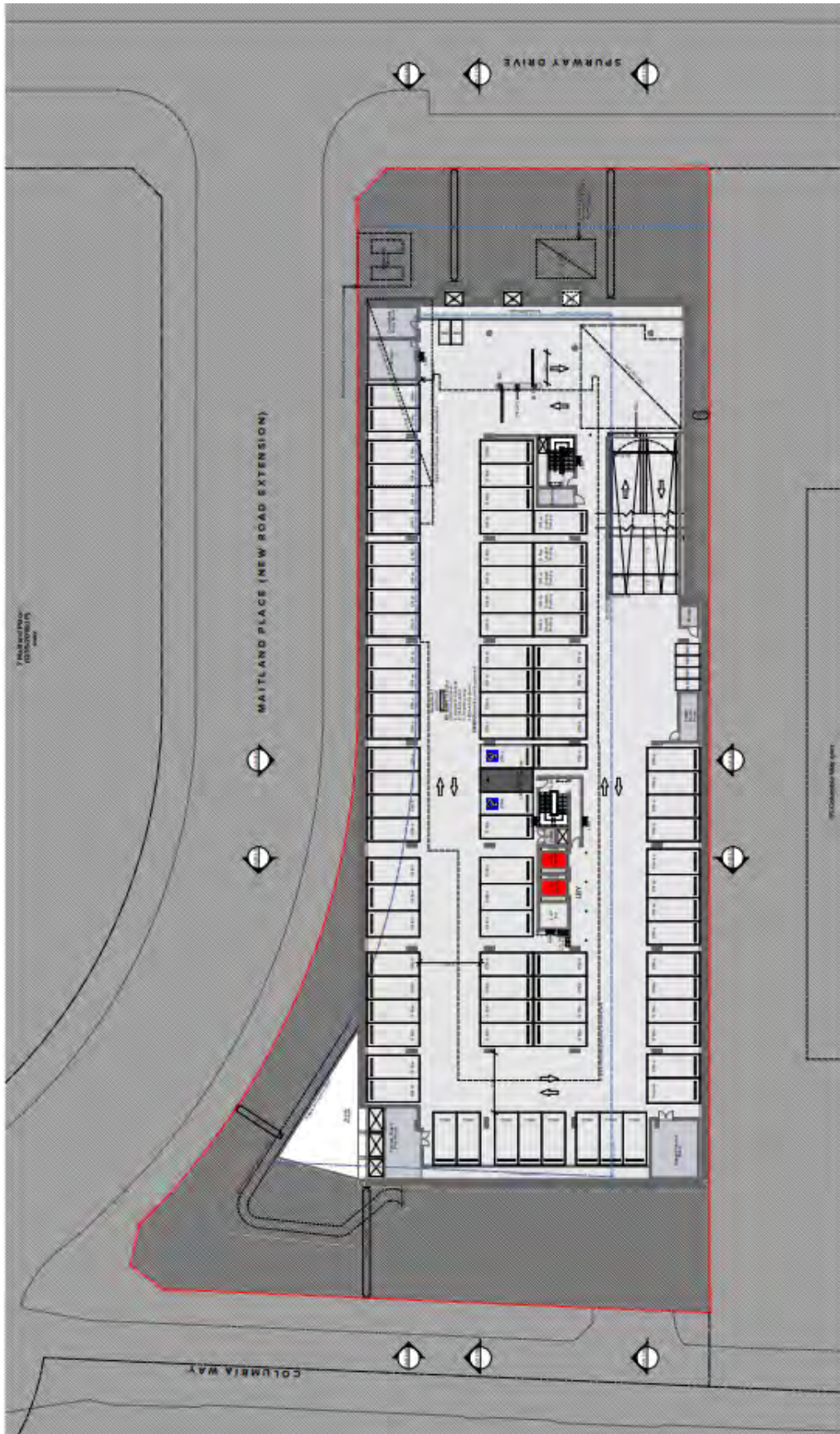
ATTACHMENT 7 – FLOOR PLANS



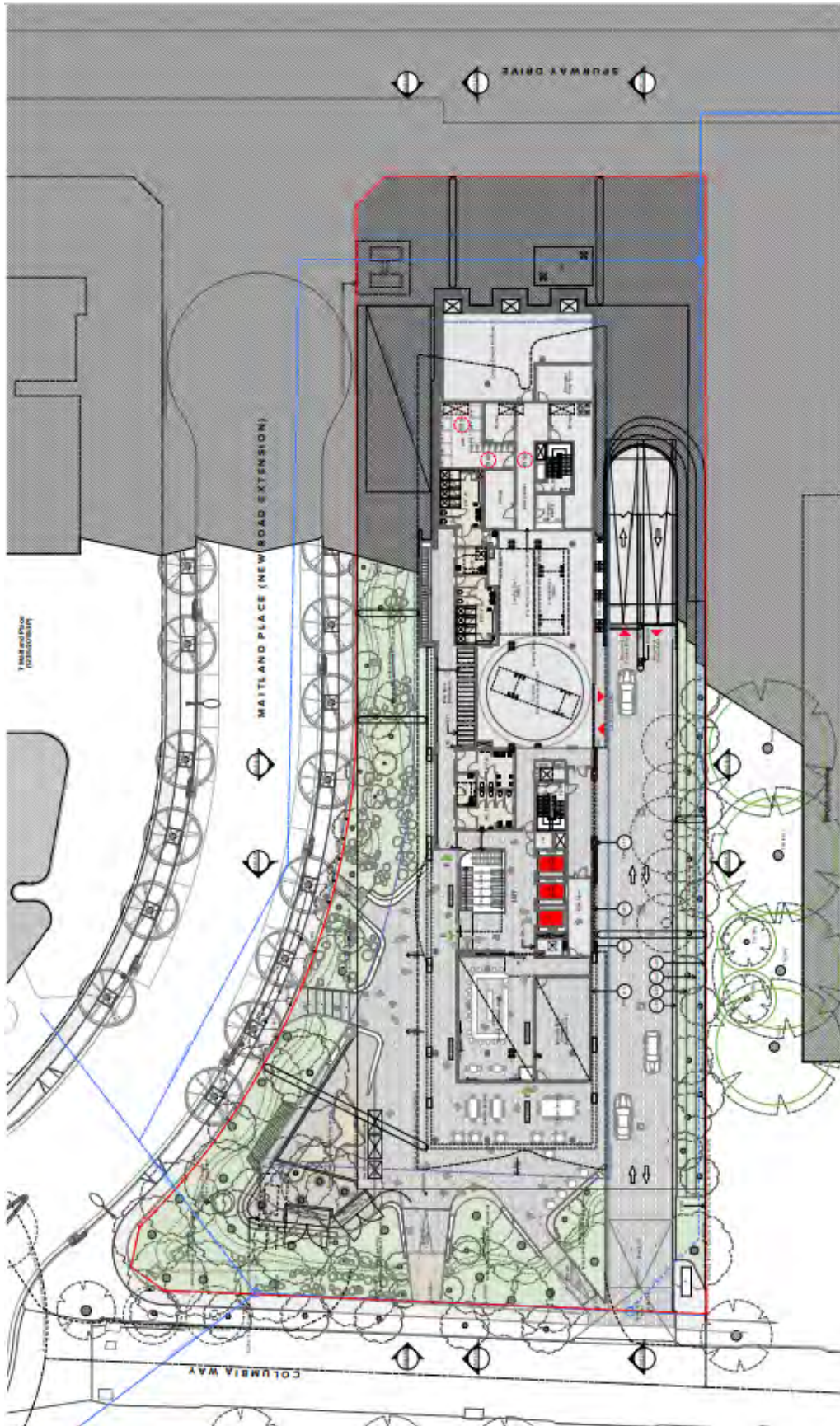
BASEMENT LEVEL 3



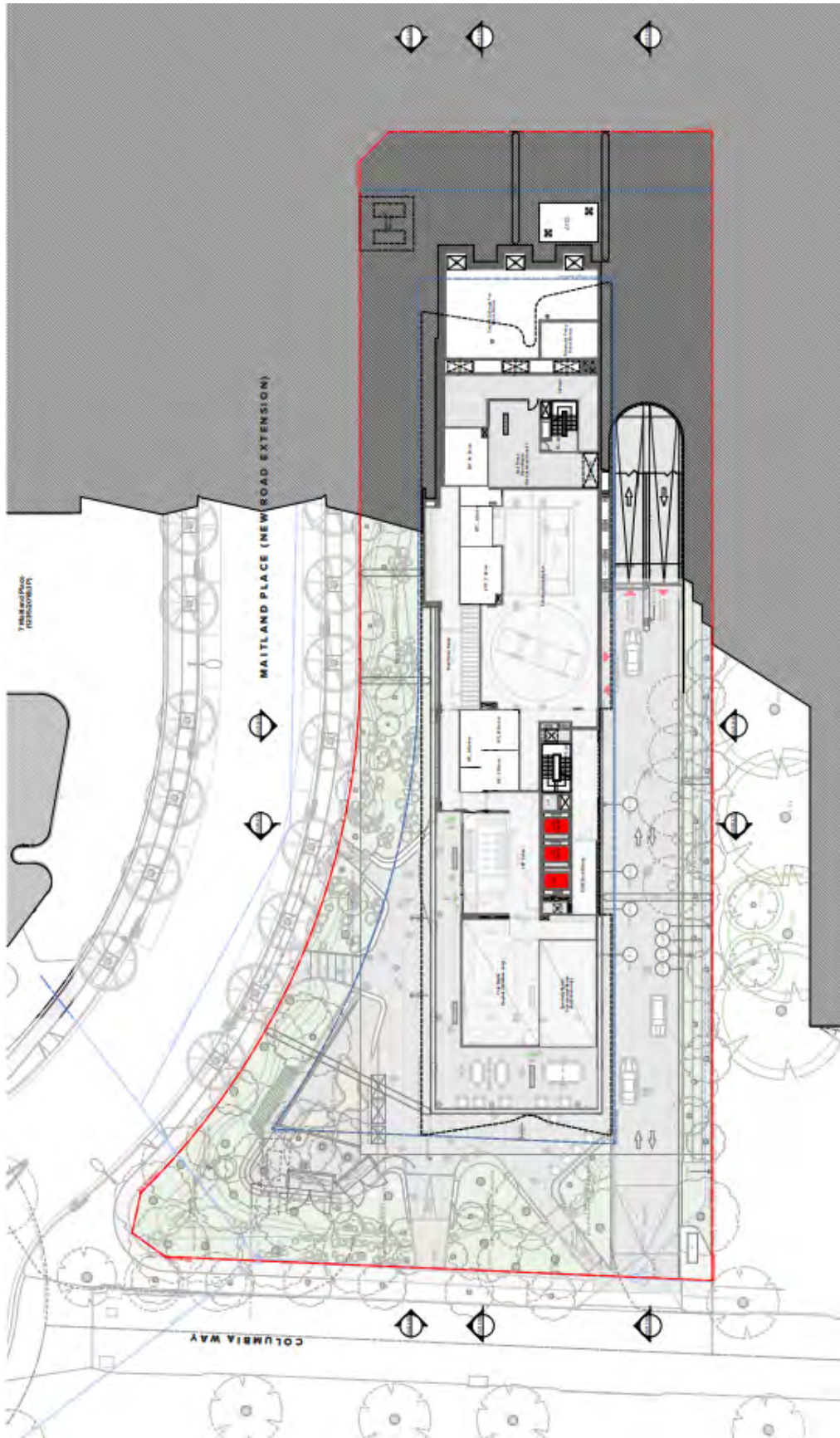
BASEMENT LEVEL 2



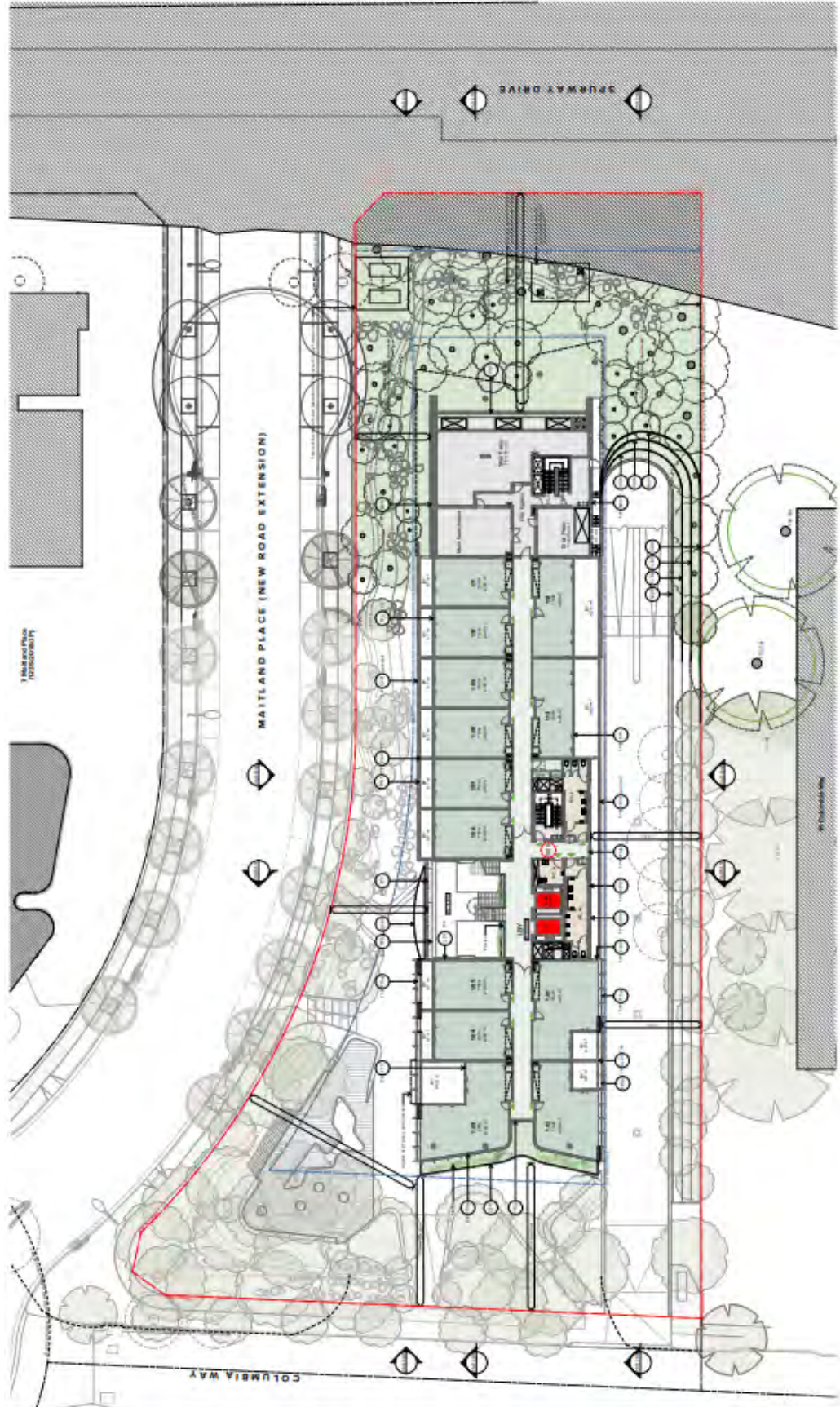
BASEMENT LEVEL 1



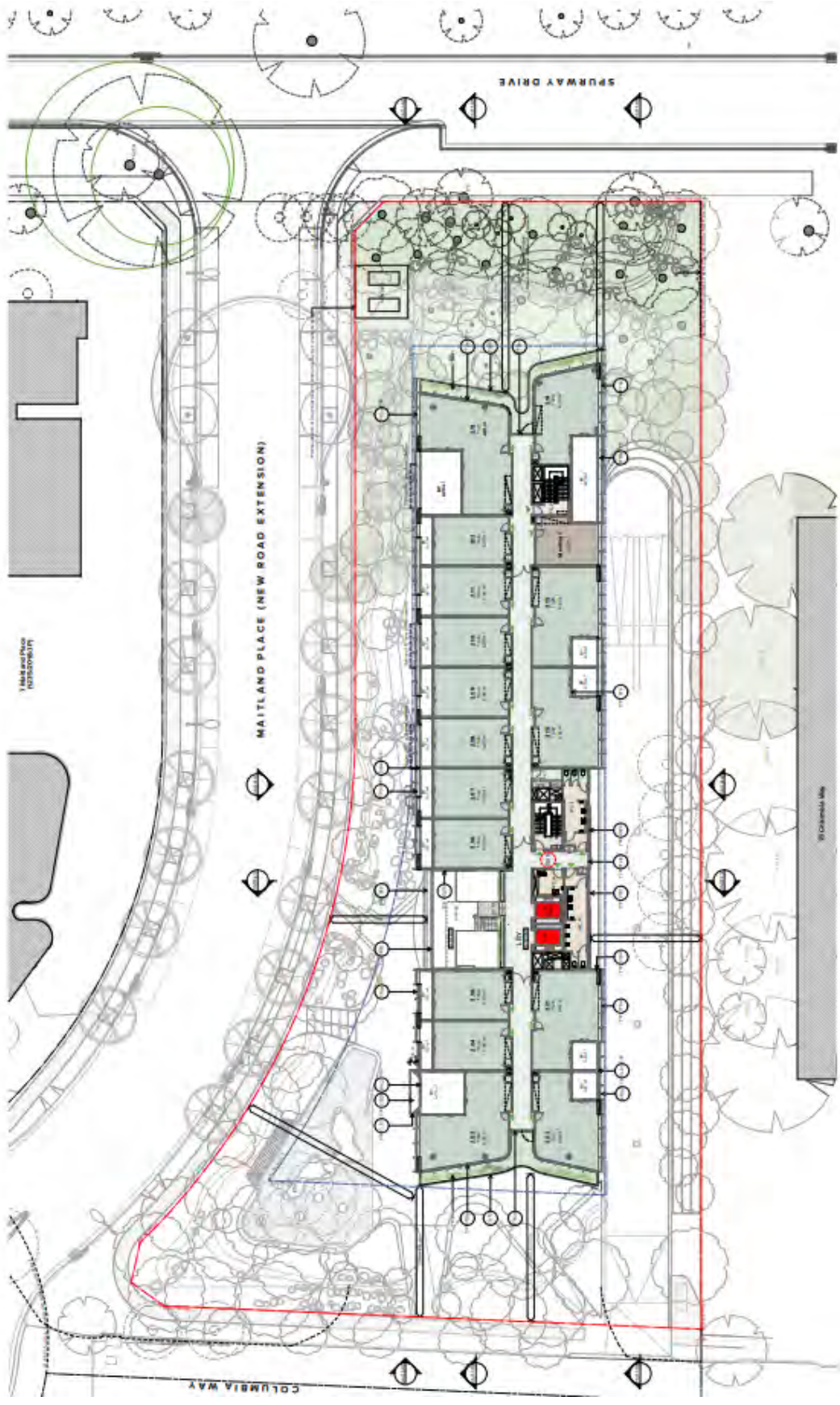
GROUND LEVEL



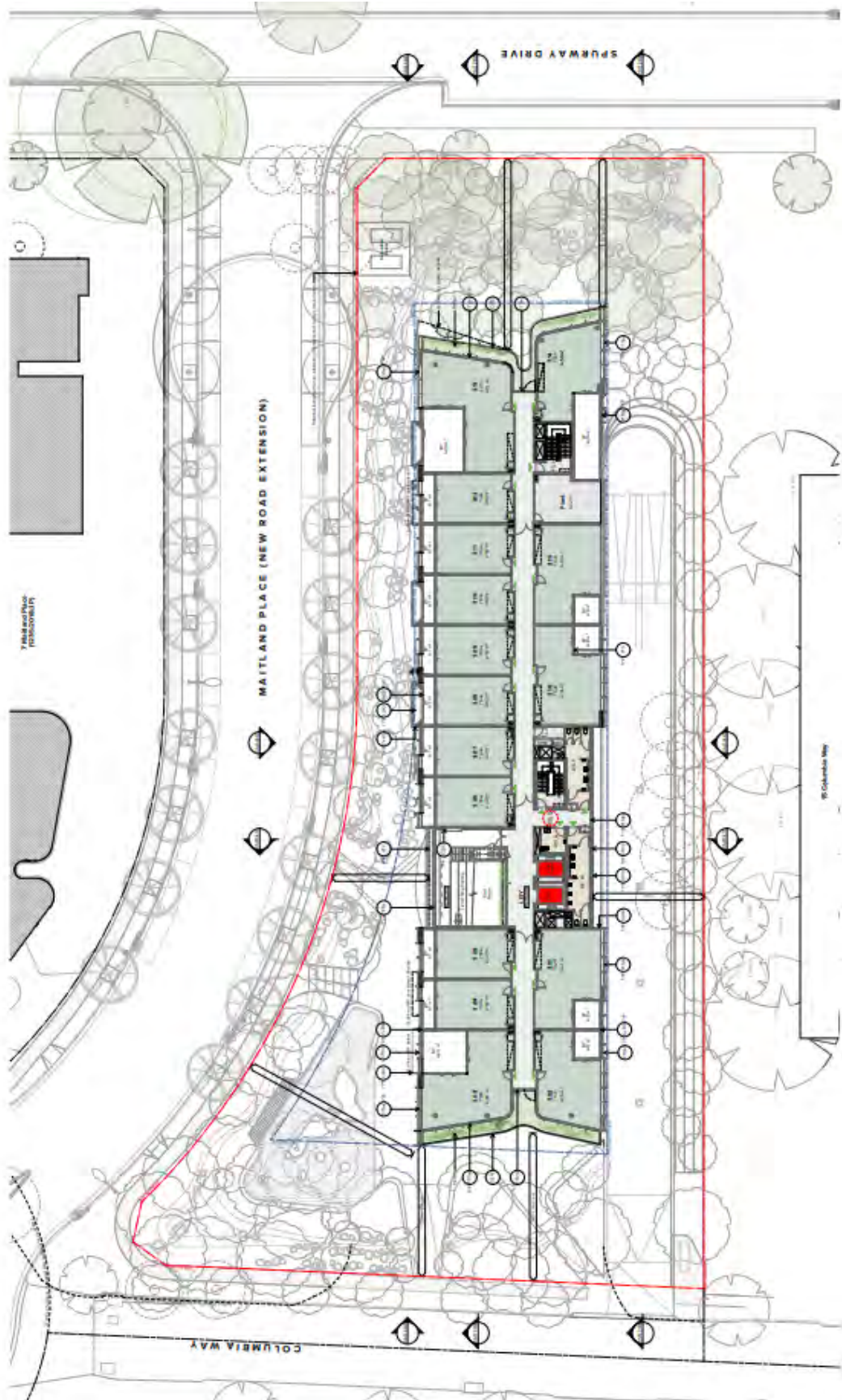
MEZZANINE LEVEL



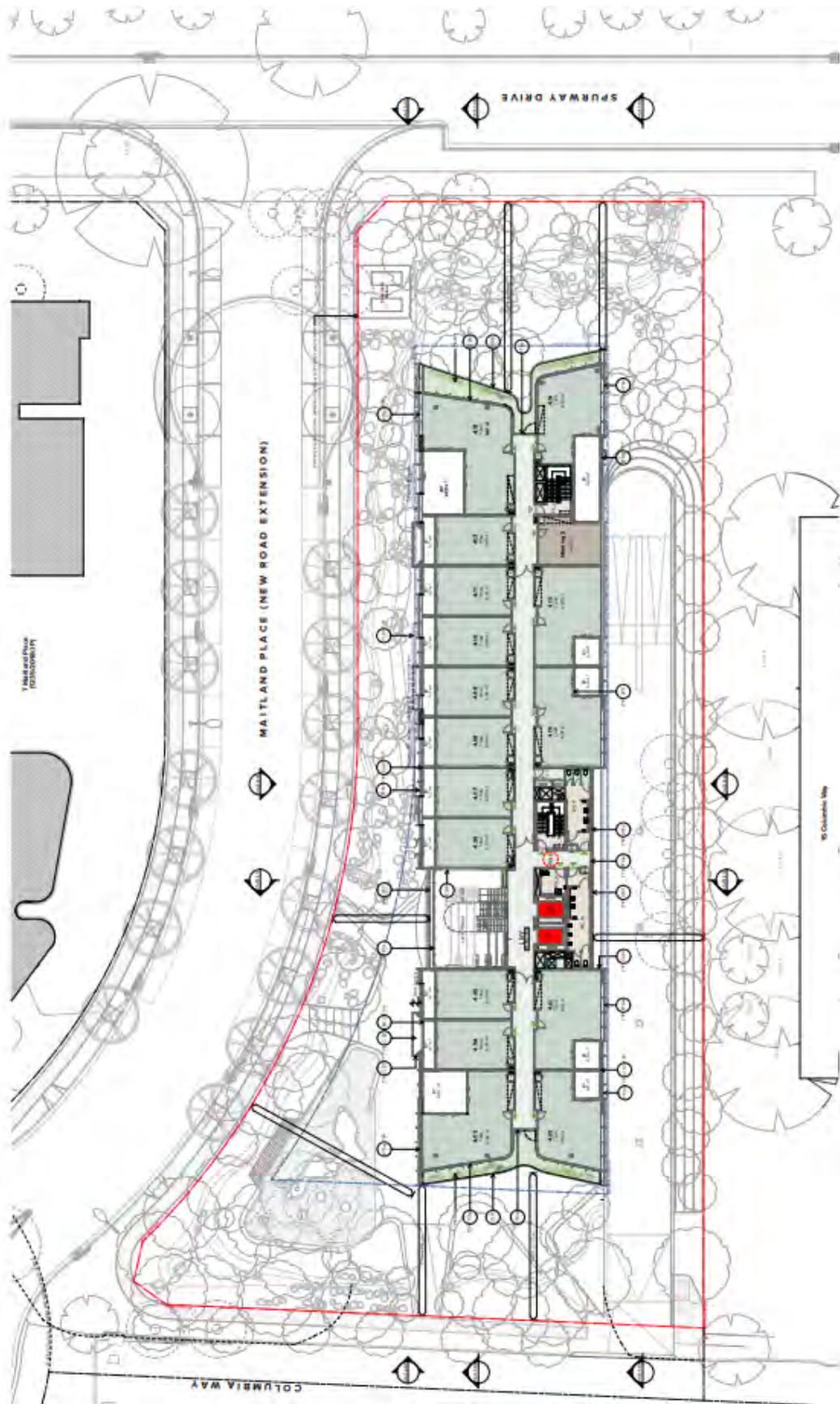
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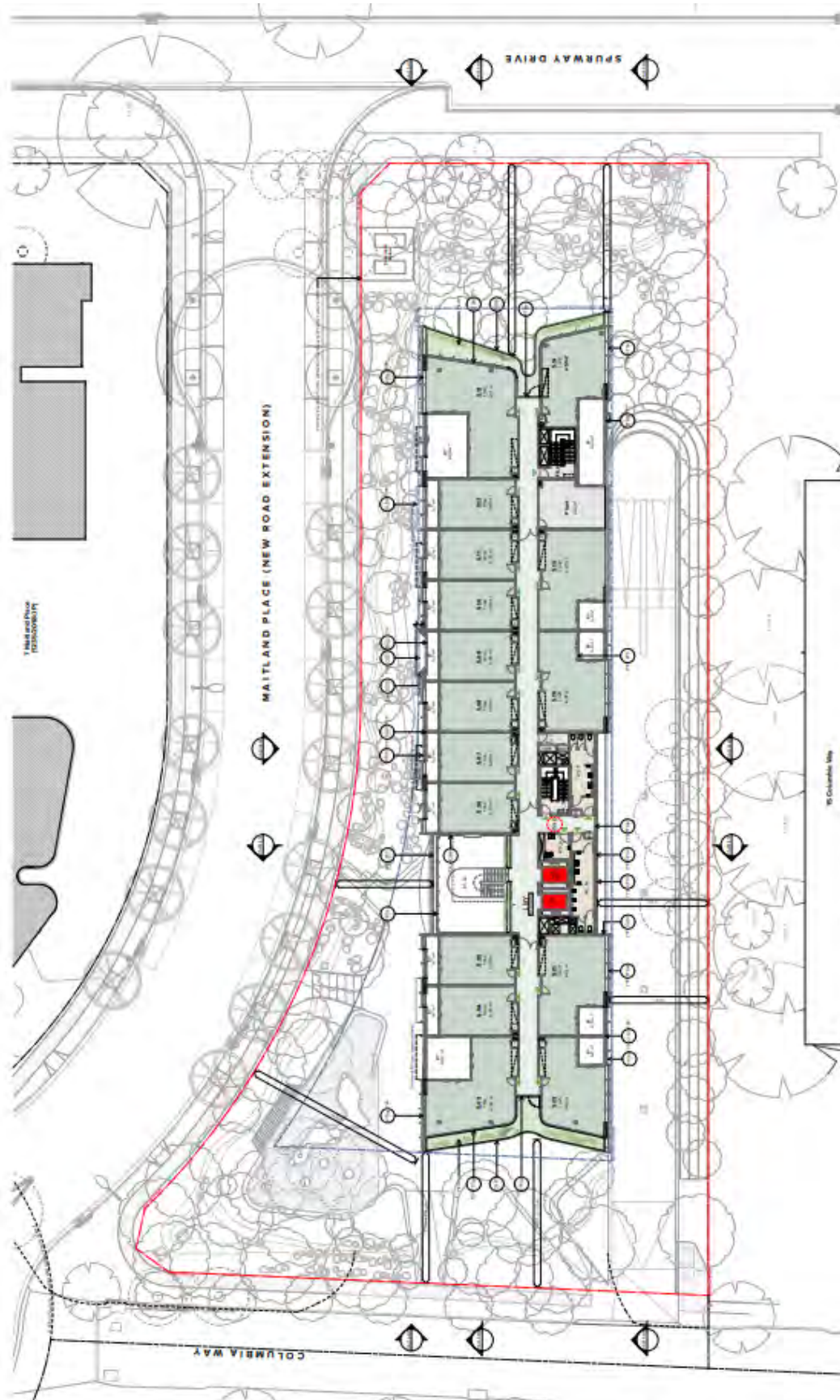
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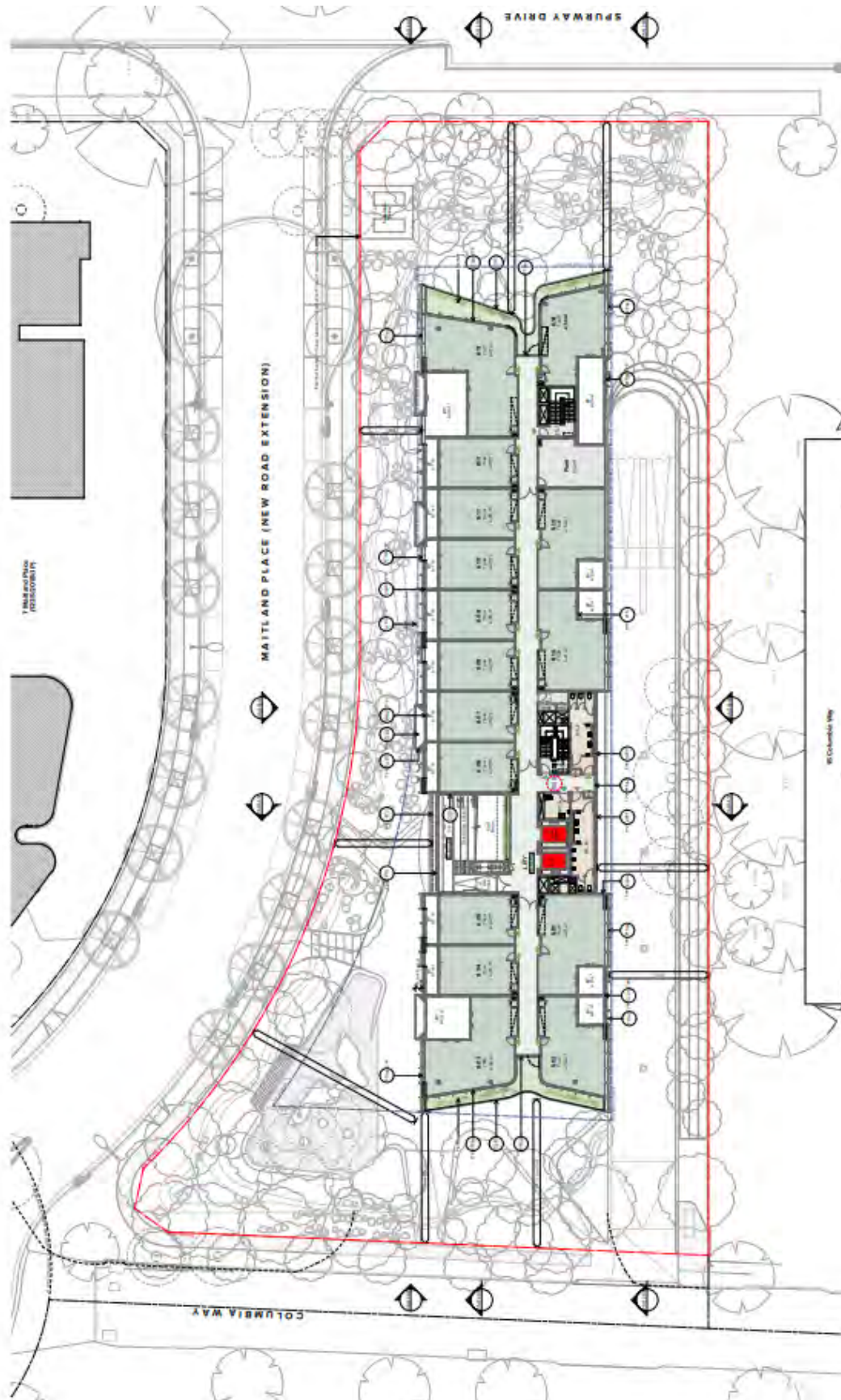
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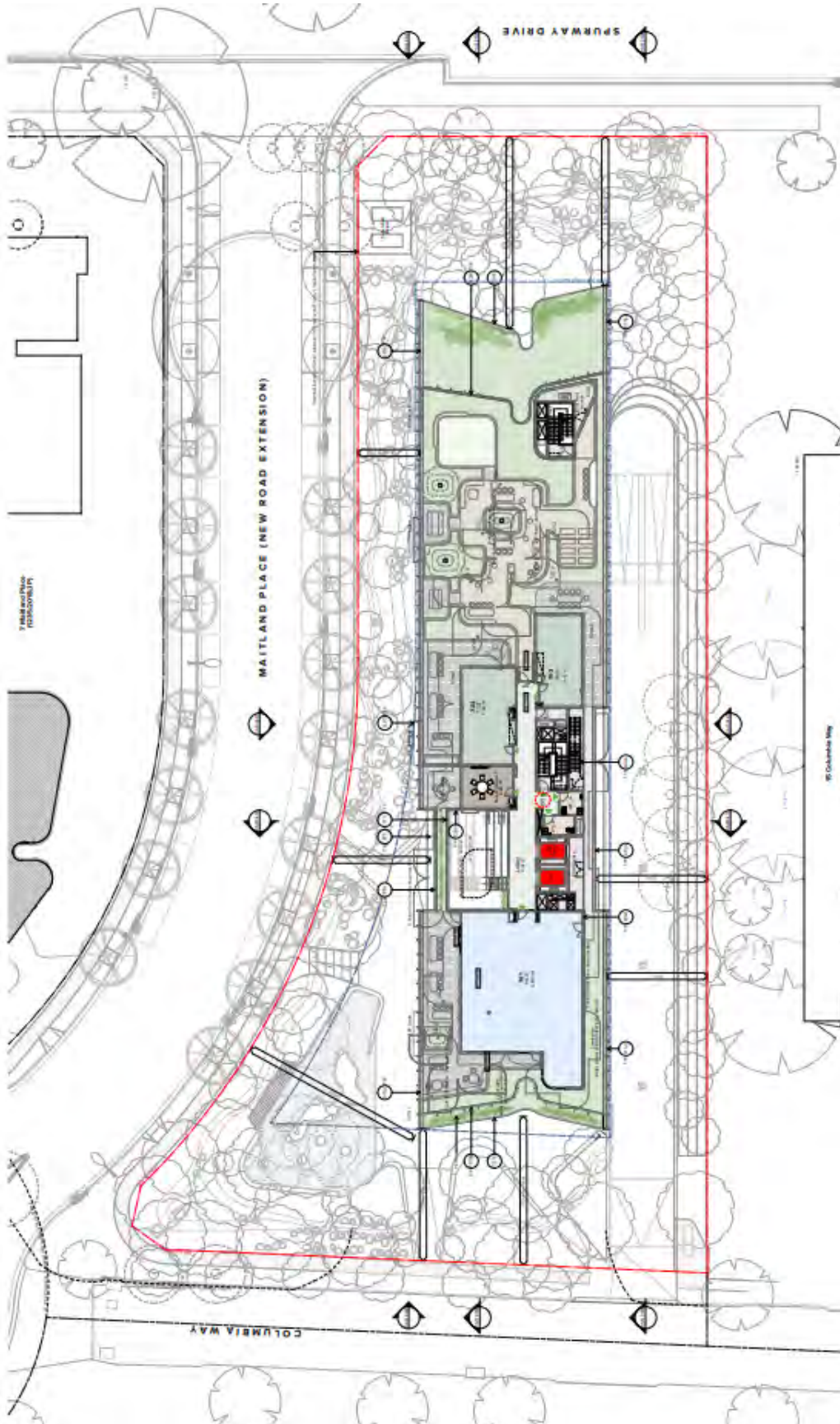
LEVEL 4



LEVEL 5



LEVEL 6



LEVEL 7 ROOF GARDEN

ATTACHMENT 8 – ELEVATIONS



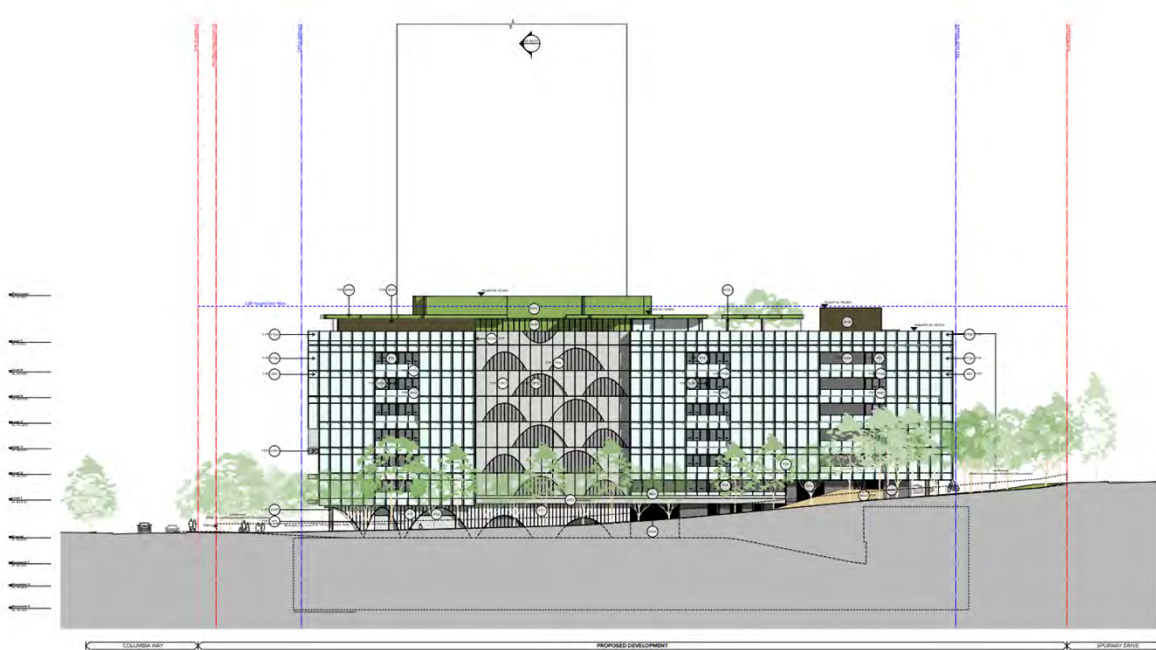
NORTH ELEVATIONS



SOUTH ELEVATIONS

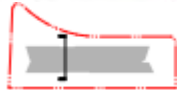


WEST ELEVATION

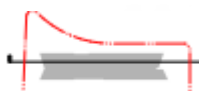
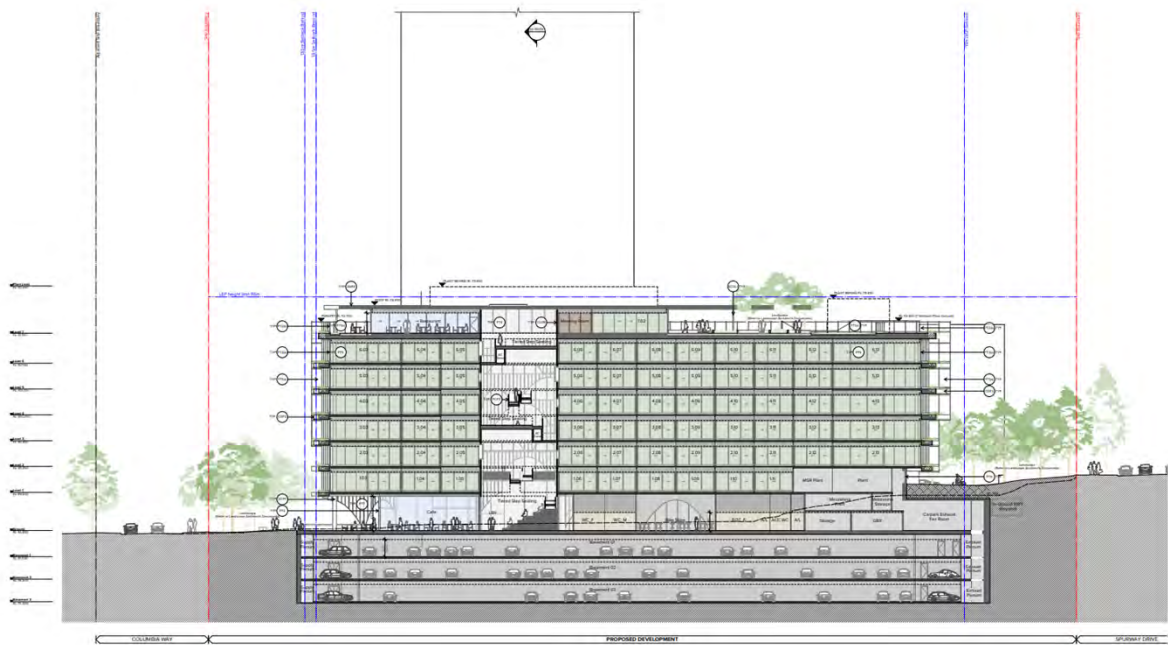


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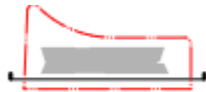
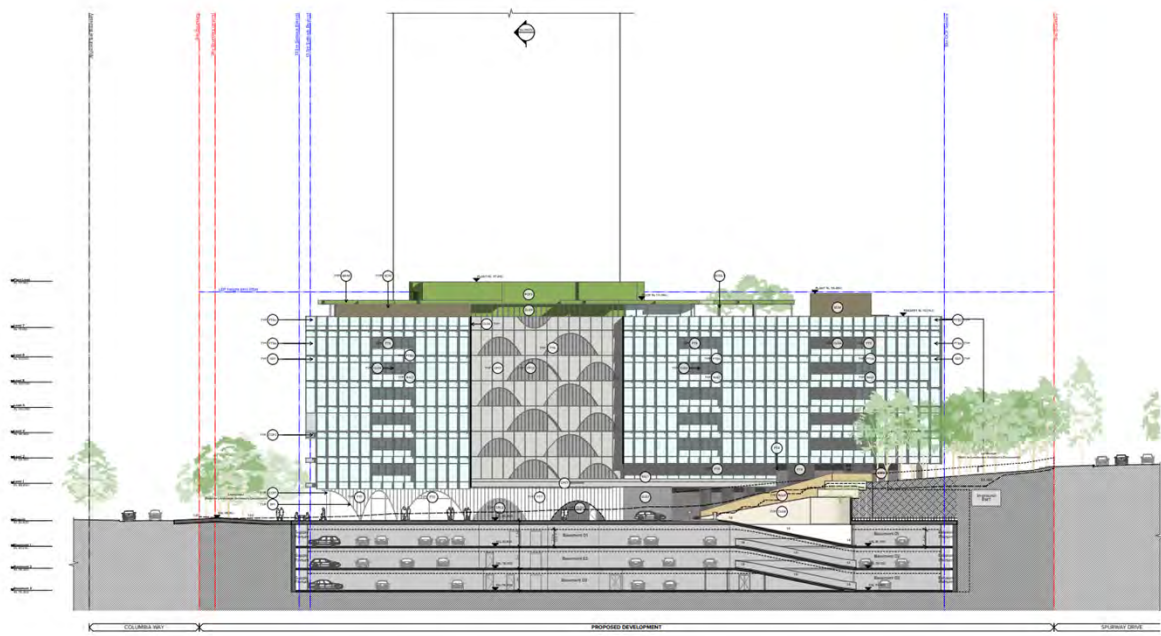
ATTACHMENT 9 – SECTIONS



SECTION AA

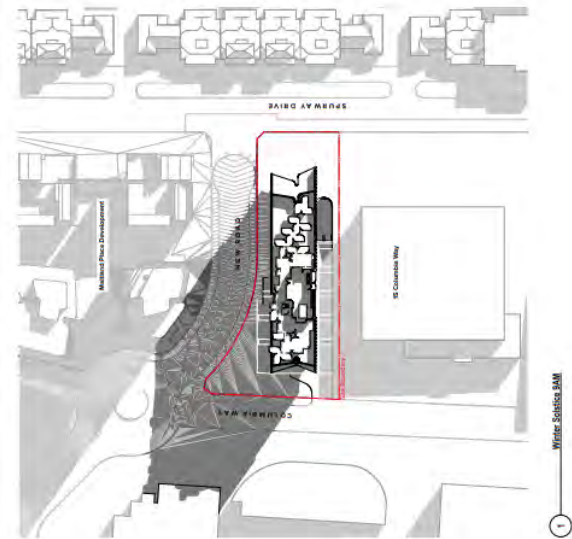
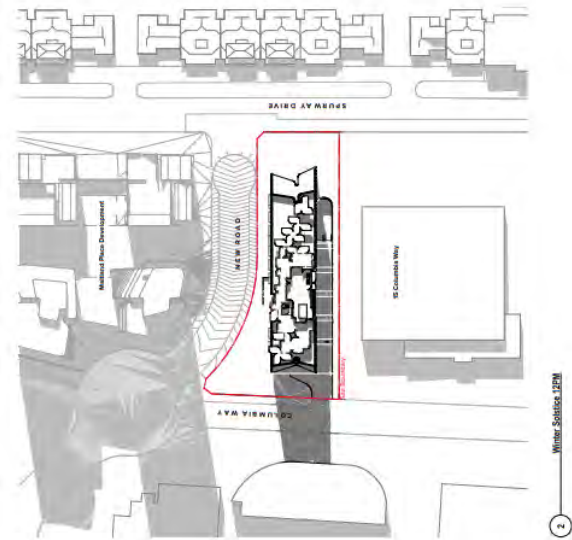
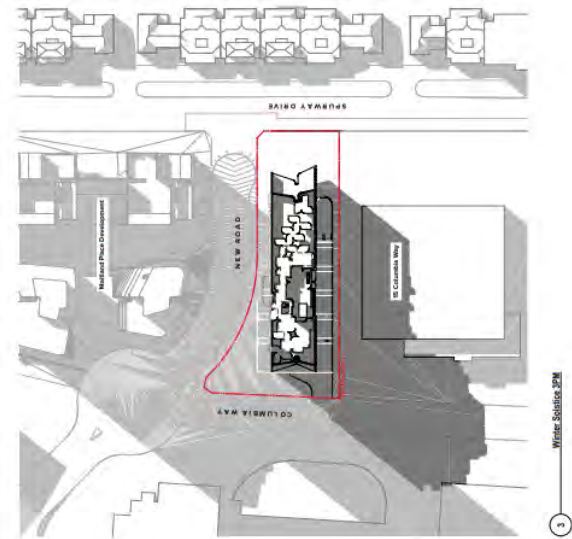


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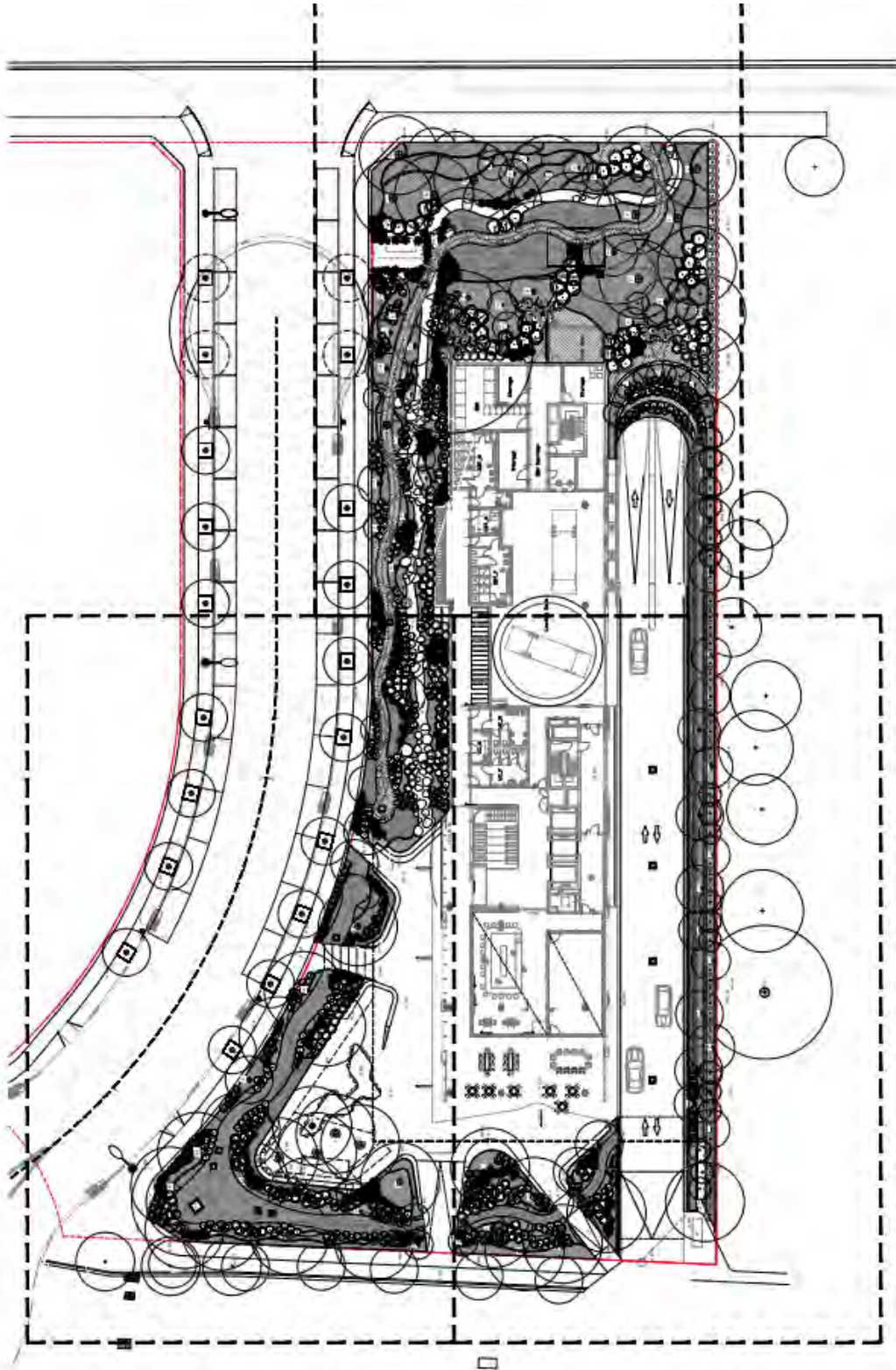


SECTION CC

ATTACHMENT 10 – SHADOW DIAGRAMS



LANDSCAPE PLAN GROUND

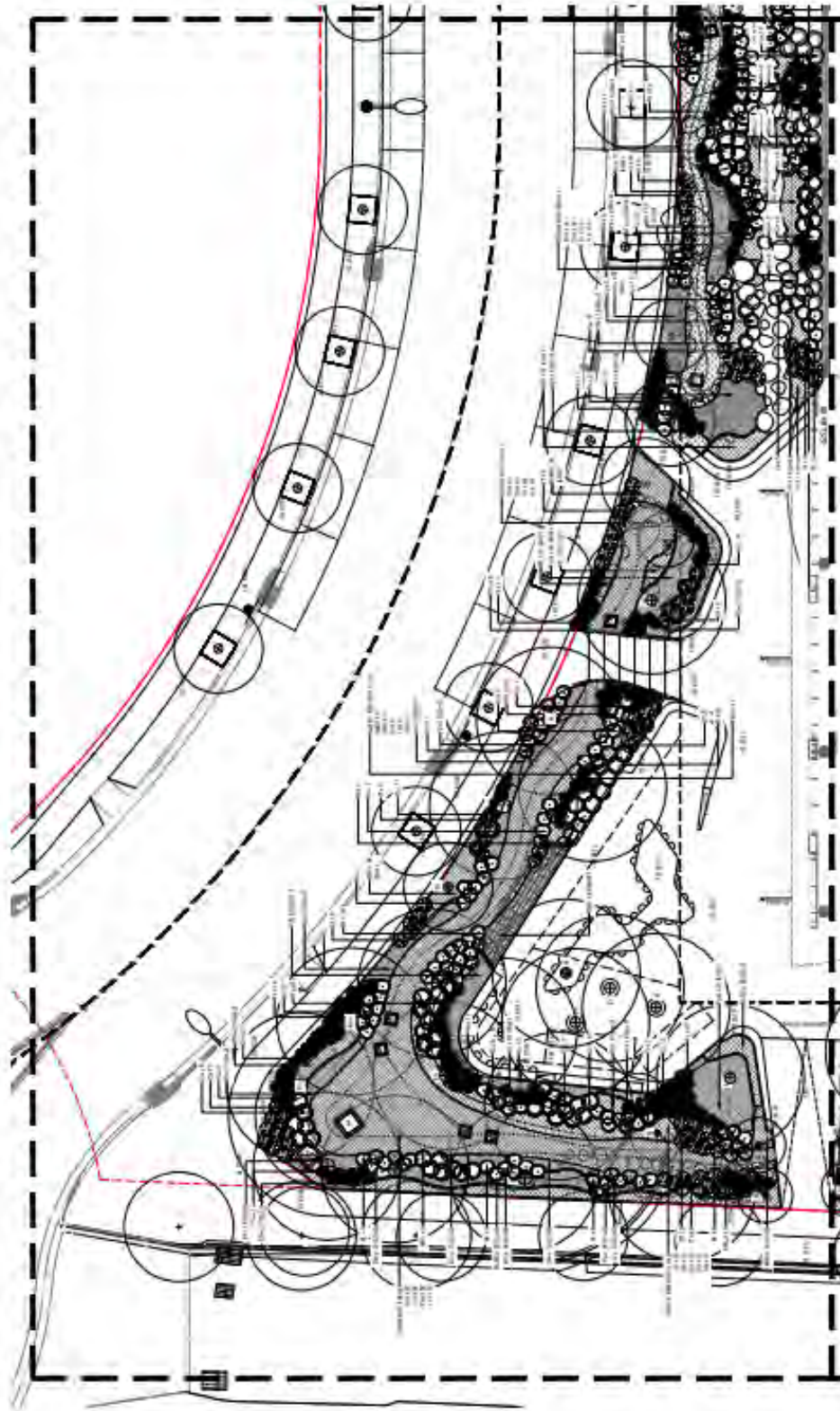


ARCADIA

7 MAITLAND PLACE / NORWEST
DEVELOPMENT APPLICATION



PREPARED BY: *CONCRETE OPERATIONS & SERVICES*
CLIENT: *PHILIPPO P. DIMAS*
ARCHITECT: *THE STEIN GROUP*



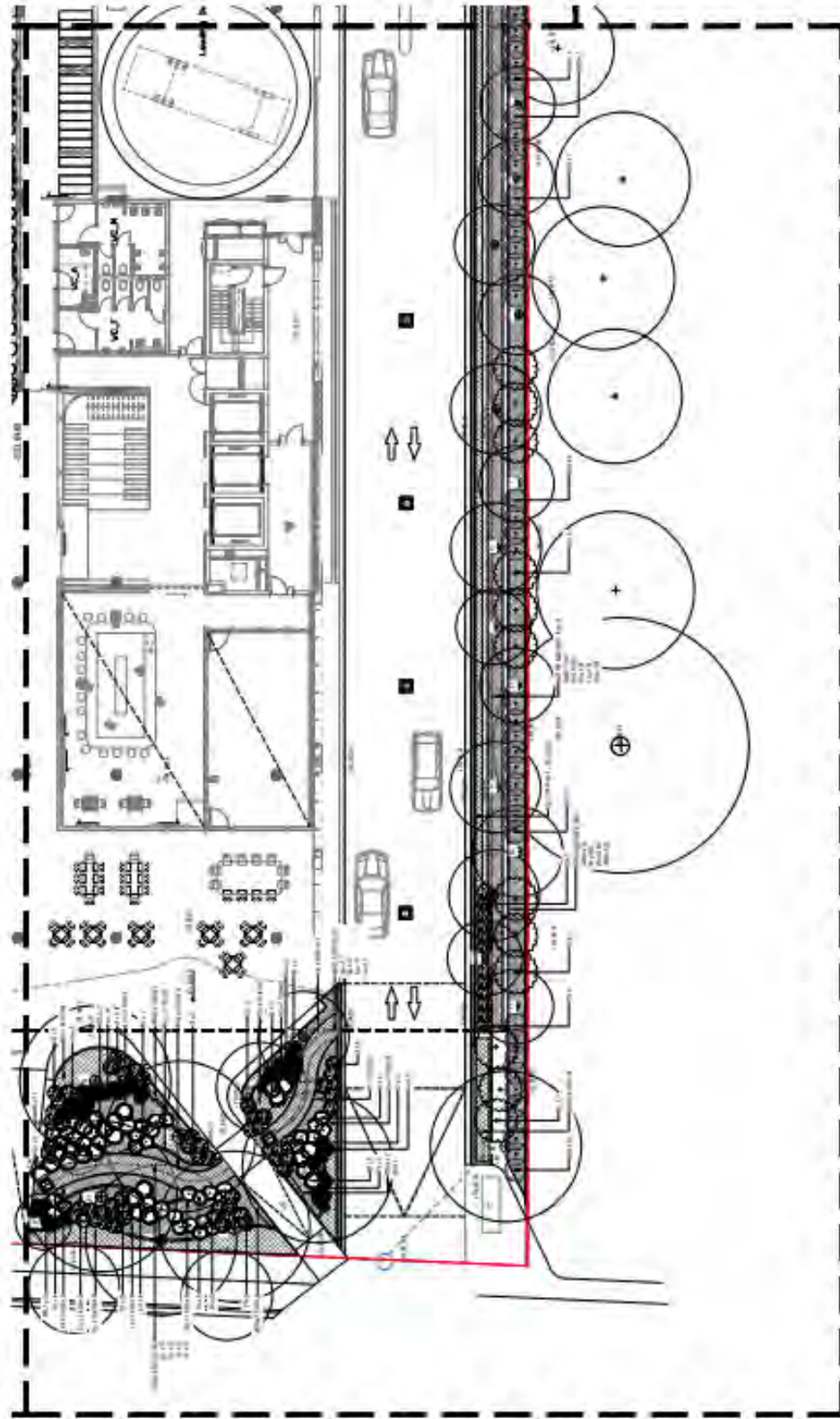
ARCADIA

7 MAITLAND PLACE / NORWEST
DEVELOPMENT APPLICATION



MEMBERSHIP: Arcadia Landscape Architecture
CITY: Arcadia
ADDRESS: 7/10 Maitland Place, Norwest
7100w

DATE: 22/11/2021
SCALE: 1:500
101/10



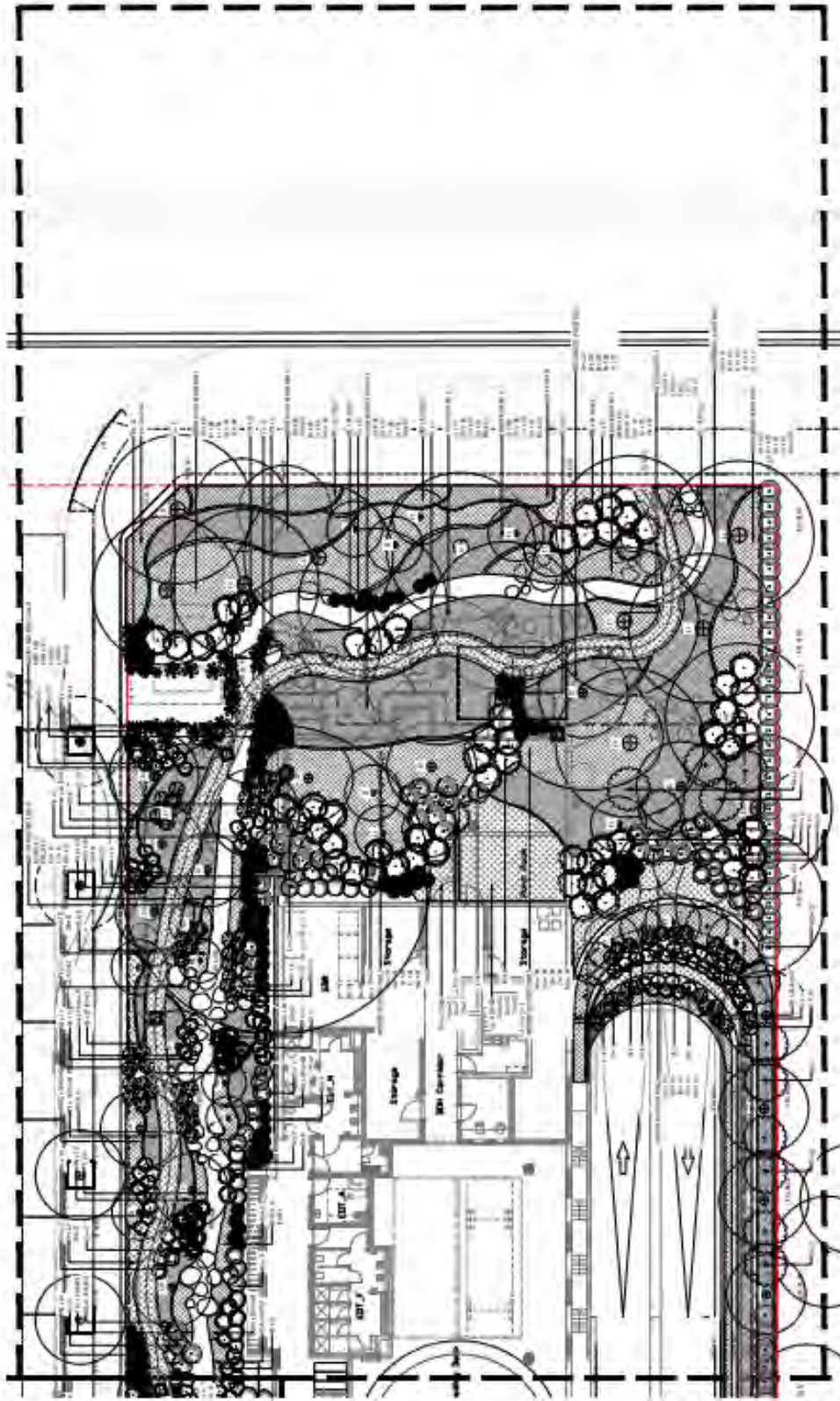
ARCADIA

7 MAITLAND PLACE / NORWEST
DEVELOPMENT APPLICATION



PREPARED BY:
CLIENT:
ARCHITECT:

DATE:
SCALE:
SHEET:



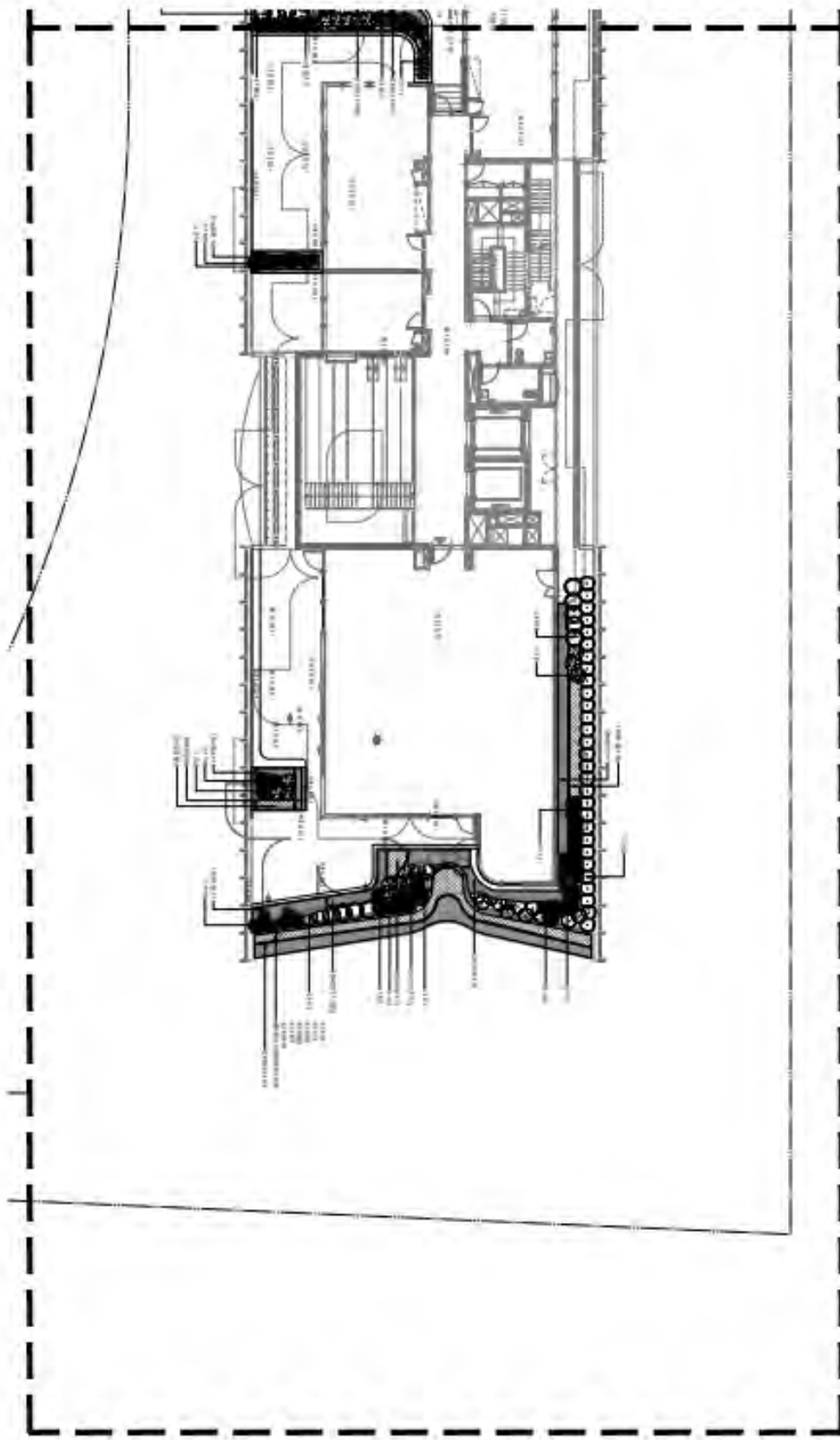
ARCADIA

7 MAITLAND PLACE / NORWEST
DEVELOPMENT APPLICATION



REGISTERED
ARCHITECT
Architectural & Landscape Architecture
The Incorporated Architectural
Profession (No. 11)
1997-2021

DATE: 22/11/2021
SCALE: 1:500
BY: [Signature]

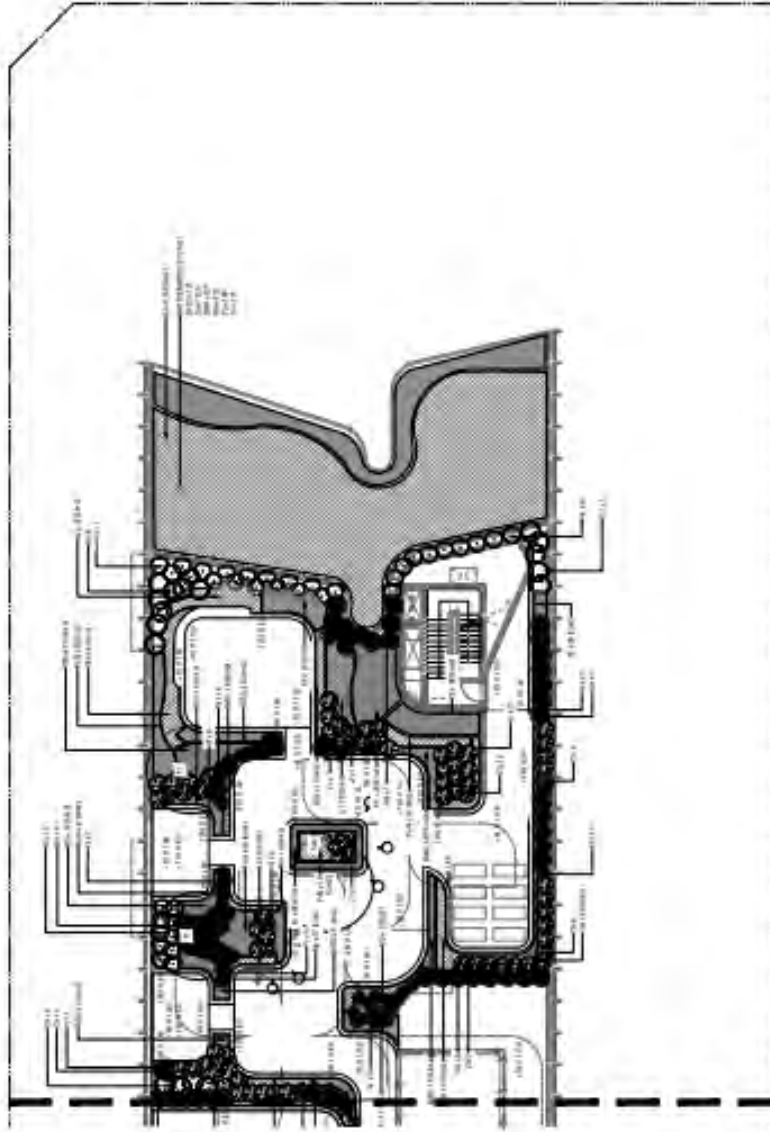


ARCADIA

7 MAITLAND PLACE / NORWEST
DEVELOPMENT APPLICATION



PREPARED BY: Arcadia Architects Pty Ltd
CLIENT: Arcadia Architects Pty Ltd
ARCHITECT: Arcadia Architects Pty Ltd
DATE: 11/11/2021
SCALE: 1:100
SHEET: 104



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DEVELOPMENT APPLICATION



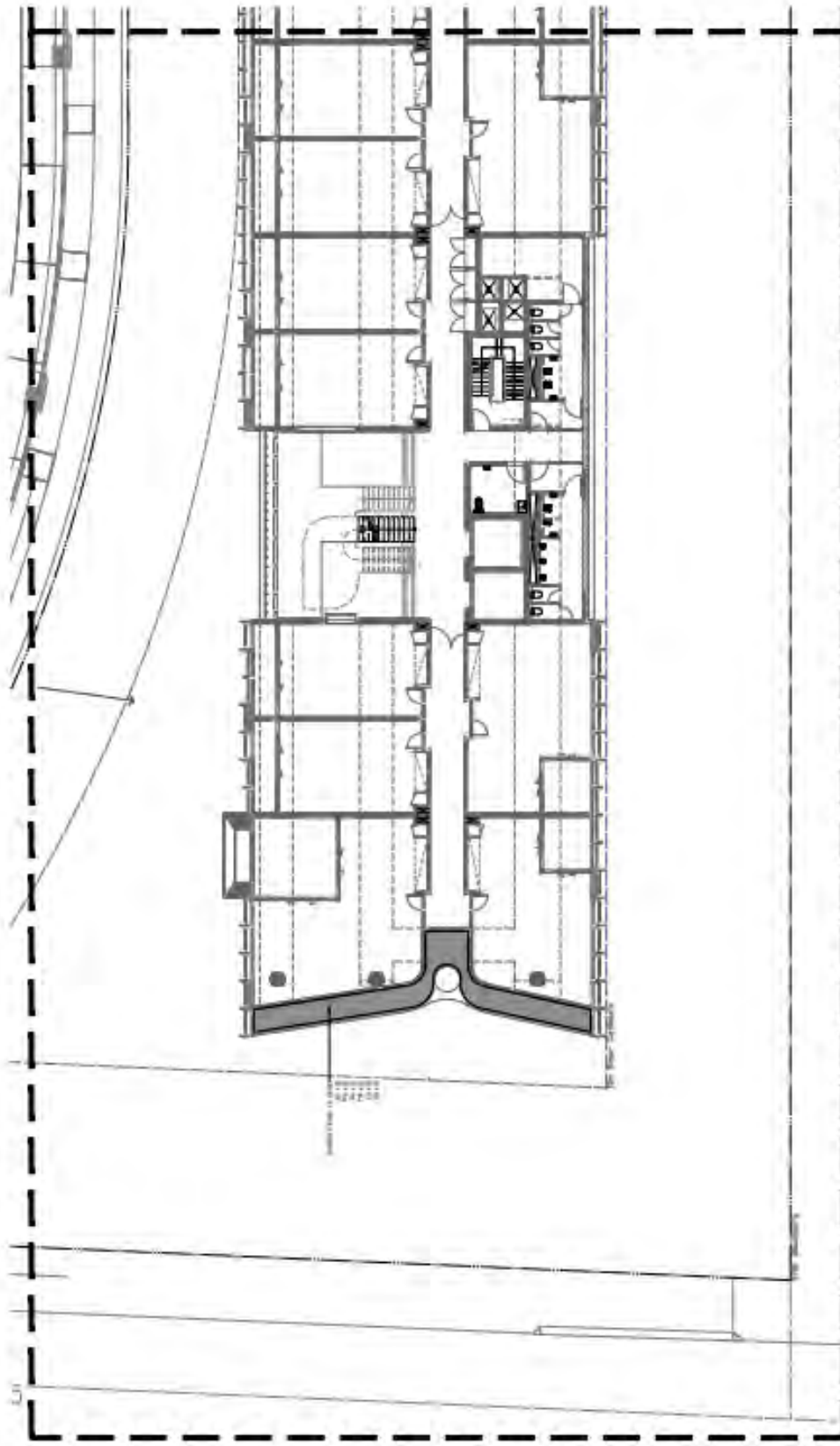
PREPARED BY
CURRY
ARCHITECT

Specialist Landscape Architects
Landscape Commercial Pty Ltd
Tasman Building

DATE: 02/11/2021
SCALE: 1:1000
SHEET: 11

SOFTWORKS PLANS LEVEL 1-6 TYPICAL

106



ARCADIA

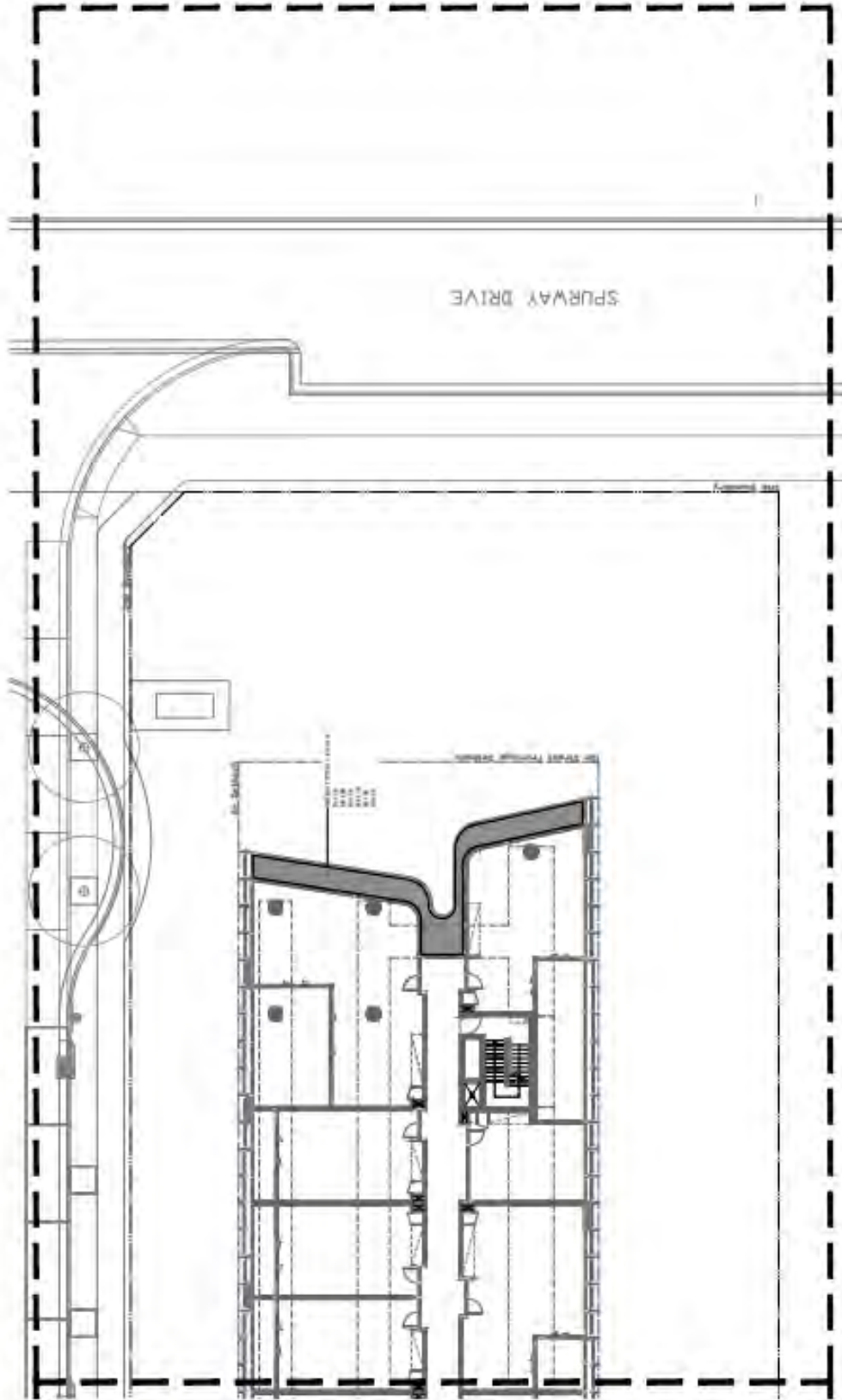
7 MAITLAND PLACE / NORWEST
DEVELOPMENT APPLICATION



PREPARED BY: Arcadia Limited
CLIENT: Maitland Commercial Pty Ltd
ARCHITECT: Turner Sturt
DATE: 20/11/2021
SCALE: 1:500
SHEET: 106

SOFTWORKS PLANS LEVEL 1-6 TYPICAL

107

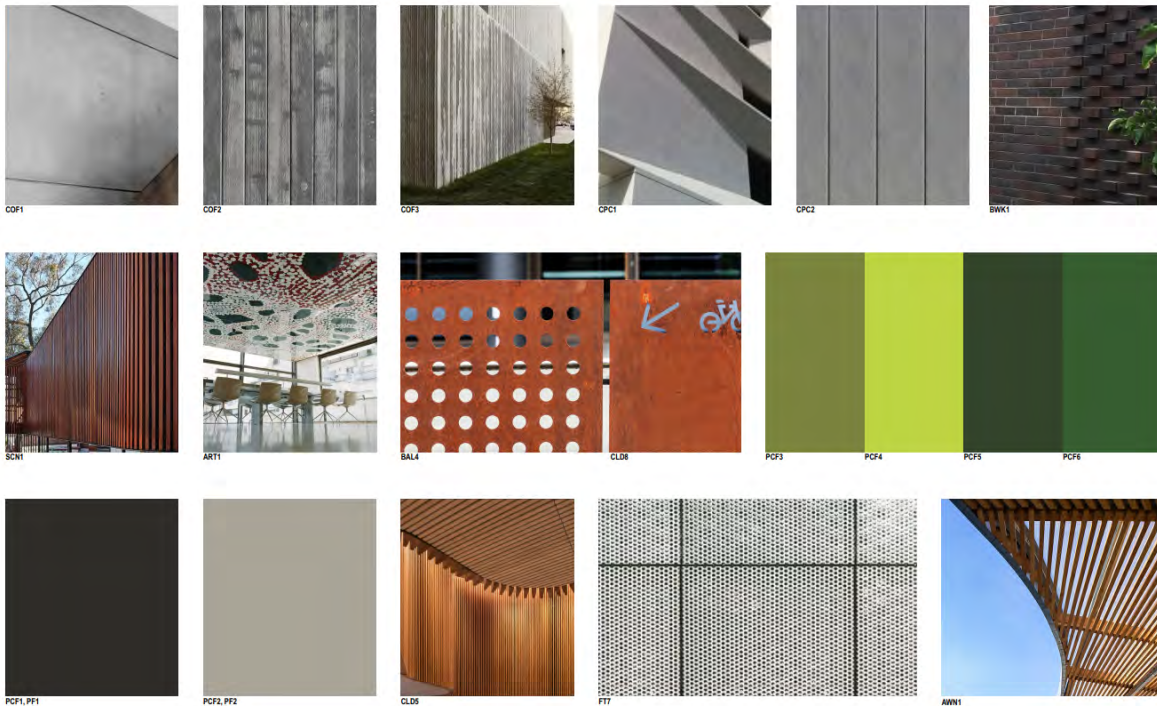


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DEVELOPMENT APPLICATION

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ATTACHMENT 12 – FINISHES SCHEDULE



LEGEND

ART1	Artwork to soffit of ground floor internal and external public areas.	CLD2	Metal cladding system, express jointed. Prefinished coating system. Powder coat finish in 4 shades of green. Colours equal to PCF3, PCF4, PCF5 and PCF6 or similar.
AWN1	Sculptural metal shading structure. Colour and finish to match PCF3.	CLD3	Metal cladding system, express jointed. Prefinished coating system. Colour equal to PCF3.
AWN2	Sculptural metal awning structure. Colour and finish to match PCF1.	CLD4	Metal cladding system, express jointed. Prefinished coating system. Colour equal to PCF1.
BAL1	Frameless, full-height clear glass balustrade system with top rail. Top rail colour to match PCF2.	CLD5	Internal timber cladding system with concealed fixings. Timber equal to 'Spotted Gum' in appearance. Natural colour with pigmented oil finish.
BAL2	Semi-frameless full height clear glass balustrade system with 150mm wide top rail. Framing system, aluminium, powder coat finish. Colour to match PCF2.	CLD6	CFC cladding, decorative grooved finish. Pigment stain finish, 30% strength. Colour to match CLD5.
BAL3	Vertical 75 x 10 steel baluster, steel flat bar top rail, angled at 90°. Powder coat finish, colour and finish to match PCF3.	CLD7	Metal cladding system with concealed essential loading dock door. Prefinished coating system. Colour and finish to match PCF1.
BAL4	Balustrade to landscape. Material and finish equal to CLD8 with 30% perforated pattern for transparency.	CLD8	Decorative façade retaining wall.
BWK1	Dry pressed brickwork, dark colour range. Colour and finish equal to Bowral 'Bowral Blue' 230 x 76mm 'standard' format. Mortar colour, 'black'.	COF1	Off Form concrete. Natural, smooth finish. Colour natural grey concrete mix. Penetrating clear matte sealer over.
BWP1	Brickwork pattern Flemish bond with projecting masonry pattern, tooled joint.	COF2	Off Form concrete. Natural, smooth board finish. Colour natural grey concrete mix. Penetrating clear matte sealer over.
CLD1	Metal cladding system, express jointed. Prefinished coating system. With concealed essential service doors and louvers. Powder coat finish to match PCF2.	COF3	Off Form concrete retaining wall. Natural, textured roughly bevelled concrete texture finish. Colour natural grey concrete mix. Penetrating clear matte sealer over.
CPC1	Concrete, Precast, Type 1: Concrete Precast, smooth finish. 'Lite & Brite' / off white natural concrete colour. Penetrating clear matte sealer over.	FT1(c)	Front Glazed Curtain wall screen system with steel structural support. Horizontal joints between glass panels to be structural joints; no transom in front. Clear Neutral glass. With integrated decorative 250mm deep projecting vertical aluminium fins. Aluminium frame and fins to be powder coat finish, colour equal to PCF2. PF2 finish to structural elements. Aluminium 'Shadow Box' detail to slab edge and ceiling space. Performance of overall system to meet ESD and façade engineer's requirements. Reflectivity to be less than 20%.
CPC2	Concrete, Precast, Type 2: Concrete Precast, smooth finish with vertical decorative groove pattern and rebated panel interface with adjacent CPC. 'Lite & Brite' / off white natural concrete colour. Penetrating clear matte sealer over.	FT2(a)	Front Glazed wall system with integrated decorative projecting 100-300mm deep vertical aluminium fins. Dark gray glass body tint. Aluminium frame and fins powder coat finish, colour equal to PCF1. Performance of overall system to meet ESD and façade engineer's requirements. Reflectivity to be less than 20%.
GD1	Spandrel glazing with shadowbox detail and back pan, glass colour to match adjacent glass	FT2(b)	Front Glazed screen system with steel structural support and integrated decorative projecting 100-300mm deep vertical aluminium fins. Dark gray glass body tint. Aluminium frame and fins powder coat finish, colour equal to PCF1. PF1 finish to structural elements. Performance of overall system to meet ESD and façade engineer's requirements. Reflectivity to be less than 20%.
FT1(a)	Front Glazed Curtain wall system. Horizontal joints between glass panels to be structural joints; no transom in front. Clear Neutral glass. With integrated decorative 250mm deep projecting vertical aluminium fins. Aluminium frame and fins to be powder coat finish, colour equal to PCF2. Aluminium 'Shadow Box' detail to slab edge, spandrel zone and ceiling space. Performance of overall system to meet ESD and façade engineer's requirements. Reflectivity to be less than 20%.	FT3	Front Glazed Curtain wall system with steel structural support. Vertical joints between glass panels to be structural joints; no mullion in front. Vision panel clear glass, no tint. Aluminium 'Shadow Box' detail to slab edge and ceiling space. Aluminium frame powder coat finish, colour equal to PCF2. PF2 finish to structural elements. Performance of overall system to meet ESD and façade engineer's requirements. Reflectivity to be less than 20%.
FT1(b)	Front Glazed Curtain wall balustrade system. Horizontal joints between glass panels to be structural joints; no transom in front. Clear Neutral glass. With integrated decorative 250mm deep projecting vertical aluminium fins. Aluminium frame and fins to be powder coat finish, colour equal to PCF2. Aluminium 'Shadow Box' detail to slab edge, spandrel zone and ceiling space. Performance of overall system to meet ESD and façade engineer's requirements. Reflectivity to be less than 20%.		

- FT4 Front Glazed wall system with integrated operable elements. Structural steel support fully concealed. Vision panel clear glass, no tint. Framing system aluminium powder coat finish. Framing colour to match PCF2.
- FT5 Aluminium framed glazing system, with integrated sliding doors. Clear Neutral glass, Framing system, aluminium, powder coat finish. Framing colour to match PCF2.
- FT6 Front Glazed wall system. Vertical joints between glass panels to be structural joints; no mullion in front. Dark gray glass body tint. Aluminium frame powder coat finish, colour equal to PCF1. Performance of overall system to meet ESD and façade engineer's requirements. Reflectivity to be less than 20%.
- FT7 Perforated folded mesh cassette façade system. Perforated mesh equal to Locker Group standard perforated system R01636 with 40-50% free area, or similar. Where service vents are concealed / integrated behind, perforation size increased to suit free air requirements. Colour and finish equal to PCF7
Note: Continuation of façade system to ground to be double sided mesh on both sides where freestanding of support frame.
- FT8 Translucent grey glass wall system, concealed aluminium frame. Aluminium frame powder coat finish, colour equal to PCF1.
- FT9 Façade system with integrated louvres for building services, concealed frame. Prefinished coating system. Colour equal to PCF1.
- HRI Decorative handrail to street level interface. 32mm diam. Steel, finish to match PCF1.
- PCF1 Powdercoat Finish. Colour and finish to match Interpon 'Monument Matt' or similar.
- PCF2 Powdercoat Finish. Pewter Grey colour.
- PCF3 Powdercoat Finish. Colour and finish to match Interpon 'Sable Gilded Green' or similar.
- PCF4 Powdercoat Finish. Colour and finish to match Interpon 'Lyra Strip' or similar.
- PCF5 Powdercoat Finish. Colour and finish to match Interpon 'Wetland Fern' or similar.
- PCF6 Powdercoat Finish. Colour and finish to match Interpon 'Shamrock Gloss' or similar.
- PCF7 Powdercoat Finish. Colour and finish to match Dulux 'Whitehaven' or similar.
- PF1 Paint Finish, Colour to match Interpon 'Monument Matt' or similar.
- PF2 Paint Finish, Pewter grey colour.

PV1 Paving Ground level pedestrian zone. Refer to landscape Architect's documentation.

PV2 Paving Ground level driveway. Refer to landscape Architect's documentation.

PV3 Paving Roof terrace. Refer to landscape Architect's documentation.

PV4 Paving office balconies.

SCN1 Non-combustible, aluminium screening system. Fixed vertical elements, woodgrain-look to match CLD5.

SCOL1 Steel column. Paint finish, colour equal to PF1.

SGN1 Building identification signage zone for surface fixed signage.

SGN2 Building identification signage zone for surface fixed signage.

Note Refer to Landscape documentation for public domain and landscape areas for further information regarding materials and finishes selection.



MATERIAL DETAIL - CORNER SPURWAY DRIVE & NEW ROAD (MAITLAND PLACE)



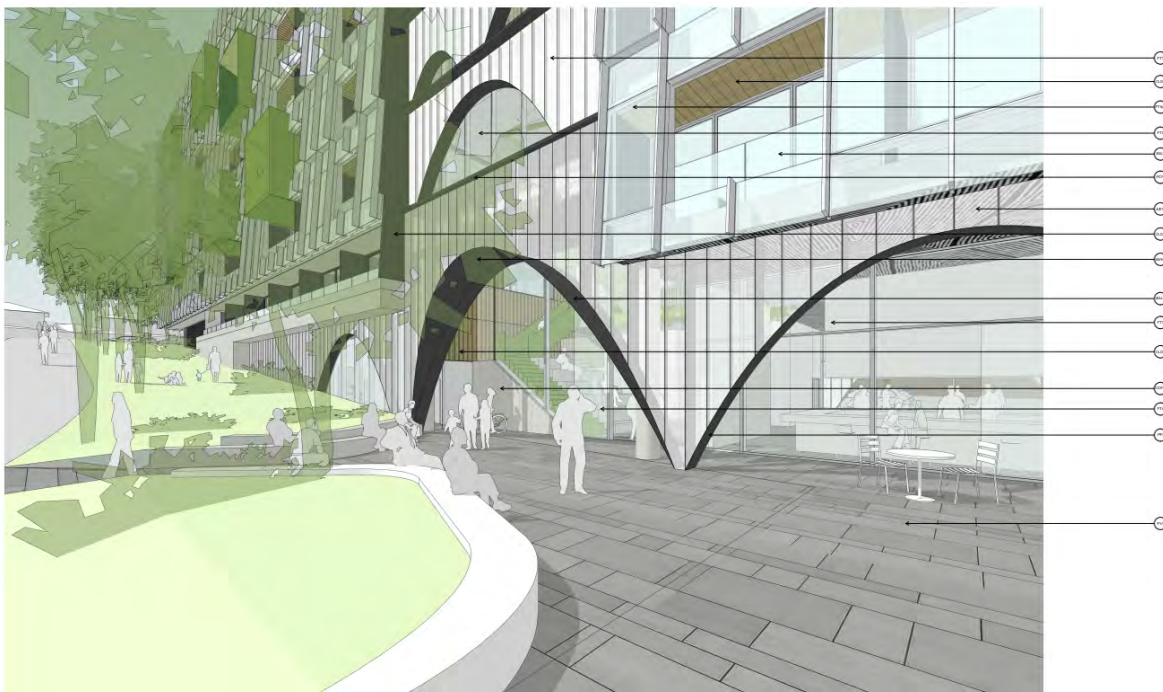
MATERIAL DETAIL - SPURWAY DRIVE EAST



MATERIAL DETAIL - COLUMBIA WAY FORECOURT EAST



MATERIAL DETAIL - MAIN ENTRY 1



MATERIAL DETAIL - MAIN ENTRY 2

ATTACHMENT 13 – PERSPECTIVES



VIEW FROM CORNER OF MAITLAND PLACE AND COLUMBIA WAY



VIEW FROM COLUMBIA WAY



VIEW FROM MAITLAND PLACE (NORTH)



VIEW FROM SPURWAY DRIVE



VIEW FROM DRIVEWAY (COLUMBIA WAY)



VIEW FROM GROUND FLOOR FRONTING MAITLAND PLACE



VIEW OF ROOF TOP TERRACE

ATTACHMENT 14 – CLAUSE 4.6 WRITTEN SUBMISSION



Commercial Offices
7 Maitland Place, Norwest
Clause 4.6 Request

Prepared on behalf of Haitchen
December 2020

dowling urban



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COVER

Proposed development as viewed from the Maitland Place roundabout looking north east.

This Clause 4.6 Request has been prepared by:
Greg Dowling, BAS (Env Pl) M Urb Des (Syd) MPIA,
Dowling Urban Pty Ltd, Suite 302 4-14 Buckingham Street, Surry Hills NSW 2010.

1 Introduction

This report supplements the Statement of Environmental Effects (SEE) for the proposed commercial offices development at 7 Maitland Place Norwest, to request an exception to the height of building development standard under Clause 4.6 of The Hills Local Environmental Plan 2019 (THLEP 2019).

It should be noted that the request is precautionary should the consent authority determine that the proposed architectural roof feature that is the subject of the request, does not meet the requirements of clause 5.6 of THLEP 2019 to permit it contravening the height of building standard by 1.45m.

The roof feature is integrated into the design of the building to allow for the aesthetic containment of plant and lift overruns while enabling full utilisation of the roof top for outdoor working and recreational opportunities in an elevated landscaped setting that enjoys a variety of views.



Extract of DA-830-015_DA Material Detail - High Levels showing architectural roof feature .

1.1 DEVELOPMENT OVERVIEW

The proposed development comprises a 6 to 8 storeys commercial building used for office premises with a food and drink premises on the ground floor and roof top totalling 7,071m² of gross floor area utilised for:

- 95 small to large office units,
- ground floor and roof top café / restaurants with associated outdoor seating.

- basement car parking spaces for 284 owner and visitor vehicles,
- bicycle and motorbike parking and change room facilities for bicyclists,
- private, communal and publically accessible open spaces,
- on-site loading and waste facilities,
- vehicle access from Columbia Place, and
- associated landscaping, rooftop gardens and on-site facilities.

The site was previously used for industry, storage and distribution but is to be demolished to accommodate residential development adjoining and redevelopment of the subject land in accordance with its current zoning as well as location within the catchment of the new Norwest metro rail station.

1.2 LEGAL FRAMEWORK

This request has been prepared under Clause 4.6 of THLEP 2016 to to seek an exception from the development standard for height of building within clauses 4.3.

The objectives of clause 4.6 are,

- (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,*

The request is required under clause 4.6(4) to adequately address the matters required to be demonstrated by clause 4.6(3) which are:

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

This report aims to satisfy the requirements of clause 4.6 having regard to the provision of RLEP 2011 and current Case Law as summarised below.

Case law (*Winten V North Sydney Council, Wehbe V Pittwater, Four2five V Ashfield Council*) provides guidance when considering an exception to development standards:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
 - *Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives.*
 - *Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary;*

- *Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;*
- *Has Council by its own actions, abandoned the development standard.*
- Is compliance with the development standard consistent with the aims of CI 4.6?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Are there sufficient environmental planning grounds (specific to the site and particular to the circumstances of the proposed development) to justify contravening the development standard and therefore is the objection well founded?
- Is the objection well founded whereby Preston J provided five potential ways in which this may be established (*Wehbe V Pittwater Council (2007) NSW LEC 827*) of which the following is relevant in this case.
 - *the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

Recent case law (*Micaul Holdings v Randwick City Council, Moskovich v Waverley Council and Initial Action Pty Ltd v Woollahra Municipal Council*) has also established that:

- the written request has to adequately address everything necessary in clause 4.6(3), rather than the consent authority being “satisfied directly”;
- the consent authority must be personally satisfied that development will be “consistent with” the objectives of the zone and the development standard;
- being “consistent with” these objectives is not a requirement to “achieve” them but that development be “compatible” with them or “capable of existing together in harmony”;
- establishing that “compliance with the standard is unreasonable or unnecessary” does not always require that the objectives of the standard are achieved but also that it may not be achieved or would be thwarted by a complying development;
- when a clause 4.6 variation request is being pursued, it is best to demonstrate how the proposal achieves a better outcome than a complying scheme.
- however, the Court has clarified in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, that it is not a requirement to achieve a better environmental planning outcome than a development that complies with the development standard.

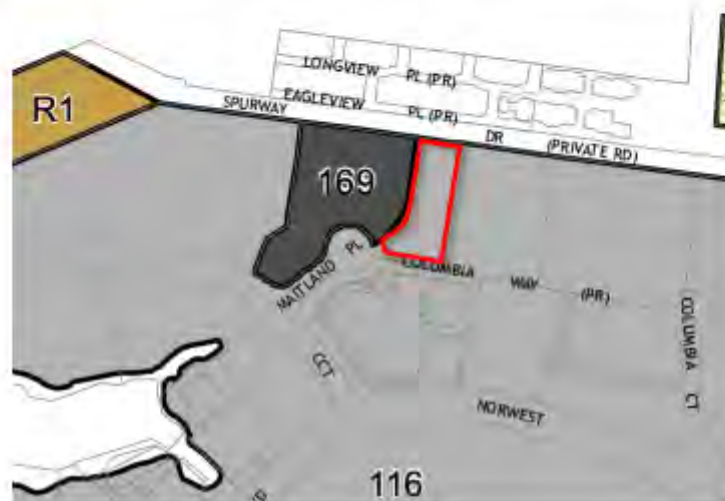
2 Proposed Variation

2.1 HEIGHT OF BUILDING VARIATION

The Height of Buildings development standard is contained in Clause 4.3(2) of The Hills LEP 2019 which states:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on Height of Building Map.

The site is subject to a maximum Height of Building height of RL 116RL(m).



Extract of Height of Buildings Map THLEP 2019

The proposed building has a maximum height of RL 114.95 to the roof level and RL 113.6m to the parapet which comply with the height of building standard.

An 'architectural roof feature' is provided as part of the building design that aesthetically treats roof plant while enabling the roof top to be utilised for outdoor working and recreational opportunities in an elevated landscaped setting that enjoys a variety of views.

The maximum height of the roof feature is RL 117.45 which exceeds the building height standard by 1.45m. (Refer to architectural plans with extract next page)

The SEE considered whether the exceedance is permitted under clause 5.6 of The Hills LEP 2019 as an 'architectural roof feature'.

The objective of Clause 5.6 is to "allow architectural roof features that will integrate with building composition and form and encourage a high quality built form".



Extract of elevation showing height relationships.

The clause permits an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 to be carried out with development consent.

The consent authority is required to be satisfied that (cl. 5.6(3)) it comprises a decorative element on the uppermost portion of a building, is not an advertising structure, does not include floor space area and is not reasonably capable of modification to include floor space area, and will cause minimal overshadowing.

Further, equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature must be fully integrated into the design of the roof feature.

The SEE concludes that the consent authority may be satisfied that the requirements of clause 5.6(3) are met so that the proposed building height is permitted under The Hills LEP 2019.

However, should the consent authority not be satisfied of the efficacy of the application of clause 5.6, it is considered that an exception to the resultant contravention of the height of building development standard would be justified under clause 4.6 'Exceptions to development standards'.

Accordingly, a formal request to vary the building height under clause 4.6 of THLEP 2019 is provided in this report.

3 Clause 4.6 Assessment

3.1 ARE THE PLANNING CONTROLS DEVELOPMENT STANDARDS?

The planning controls in Clauses 4.3 relating to maximum building height is a development standard under the definition within the *Environmental Planning and Assessment Act 1979* as follows (*EP&A Act, Part 1 Section 4. Definitions*)

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,

(c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*

3.2 ASSESSMENT AGAINST THE PURPOSE/OBJECT OF THE STANDARD

The objectives of the height of building development standard under clause 4.3 are:

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

However, the unstated objective of the RL 116m height limit is to help preserve view corridors, especially from the historic Bella Vista Farm conservation area which is located 1.8kms to the south west of the site.

A variation of 1.45m would be imperceptible at this distance from Bella Vista Farm and of little relevance given the effected potential view line adjoins taller buildings of up to 25 storeys under an RL 169m height limit while views of the historic 'Avenue of Trees' from the Farm is precluded by the current height controls.

In terms of compatibility with adjoining development and the overall streetscape, the development is centred in a varied built form context and has frontages to three streets with varied characteristics. (Refer to SEE for photos of surrounding areas)

Adjoining development comprises built forms of varied scales including:

- a twenty five storey residential tower immediately west of the site and varied higher density residential and office forms generally further west and towards the Norwest Metro Station
- a mix of 2-3 storey office/warehouse and 6 storey office buildings to the east of the site and generally south-easterly; and
- a low rise retirement village to the immediate north of the site and surrounded by a golf course.

The relevant streetscapes include;

- The new Maitland Place extension on the western frontage rising sharply to Spurway Drive, and which will be characterised by more urban but richly landscaped setbacks of 6m to larger scaled buildings of 8 to 25 storeys;
- Columbia Way on the southern frontage characterised by varied but larger setbacks of 10 to 20m utilised for landscape and car parking providing a 'business park' setting for large footprint buildings of lower heights; and
- Spurway Drive on the northern frontage which is planned to be upgraded but maintain a landscape characteristic which includes the 'Avenue of Trees' heritage item supported by a 15m landscaped setback and hedges and golf course frontages opposite.

The photomontages submitted with the development application demonstrate that the area of height exceedance cannot be viewed from the frontages as a result of it's small footprint and setbacks from the building edge.

The roof feature may become visible from longer views but will remain compatible with the respective streetscapes by its design being integrated with the design and materials of the building as a whole as discussed below (Section 3.3).

The longer view from Spurway Drive and Columbia Way when viewed from the east may be temporarily visible because of the low rise nature of the current building adjoining. This site is likely to be redeveloped in the future with a larger built form characterised by more recent developments, and may be screen by trees in the interim. In both cases, the height exceedance is considered to remain compatible with the streetscape and adjoining development given its location within a higher density mixed use precinct.

In terms of potential impacts, overshadowing from the exceedance is limited to afternoon only as demonstrated by the submitted shadow diagrams as a result of its set back from the building edge.



Extract of DA-710-001_DA Shadow Diagrams_ 21 June.

Similar to the visual effect of the roof feature exceedance discussed above, the limited impact of overshadowing will further diminish over the longer term when the adjoining site is redeveloped with a larger built form characterised by more recent commercial developments in the locality.

In terms of visual and privacy impacts to adjoining developments, the approved adjoining residential tower should be positively affected by the elaborate treatment to screen plant and lift overrun that would otherwise be potentially visible from overlooking residential apartments.

Accordingly, the stated and underlying objectives of the height standard are well served with the proposed height variation given:

- the limited overshadowing, visual and privacy impacts and potential positive effects to adjoining apartments; and
- the compatibility of the variation with adjoining development and streetscapes (as well as historic view corridors) as a result of its setbacks from the building edge and treatment as a roof feature that is integrated into the design and material selection of the building.

Therefore, the proposed height of the building with the limited exceedance will be consistent with the objectives of the standard and whereby the intent of the variation is to help meet their achievement.

3.3 IS COMPLIANCE CONSISTENT WITH THE AIMS OF CL 4.6?

The aims of Clause 4.6 are:

- (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.*

When the development is tested against the underlying objectives of the standard, compliance would not be inconsistent with the aims of the clause because the proposed height is a reflection of a considered design strategy for the building as well as responding to the characteristics of the site and future planned context.

The Design Report prepared by Turner states at page 11 in regard to the building's key character elements that *"The iconic atrium connection between the ground plane and roof top is expressed through an active street level and a playful sculptural architectural roof feature"*

In particular, the Design report at Page 13 states that:

"the proposal's feature sculptural roof element is one of the anchors of the building's characteristic connecting elements.

- *The sculptural form of the roof elements contributes to the playful character of the building*

- The roof feature has a defining location at the peak of the vertical connection
- The awning forms peek out over the edge of the building, making the lure of the rooftop terrace perceptible on approach to the building, as well as at the moment of entry to the atrium
- Integrated services are concealed behind the taller portion of the roof element, equating to 5% of the overall site coverage. The top of the roof feature sits 1.45m above the LEP limit of RL116"



Extract of Landscape plans showing roof top treatment (above) and extract of architectural plan showing extent of non compliant roof feature edged green (below)



An appropriate degree of flexibility is considered to be warranted in the circumstance as it will allow the better utilisation of the roof area for the amenity of the tenants and visitors, which is optimised for outdoor working and recreational opportunities in an elevated landscaped setting that enjoys a variety of views.

Flexibility will enable the achievement of a well-considered design strategy that:

- optimises the amenity of the building for tenants and the general public;
- integrates roof features that will disguise roof plant and lift overruns, with the overall design of the building and the materials to be employed; and
- further planning objectives by supporting design excellence requirements for which the adopted design strategy has been formulated.

Accordingly, the proposed exceptions to the development standard will result in a better planning and design outcome for and from development in the particular circumstance.

3.4 IS COMPLIANCE UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES?

Strict compliance with the height of building development standard of THLEP 2012 is considered unreasonable and unnecessary in the circumstances of the case as it would impede the implementation of a considered design strategy for the building suitable for the site and context as well as its proposed use which fulfills the objectives of the zone.

Compliance would also impede the achieving of a better planning and design outcomes for the site as the plant and its visual containment would have to be spread across the roof top with limited ability for a cohesive visual design when viewed from adjoining apartments, while diminishing its overall usability to tenants and visitors to the building.

Therefore, strict compliance with the height standard in this instance would tend to defeat the stated objectives of those standards while unnecessarily and unreasonably diminishing the planning and design outcomes able to be achieved in the building design as outlined.

3.5 ARE THERE SUFFICIENT GROUNDS AND IS THE REQUEST WELL FOUNDED?

As discussed above, the contravention of the building height standard would only arise if the consent authority determined that the roof feature as described by the architects did not fulfil the requirements of clause 5.6 of THELP 2019 so to be permitted.

Notwithstanding the advent of such a determination, the contravention is minor in nature and results from a well-considered design strategy adopted for the building by the architects in seeking to achieve design excellence, and which includes the integrated treatment of the roof plant and lift overruns while simultaneously optimising the useability of the roof top for tenants and visitors.

Accordingly, there are sufficient environmental planning grounds that are specific to the site and particular to the circumstances of the proposed development to justify contravening the development standard.

The request is also considered to be well founded in accordance with the guidance provided by Preston J. in that the objectives of the building height standard are achieved notwithstanding the non-compliance, and that the underlying objectives or purpose of the height standard and planning provisions in general which apply to the site would tend to be defeated or thwarted if compliance was required in the circumstance.

In particular, objectives of the standard are achieved as the resultant building is demonstrably compatible with the varied adjoining developments and overall streetscapes while the impact of overshadowing and privacy are minimal and the roof feature which breaches the height standard is likely to have positive visual impact especially to adjoining apartments which will overlook the roof top area.

Further, the unstated objective of the RL 116m height limit to help preserve view corridors, especially from the historic Bella Vista Farm conservation area, will be quantitatively and qualitatively unaffected by the contravention.

3.6 CONCLUSION

An exception to the height of development standard contained in THLEP 2019 Clause 4.3 Height of Buildings would only arise if the consent authority was not of the opinion that the proposed architectural roof feature satisfied the provisions of clause 5.6 of the LEP by which it would be otherwise permitted.

In the advent of such a determination, it is considered that the contravention is minor in nature and results from a well-considered design strategy adopted for the building by the architects in seeking to achieve design excellence, and which includes the integrated treatment of the roof plant and lift overruns while simultaneously optimising the useability of the roof top for tenants and visitors.

In terms of clause 4.6, it is concluded that:

- The proposed development remains consistent with the objectives, nature and intent of THLEP 2019.
- The development as proposed is based on a well-reasoned design strategy that includes the breach of the height standard to achieve better planning and design outcomes, particularly for the useability of the building, that is appropriate for the site and its context.
- The proposed variation does not result in any significant adverse environmental impacts on the amenity of the surrounding public domain adjoining the development but which will provide positive visual impacts especially to adjoining apartments overlooking the building's roof top.
- The proposed development is wholly consistent with the objectives of the development standard, including the underlying reason for the adopted RL applying to the site, but which might be defeated by strict compliance.
- The use of the clause is justified in meeting its aims to provide an appropriate degree of flexibility in applying the height of building development standard to achieve better outcomes for and from development in this circumstance.
- Strict compliance with the height of building control in the circumstance would result in unnecessary planning and design limitations and consequently, a diminished urban outcome.

Therefore, for the purposes clause 4.6(3), the consent authority may be satisfied that is has been demonstrated:

- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- that there are sufficient environmental planning grounds to justify contravening the development standard as described in this request.

For the purposes of clause 4.6(4), the consent may also be satisfied that the request is well founded and has adequately addressed the matters required to be demonstrated by subclause (3).

Further, the proposed development will be in the public interest because it is consistent with the objectives of the height standard and the objectives for development within the zone applying to the site.

ATTACHMENT 15 – DESIGN EXCELLENCE PANEL MINUTES

MEETING REPORT DESIGN EXCELLENCE PANEL

Date:

12/05/21

Time:

11.50pm

Location of Meeting:

Electronic video conference meeting

Panel Members:

Chairperson – Nicholas Carlton, Manager Forward Planning, THSC
Panel Member – David Reynolds, Group Manager THSC
Panel Member – Tony Caro, Lead Independent Design Expert Architecture
Panel Member – Marc Deuschle, Independent Design Expert Landscape

Councillors:

None Present

Council Staff:

Paul Osborne, Cameron McKenzie, Marika Hahn, Cynthia Dugan

Guests:

Robert Tasevski – Development Manager, Haitchin Commercial Pty Ltd
Alice Jennings – Haitchin Commercial Pty Ltd - TBC
Greg Dowling – Dowling Urban Planning and Design, Director
Dan Szwaj – Turner Studios, Director
Claire Mallin - Turner Studios
Michael Barnett –Arcadia Landscape Architecture, Principal

BUSINESS ITEM AND MEETING REPORT

1. Welcome and Opening

The Hills Shire Council is committed to achieving design excellence in the built form environment and ensuring new high-density buildings are of a high quality design. The requirements for a development to achieve design excellence are found in Clause 7.7 'Design Excellence' of Local Environmental Plan 2019.

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

The Panel provides recommendations on the following:

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

The role of the Panel is to evaluate and critique design aspects of proposed development and provide recommendations on whether development exhibits "Design Excellence".

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


2. Declaration of interest

"Nil"

3. Confirmation of previous report

Confirmed by email

4. Presentations

Item 4.2	11.50am – 12.50pm	
DA Number	DA 1154/2021/JP	
Property Address	Lot 1 DP 866565, 7 Maitland Place, NORWEST NSW 2153 ZONING: R4 High Density Residential & B7 Business Park	
Proposal		7 Storey Commercial Development comprising commercial offices, food and drink premises on the ground and roof top and basement car parking
Applicant representative address to the Panel	Dan Szwaj - Architect Michael Barnett - Landscape Architecture	

BACKGROUND

On 12/08/20, the DA (1154/2021/JP) was presented to the Design Excellence Panel as a pre-DA (125/2020/PRE). It is noted the Design Excellence Panel was reconstituted in January 2021 and an additional Independent Design Expert in Landscape Architecture has been added to the Panel composition.

DOCUMENTATION

The Design Excellence Panel reviewed the following drawings which were provided to the Design Excellence Panel by Council for the 12/08/20 meeting:

7 Maitland Place DEP Report, 24/07/20, by Turner Studios

7 Maitland Place DEP Report appendix 9.5 Facades, 06/07/20, by Mott Macdonald

The Design Excellence Panel reviewed the following drawings which were provided to the Design Excellence Panel by Council for the 12/05/21 meeting:

Norwest Association Submission, 02/12/20, by Turner Studios

7 Maitland Place DEP Report, 12/05/21, by Turner Studios

Landscape Concept, December 2020, by Arcadia

Aboriginal Impact appraisal and Method Statement, 12, Dec, 2017, by Naturally Trees

ESD Report, 12/11/20, by JHA services

PANEL COMMENTS

The applicant has previously attended the Design Excellence Panel with a pre-DA for the subject site.

The Panel notes that the site planning remains largely the same as the concept previously presented, with amendments regarding the addition of a restaurant to the roof level and further design development subject to previous comments.

For clarity, the following minutes are based on the Panel's previous comments (*repeated below in italics*). New comments do not necessarily supersede previous advice and as such should be read in conjunction with the previous DEP report/minutes. New comments from the meeting on 12th May 2021 are indicated in blue.

Response to Context

1. *The application presents an appropriate response to its immediate context, being on the fringe of the business park with interface to both residential and commercial uses. The scheme provides a sound precedent for contemporary office development within a traditional business park setting.*

Site planning and built form strategy

Bulk, Scale and Massing

2. *The bulk, scale and massing is greater than that envisaged in the planning proposal documentation. The Panel notes that the generous open terraces add considerable volume to the building envelope and the bulk of the proposal. The Panel questions the need for this area of outdoor space relative to the size of the tenancies envisaged for the development. Any terraces would need to remain open and unenclosed, to avoid being included in the calculation of gross floor area and the development subsequently exceeding the maximum FSR control.*

New Comment: The above comments remain relevant. The Panel supports the revised balcony sizes in relation to proposed tenancy sizes.

Site Coverage/ Landscaped Open Space

3. *The applicant has stated that the landscaped site coverage at ground level is 53%. The Panel recommends maximising deep soil planting wherever possible within proposed landscaped areas.*

New Comment: The Panel accepts the applicant's advice. Revised documentation has provided deep soil on natural ground in a large proportion of the site and a minimum of 1.5m soil over basement to sustain large trees. There are areas where the Panel would like to see more detail and resolution to ensure these soil depths are achieved such as where the site slopes away from the basement and the basement is almost exposed.

4. *The Panel recommends that the viability of all tall canopy tree plantings proposed over basement areas be confirmed with Council's Landscape Officer.*

New Comment: The above comments remain relevant however the Panel accepts that 1.5m of soil over basement, associated with deep soil zones, will allow the canopy to be achieved. See also comment 14.

Setbacks

5. *The Panel recommends that the established setbacks to Spurway Drive and Columbia Way be respected to ensure continuity within the existing street corridor.*

New Comment: The above comments remain relevant. The Panel does not accept that 10m is an acceptable setback for Columbia Way as this is considered to be a disruption to the street character. Despite future development potential and changing trends within the locality, the Panel recommends that established setbacks should be maintained and reinforced throughout the Norwest precinct to maintain and provide understorey planting, canopy tree planting potential and soil volumes as a means of mitigating urban heat. This is consistent with *Local Strategic Planning Strategy Planning Priorities 18 - Increase urban tree canopy cover*, and *20 -Prepare residents for environmental and urban risks and hazards*, noting these also give effect to *Greater Sydney Regional Plan Direction A Resilient City* and *Planning Priority C20 Adapting to the impacts of urban and natural hazards and climate change*.

It is noted there are available unused areas that comply with the required boundary setbacks, including to Spurway Drive. The applicant should consider utilising these spaces to achieve yield targets, rather than extending built form into setback zones. It is acknowledged that the site subdivision is a challenge for this development. However, the Panel considers that the setback to Columbia Way should be a minimum of 13.5 metres, to better align with the character of existing setbacks along the northern side of Columbia Way (ranging from 16-28 metres) and allow for enhancement of the role of Columbia Way as an accessible and well-utilised pedestrian and vehicle thoroughfare in the future. This increased setback would also "future-proof" the development on the site against any potential changes to the alignment or width of Columbia Way, if the Council were to determine this as being necessary as a result of traffic modelling, infrastructure analysis and precinct planning for the Norwest Strategic Centre which is currently underway.

6. *Whilst it is noted that Columbia Way is a private road, it has a vehicular access easement and is open to the public as a general thoroughfare. Consideration should be given to the objectives and controls in THSC DCP 2012, Part B Section 6 Business, Part 2.5.*

New Comment: The above comments remain relevant. Columbia way is a main thoroughfare and the proposed setback distance should be increased. The Panel noted that a greater setback than required has been provided to Spurway Drive and there may be some potential to reclaim setback area to Columbia Way.

7. *The Panel acknowledges the narrow site width resulting from the modified subdivision plan and relocation of the proposed road further east. This has implications upon the proposed street setbacks. The proposed setback to the extension of Maitland Place may be acceptable, subject to Council's consideration and clarification of landscape detail with Council's Landscape officer.*

New Comment: The revised Maitland Place extension setback is accepted by the Panel, although the reduced setback may impact on the Landscape vision for the interface with the extension to Maitland Place.

Internal Layout and Planning

8. *The Panel recommends that the applicant confirm that the proposed layout provides sufficient flexibility to meet both current and longer term commercial demand at this location.*

New Comment: The applicant provided a variety of floor configurations demonstrating that the each floor is capable of accommodating a single tenancy, dual and multiple tenancies and tenancies split between levels. The Panel accepts that the design demonstrates reasonable flexibility to accommodate changing market conditions and tenancy demand.

9. *The Panel questioned whether the design could accommodate the potential for a single tenancy to occupy several floors and if so, how the central open atrium would function in this instance.*

New Comment: As per previous comment.

10. *The Panel raised concern about the potential for single tenancies to occupy the ends of the building, thereby removing natural light to the central corridor.*

New Comment: The Panel accepts the proposed design solution.

Compliance

Height

11. *The height complies with LEP controls.*

New Comment: The additional height of 1.45m sought does not create adverse visual impacts. The location of the services provision is central and setback from all building facades, and will not impose on the amenity of pedestrians in the public domain.

Density

12. *The applicant has stated that a 1.5:1 FSR is sought, which complies with LEP controls. This can be confirmed by Council's assessment officer once detailed development application documentation has been submitted.*

New Comment: The above comments remain relevant.

Landscape Design

Public Domain

13. *The impact of the proposal on the public domain, as viewed by pedestrians is not clear. The Panel recommends that eye-level perspectives be prepared which look towards the proposed development from the surrounding footpaths in both directions (Spurway Drive, Maitland Place and Columbia Way).*

New Comment: The Panel is satisfied that the applicant has considered this comment and amended the design appropriately, however further consideration should be given to how sight lines through into the development can clearly indicate entry points.

14. *The suitability of proposed soil depths for high canopy tree planting over basement car-parking should be confirmed with Council's Landscape officer.*

New Comment: The applicant has sought advice from a soil consultant to ensure the correct soil type and depths will be provided to enable a woodland setting to become established. The Panel accepts that 1.5m of soil, together with adjacent deep soil planting zones, will allow selected trees to grow, however advises this information should be forwarded to Council's Landscape Officer for further comment.

The Panel also noted that the detail on page 19/40 in the Landscape concept set provides little soil cover on the edge of the slab that may be susceptible to erosion. The applicant is advised to ensure the slab cover as illustrated will be maintained and it is recommended that further detail be forwarded to Council's Landscape Officer.

Streetscape

15. *The landscape drawings presented a well- considered response to existing site conditions and the cultural history on the Spurway Drive and Maitland Place frontages.*

New Comment: The above comments remain relevant.

16. *The Panel recommends that the main entry should be visible from the street with clear sight lines between the foyer and external public domain areas.*

New Comment: The above comments remain relevant. The applicant advised the planting plan has been reviewed and the illustrations modified to be more closely aligned with the design intent. However, together with the revised setbacks, the landscape design should demonstrate these sight lines are achieved.

Private Domain

17. *The upper level breakout areas on the roof top appear to provide suitable amenity for a contemporary workforce.*

New Comment: The above comments remain relevant. It should be tested and demonstrated that soil depths and volumes can be achieved for the expected growth of trees on the rooftop. Some planters appear small in area, and too short to achieve mounded soil as proposed in the typical detail (therefore not achieving required depth), which would potentially result in higher walls during design documentation, departing from the design intent.

18. **New Comment:** The Panel questions the need for fully enclosed rooftop areas, surrounded by a 1.8m high glass balustrade. Any balustrade should be limited to 1.2m in height and setback from the parapet edge by a minimum of 2m.

19. **New Comment:** The UHI Effect will be more pronounced on the rooftop and with limited trees it should be demonstrated how adequate heat mitigation is achieved via shade, allowing breezes, tree canopy cover, material choices and the landscape design in general.

Sustainability and Environmental Amenity

20. *The Panel commends the proposed WSUD treatments and incorporation of overland flow paths into the landscape design as a naturalised system.*

New Comment: The swale width and depth should be reviewed and it should be demonstrated in detail that the tree planting vision will occur as envisaged. It is noted the swale may, in some instances, need to be a single sloping swale with a built edge due to the depth required and limited width available. The location of the trees and swale needs to be determined to make sure that neither soil depth or swale depth / performance is compromised by the other.

21. *The provision of outdoor breakout and passive recreation areas in the main setbacks will provide alternative casual meeting spaces for workers in addition to providing street activation.*

New Comment: The above comments remain relevant. Given the slope where the large deck and netting occur, it should be demonstrated that this will work as expected without detrimentally effecting sight lines or creating overly high structures in this prominent part of the site.

22. *The Panel commends the applicant in seeking a 5-star Greenstar energy rating, noting this is a sound marketing strategy and is reinforcing the desired future image of the business park.*

New Comment: The above comments remain relevant.

Architecture and Aesthetics

23. *The Panel recommends early consideration of OSD tanks. These should not be located in landscaped setback areas.*

New Comment: The above comments remain relevant. The Panel is satisfied with the revised location of OSD provision.

24. *The Panel recommends early consideration of utility services required by commercial buildings, which should be suitably screened and integrated into the building fabric. This should be clearly demonstrated in the DA documentation for further consideration at a future Panel meeting.*

New Comment: The applicant has made some design decisions regarding the location of services. Screening details are to be provided to the DA officer's satisfaction prior to determination.

25. *The Panel recommends consideration of 'calming' the façade, as it addresses Maitland Place and Columbia Way. The green terrace boxes may potentially detract from the appearance of the building and its architectural integration into the landscape.*

New Comment: The Panel acknowledges the client's brief to the architect that a playful character be projected by the built form, to differentiate it from more conventional office park built form character.

The Panel noted that the boxes provide a limited increase in useable balcony area, and that the full extrusion of these elements is not fully realised. It was suggested by the architects that the extension of these elements beyond the main façade could be reduced, which the Panel supports in principle. Alternatively they could be retained if they allow access to the full extent to better engage with the tree canopy beside.

26. *The Panel supports the public art initiatives presented by the applicant as a positive addition to the Norwest Business Park.*

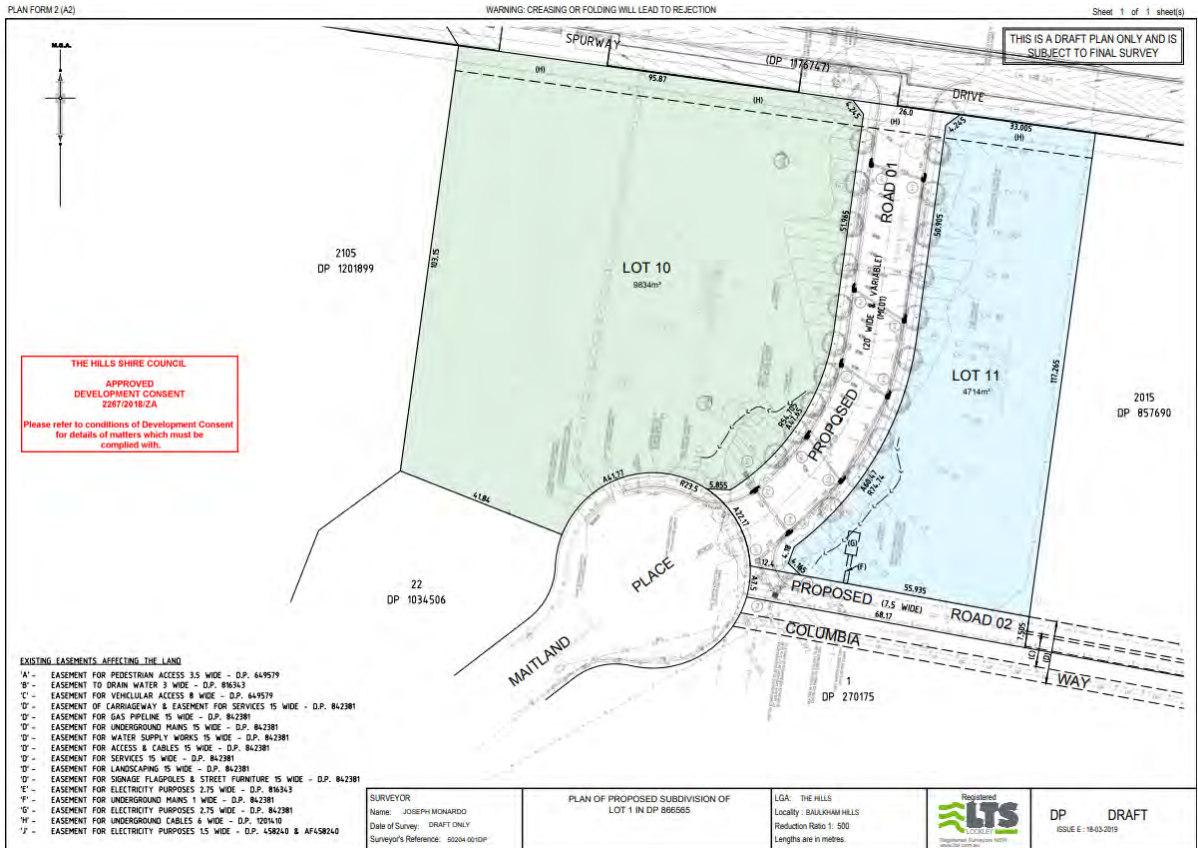
New Comment: The above comments remain relevant. Not discussed at the Panel meeting.

PANEL CONCLUSION

The Panel thanks the applicant for the opportunity to provide input into the design of the scheme at this early stage in its design evolution. The Panel considers that overall, the Pre-DA concept presented illustrated a positive design outcome for the site and offers potential for a positive shift in urban character for the future of Norwest Business Park. The Panel recommends that the matters identified in this report are considered as part of the formal DA submission.

The Panel considers that the application generally satisfies the requirements of the Design Excellence clause and exhibits Design Excellence. Subject to Council's DA Officer being satisfied that the applicant has addressed the issues raised in this report, the project need not return to the panel for further consideration.

ATTACHMENT 16 – APPROVED SUBDIVISION PLAN UNDER 2267/2018/ZA



ATTACHMENT 17 – PLANNING AGREEMENT 7 MAITLAND PLACE

PLANNING AGREEMENT
7 MAITLAND PLACE, BAULKHAM HILLS
THE HILLS SHIRE COUNCIL
MAITLAND SQUARE HOLDING
AUGUST 2016

THE
HILLS
Sydney's Garden Shire



Summary Sheet

Date of Agreement

Name The Hills Shire Council
Address 3 Columbia Court, Baukham Hills NSW 2153
Telephone (02) 9843 0555
Facsimile (02) 9843 0409
Email council@thehills.nsw.gov.au
Representative Mr Dave Walker – General Manager

Developer

Name Maitland Square Holding
Address Suite 703, Level 7, 5 Rider Blvd, Rhodes NSW 2138
Telephone 02 9096 9177
Facsimile 02 9096 9198
Email jpan@haisheng.com.au
Representative Jonathan Pan

Land

Lot 1 DP866565 (known as 7 Maitland Place, Baukham Hills)

Planning Proposal

The proposal made pursuant to Part 3 of the Act to amend The Hills Local Environmental Plan 2012 to rezone the Land at 7 Maitland Place, Baukham Hills from B7 Business Park to part R4 High Density Residential and part B7 Business Park, or such other zoning that will permit the Land to be developed for the Proposed Development.

Dedication Land

See Schedule 1

Works

See Schedule 2

Monetary Contributions

See Schedule 3

Proposed Development

See Schedule 4

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Planning Agreement

Dated

Parties

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

Maitland Square Holding ABN 602 095 090 of Suite 703, Level 7, 5 Rider Blvd, Rhodes New South Wales, 2138 (Developer)

Background

- A. Council is the consent authority pursuant to the *Environmental Planning and Assessment Act 1979* (NSW) (Act) for the Proposed Development.
- B. The Developer is the owner of the Land known as 7 Maitland Place, Baulkham Hills and has lodged a Planning Proposal in respect of land located at 2-7 Maitland Place, Baulkham Hills NSW 2153.
- C. At the Ordinary Meeting of 22 March 2016, Council considered the Planning Proposal and resolved that:
 1. A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Local Environmental Plan 2012 as follows:
 - a) Rezone land at 7 Maitland Place, Baulkham Hills from B7 Business Park to part R4 High Density Residential and part B7 Business Park;
 - b) Apply a "base floor space ratio" of 1:1 and an "incentivised floor space ratio" of 3:1 to land at 2-6 Maitland Place, Baulkham Hills and the proposed R4 High Density Residential portion of land at 7 Maitland Place, Baulkham Hills;
 - c) Increase the maximum floor space ratio from 1:1 to 1.5:1 for the proposed B7 Business Park portion of land at 7 Maitland Place, Baulkham Hills;
 - d) Increase the maximum building height from RL 116 metres to RL 169 metres for land at 2-6 Maitland Place, Baulkham Hills and the proposed R4 High Density Residential portion of land at 7 Maitland Place, Baulkham Hills;
 - e) Reduce the minimum lot size from 8,000m² to 4,000m² for land at 7 Maitland Place, Baulkham Hills;
 - f) Identify 2-6 and 7 Maitland Place, Baulkham Hills as "Key Site M" on the Key Site Map; and
 - g) Include a local provision which ensures that the "incentivised floor space ratio" for residential development can only be achieved where the proposed development complies with Council's apartment size, mix and car parking requirements and provides the proposed local road through the site;
 2. Council proceed with discussion with the Applicant to prepare a draft Voluntary Planning Agreement which secures the delivery of the proposed local road, pedestrian linkages and public domain improvements and resolves how the Applicant will address the increased demand for local infrastructure generated by the proposed increase in residential density; and
 3. Following the preparation of the draft Voluntary Planning Agreement, and prior to any public exhibition of the planning proposal, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.

- D. In association with the Planning Proposal, the Developer has made an offer to Council to dedicate the Dedication Land (Schedule 1), provide the Works (Schedule 2) and pay the Monetary Contributions (Schedule 3) as set out in this Agreement.

Operative provisions

1. Defined meanings

In this document unless the context otherwise requires:

Act means the *Environmental Planning and Assessment Act 1979*;

Additional Monetary Contribution means the amount determined by multiplying the Additional Monetary Contribution Rate specified in Schedule 3 by the number of dwellings in addition to the Anticipated Dwellings on the Land approved for the Proposed Development;

Anticipated Dwellings means the dwellings anticipated on the Land (7 Maitland Place, Baulkham Hills) in the Proposed Development as set-out in Schedule 4;

Bank Guarantee means a written guarantee without a time limit acceptable to Council issued by an Australian Bank;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in New South Wales;

Dedication means the creation or transfer of an estate in fee simple free of any mortgage, lease, easement or other encumbrance of a lot registered under the Real Property Act;

Dedication Land means the parts of the Land specifically identified for dedication to Council in Schedule 1 as illustrated on the site plan (Figure 1);

Development Application means a development application for the Proposed Development;

Development Consent means the approval of the Development Application;

Encumbrance includes any mortgage or charge, lease, (or other right of occupancy) or profit a prendre;

GST means any tax, levy, charge or impost implemented under the *A New Tax System (Goods and Services Tax) Act (GST Act)* or an Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to, the GST Act;

Land comprises the whole of the land identified as Lot 1 DP866565, known as 7 Maitland Place, Baulkham Hills;

Monetary Contribution means the amount specified in Schedule 3;

Party means a party to this document, including their successors and assigns;

Proposed Development means the proposed development as described in Schedule 4;

Planning Proposal means the planning proposal made pursuant to Part 3 of the Act to amend The Hills Local Environmental Plan 2012 to rezone the Land at 7 Maitland Place, Baulkham Hills from B7 Business Park to part R4 High Density Residential and part B7 Business Park, or such other zoning that will permit the Land to be developed for the Proposed Development;

Price Index means All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics or, if this price index is discontinued or abolished or if the items or weighting of the items whose prices are considered varied so as to change the basis of the price index, then such price index as Council may select that, as nearly as practicable, serves the same purpose;

Security means a Bank Guarantee or bond in favour of the Council on terms satisfactory to the Council, or such other form of security as the parties may agree.

Works means the works identified in Schedule 2.

2. Planning agreement under the Act

The Parties agree that this document is a planning agreement within the meaning of section 93F of the Act.

3. Application of this Agreement

This Agreement is made in respect of the Proposed Development and applies to the Land.

4. No restriction on Council's powers

This Agreement or anything done under this Agreement:

- (a) is not to be taken as approval or consent by the Council as a regulatory authority; and
- (b) does not in any way inhibit, deter or prejudice the Council in the proper exercise of its functions, duties or powers.

pursuant to any legislation including the Act, the *Roads Act 1993* (NSW) and the *Local Government Act 1993* (NSW).

5. Operation of this Agreement

This Agreement operates when:

- (a) the Land is rezoned in order to allow for the Proposed Development to be carried out and the amending Local Environmental Plan is published on the NSW Legislation Website; and
- (b) the Concept Development Consent is granted and implemented by way of any Detailed Development Consent and a Notice of Commencement pursuant to section 81A of the Act for that Detailed Development Consent has been submitted to Council notifying that a principal certifying authority has been appointed and work is to commence.

6. Works

- 6.1 The Developer must carry out the Works identified in Schedule 2 at its own expense. The estimated value of the Works is provided for information purposes only and the Developer must carry out the Works regardless of the actual costs involved.
- 6.2 The Works must be completed to the reasonable satisfaction of Council prior to the issue of the first Strata Subdivision Certificate for the Proposed Development;
- 6.3 The Developer's obligation under clause 6.1 exists irrespective of whether the Developer:

- (a) carries out the Works itself, or
- (b) enters into an agreement with another person under which the other person carries out the Works on the Developer's behalf.

6.4 Design of Works

- 6.4.1 Before the Developer commences the Works, the Developer, at its own cost, is to prepare and submit to the Council or a person specified by the Council, detailed plans and specifications in relation to the Item of Work.
- 6.4.2 The Developer is not to commence the Works unless the Council or the person specified by the Council has given the Developer written approval of the plans and specifications relating to the item (in its capacity as a party to this Agreement, not as a consent authority), such approval not to be unreasonably withheld.

6.5 Approvals

- 6.5.1 The Developer must, at their cost, obtain all relevant approvals and consents for the Works to be constructed in accordance with the Approved Design whether from the Council or other relevant government agency, including but not limited to any necessary road opening permit or road occupancy certificate from the Roads and Maritime Service
- 6.5.2 Before commencing the Works, the Developer must give Council copies of all approvals and consents for the Works.

6.6 Construction

- 6.6.1 The Developer is to carry out and complete the Works by reference to Council's standards in a good and workmanlike manner having regard to the intended purpose of the Works and otherwise to the satisfaction of Council acting reasonably, in accordance with:
 - (a) the applicable Development Consent, and
 - (b) all applicable laws, including those relating to occupational health and safety, and
 - (c) this Agreement to the extent that it is not inconsistent with the Development Consent or an applicable law, and
 - (d) the written approval given under clause 6.4.2;
- 6.6.2 In the event of an inconsistency between this Agreement and an applicable development consent or any applicable law, the development consent or the law prevails to the extent of the inconsistency.

- 6.7 It is the Developer's responsibility to ensure that everything necessary for the proper performance of its obligations under this Agreement is supplied or made available.

6.8 Insurance

- 6.8.1 The Developer must in respect of the Works take out and maintain the following insurances:
 - (a) public liability insurance for at least \$20,000,000 for each accident or event or for such other amount as Council may reasonably notify;

- (b) construction all risk insurance for the replacement value of the Works; and
 - (c) insurance against death or injury to persons employed in relation to undertaking the Works.
 - 6.8.2 All insurance policies must:
 - (a) be with a reputable insurer acceptable to Council;
 - (b) have endorsed upon them the rights and interests of Council;
 - (c) have no exclusions, endorsements or alterations unless consented to by Council; and
 - (d) include a cross liability clause providing that the 'insured' applies to Council and the other insured persons as though a separate policy had been issued for each person.
 - 6.8.3 The Developer must submit a copy of a certificate of currency of the insurance to Council prior to commencement of the construction of the Works and when otherwise reasonably requested by Council.
 - 6.8.4 If any loss or damage arises from any cause covered by these insurance policies, the Developer must immediately apply for the insurance money and expend it together with the Developer's money to promptly rectify the loss or damage.
 - 6.9 The Developer is to permit the Council, its officers, employees, agents and contractors to enter the Land at any time, upon giving reasonable prior notice, in order to inspect, examine or test any of the Works.
 - 6.10 Works Completion
 - 6.10.1 When, in the opinion of the Developer, the Works have reached completion, the Developer must notify Council in writing and must include in that notice:
 - (a) a statement from the person with the responsibility, carriage and supervision of the construction that in their opinion the Works have reached completion; and
 - (b) copies of any warranties, guarantees, maintenance, information or other material reasonably required for the ongoing maintenance of the Works; and
 - (c) at least 3 sets of 'as built' drawings of the Works in such formats as Council may require,
- (Completion Notice)**
- 6.11 Inspection by Council
 - 6.11.1 Council must inspect the Works within 14 days after receipt of the Completion Notice and must by written notice to the Developer:
 - (a) concur that the Works have been completed; or
 - (b) disagree that the Works have been completed and identify the errors or omissions required to be rectified for completion of the Works.

- 6.11.2 The Developer must take into account the errors or omissions identified by Council (if any) and re-submit the Completion Notice.
- 6.12 Completion Date
- 6.12.1 The date of completion of the Works will be the date specified in the Completion Notice to which Council concurs, the date the Parties otherwise agree or if the matter is referred to Dispute Resolution the date determined by an Expert.
- 6.13 Non completion of Works
- 6.13.1 If the Developer fails to complete the Works as required by this document by the Completion Date Council may:
- (a) accept the Works as completed; and
 - (b) arrange for the necessary further construction or rectification to complete the Works in accordance with this document at the cost of the Developer.
- 6.14 Rectification of Defects
- 6.14.1 If Council notifies the Developer of a defect in the Works within the Defects Liability Period, the Developer must promptly remedy that defect to the satisfaction of Council.
- 6.14.2 Defects Liability Period means the period of 6 months from the date of completion of the Works or acceptance by Council of the incomplete Works.
- 6.14.3 This clause does not limit any other right, power or privilege of Council with or arising under this document or any other document or otherwise at law in respect of any defect in the Works.
- 6.15 Provision of Monetary Security
- 6.15.1 This clause does not apply if the Council, by notice in writing to the Developer, has otherwise waived compliance by the Developer with this clause;
- 6.15.2 No later than 7 days prior to the commencement of the Works in accordance with a Development Consent, the Developer must provide to Council either the payment of a bond or Bank Guarantee for \$1,374,128 (being the value of the work + 15% contingency) (**Security**) as Security for the due, prompt and proper observance and performance by the Developer of its obligations under this Agreement;
- 6.15.3 The Developer is not to commence the construction of the Works unless it has given the relevant Security to the Council;
- 6.15.4 In the event of any material failure by the Developer to comply with its obligations in relation to the Works, Council may without notice to the Developer call on the Security for any amount payable to Council;
- 6.15.5 If the Council calls on the Security in accordance with this Agreement, the Council may, by notice in writing to the Developer, require the Developer to provide a further Security, provided that, when the further Security is added to the amount already called on by the Council and any unused portion of any existing Security, the sum of these amounts does not exceed the Security Amount which on the date of this Agreement is the amount specified in the Summary Sheet;

6.15.6 On completion of the Works and Dedication of the Land to Council:

- (a) the Council must return the relevant Security to the Developer; and
- (b) the Developer's obligations, and the Council's rights, under this clause 25 to that item of Works will cease.

7 **Land Dedication**

7.1 The Developer must at its cost Dedicate to Council the Land identified in Schedule 1.

7.2 The Land must be Dedicated to Council following completion of the Works specified in Schedule 2 in accordance with clause 6 of this Agreement and prior to the issue of the first Strata Subdivision Certificate for the Proposed Development;

7.3 The Dedication will be effected when a plan of subdivision is registered dedicating the Land to Council.

7.4 The Developer will deliver to Council the following:

- (a) Transfer in registrable form signed by the registered proprietor of the lot.

7.5 Council will on receipt of these documents arrange the following:

- (a) Lodgement of the transfer and other documents at the office of Land and Property Information for registration.

7.6 Council must provide the Developer with a tax invoice for its reasonable expenses incurred in relation to the Dedication of the Dedication Land including its legal costs and disbursements (including any registration fees).

7.7 The Developer must pay to Council the amount invoiced for expenses under clause 7.4 within 14 days of receipt of the invoice.

7.8 The Developer must not during the term of this Agreement sell, transfer, mortgage, charge or grant a lease or license or any other right of occupancy to any person over the Dedication Land without first obtaining the Council's consent in writing. Council must not unreasonably withhold or delay its consent or give consent subject to unreasonable conditions.

8 **Monetary Contributions**

8.1 The Developer must pay the Monetary Contribution and any applicable Additional Monetary Contribution (**Total Monetary Contribution**). Payment of the Total Monetary Contribution may be made by cheque or electronic bank transfer to Council's nominated bank account.

8.2 If the Development Consents approve dwellings on the Land in addition to the Anticipated Dwellings on the Land then the Developer must pay the Additional Monetary Contribution, as specified in Schedule 3;

8.3 The Monetary Contributions must be paid to Council prior to the issue of the first Strata Subdivision Certificate for the Proposed Development;

8.4 On each anniversary of the date of this document the Total Monetary Contribution applicable immediately prior to that anniversary will be increased by the same percentage as the annual percentage increase, if any, in the Price Index most recently

published prior to the relevant anniversary. The increased Total Monetary Contribution will be the Total Monetary Contribution in the subsequent 12 months.

- 8.5 The Total Monetary Contribution will be expended on the provision of public benefits, amenities and/or infrastructure as determined by the General Manager of Council from time to time.

9. Application of s94, s94A and s94EF of the Act

- 9.1 For the purpose of section 93F(5) of the Act, this Agreement excludes the operation of section 94 of the Act in relation to the Proposed Development or any part thereof and excludes the operation of section 94A of the Act in relation to any residential component of the Proposed Development;
- 9.2 For the purpose of section 93F(5) of the Act, this Agreement does not exclude the operation of section 94A of the Act in relation to any non-residential component of the Proposed Development. The Developer agrees that any Development Consent issued for the Proposed Development will require the payment of contributions under The Hills Section 94A Contributions Plan with respect to any non-residential component of the Proposed Development. This will be calculated based on a Quantity Surveyor estimate which must be submitted with any Development Application for the Proposed Development; which clearly identifies the Development Cost associated with the non-residential component of the Proposed Development;
- 9.3 For the purpose of section 93F(5) of the Act, this Agreement does not exclude the operation of section 94EF of the Act in relation to the Proposed Development or any part thereof.

10. General Provisions

10.1 Registration of Agreement on Title

- 10.1.1 The Developer acknowledges that Council intends to register this Agreement under section 93H of the Act on the Lands and on registration by the Registrar-General the Agreement will be binding on and enforceable against the owners of the Land from time to time as if each owner for the time being had entered into this Agreement.

10.2 Assignment

- 10.2.2 A party must not transfer any right or liability under this Agreement without the prior consent of Council (such consent not to be unreasonably withheld or delayed);
- 10.2.3 In the event that the Developer enters into a contract for the sale of the Land, the Developer (as vendor) shall disclose to the purchaser the existence of this Agreement and any contract of sale must ensure that any future land owner or Developer will undertake the performance of the obligations under the Agreement in the same terms and to the same conditions agreed to by the Developer;

10.3 Governing law and jurisdiction

- 10.3.1 This Agreement is governed by and construed under the law in the State of New South Wales.
- 10.3.2 Any legal action in relation to this Agreement against any party or its property may be brought in any court of competent jurisdiction in the State of New South Wales.

10.3.3 Each party by execution of this Agreement irrevocably, generally and unconditionally submits to the non-exclusive jurisdiction of any court specified in this provision in relation to both itself and its property.

10.4 Amendments

Any amendment to this Agreement has no force or effect, unless effected by a document executed by the parties.

10.5 Third parties

Except as provided for by clauses 10.1 and 10.2, this Agreement confers rights only upon a person expressed to be a party, and not upon any other person.

10.6 Further assurance

Each party must execute any document and perform any action necessary to give full effect to this Agreement, whether before or after performance of this Agreement.

10.7 Waivers

Any failure by any party to exercise any right under this Agreement does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

10.8 Remedies

The rights of a party under this Agreement are cumulative and not exclusive of any rights provided by law.

10.9 Counterparts

This Agreement may be executed in any number of counterparts, all of which taken together are deemed to constitute one and the same document.

10.10 Party acting as trustee

If a party enters into this Agreement as trustee of a trust, that party and its successors as trustee of the trust will be liable under this Agreement in its own right and as trustee of the trust. Nothing releases the party from any liability in its personal capacity. The party warrants that at the date of this Agreement:

- (a) all the powers and discretions conferred by the deed establishing the trust are capable of being validly exercised by the party as trustee and have not been varied or revoked and the trust is a valid and subsisting trust;
- (b) the party is the sole trustee of the trust and has full and unfettered power under the terms of the deed establishing the trust to enter into and be bound by this Agreement on behalf of the trust and that this Agreement is being executed and entered into as part of the due and proper administration of the trust and for the benefit of the beneficiaries of the trust;
- (c) no restriction on the party's right of indemnity out of or lien over the trust's assets exists or will be created or permitted to exist and that right will have priority over the right of the beneficiaries to the trust's assets.

10.11 Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the document and that entry into this Agreement will not result in the breach of any law.

10.12 Severability

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

Schedule 1 — Dedication Land

The Land to be dedicated to Council is shown on Figure 1.

Details of the Dedication Land is provided below.

Lot	DP	Owner	Area to be dedicated (m ²)	Timing of Dedication
Part of Lot 1	866565	8 Eights Pty Ltd	Area identified for "new road" connecting Spurway Drive to Maitland Place with an area of approximately 2,289m ² (subject to detailed design and completion of the Works).	Following completion of the Works specified in Schedule 2 in accordance with clause 6 of this Agreement and Prior to the issue of a Strata Subdivision.

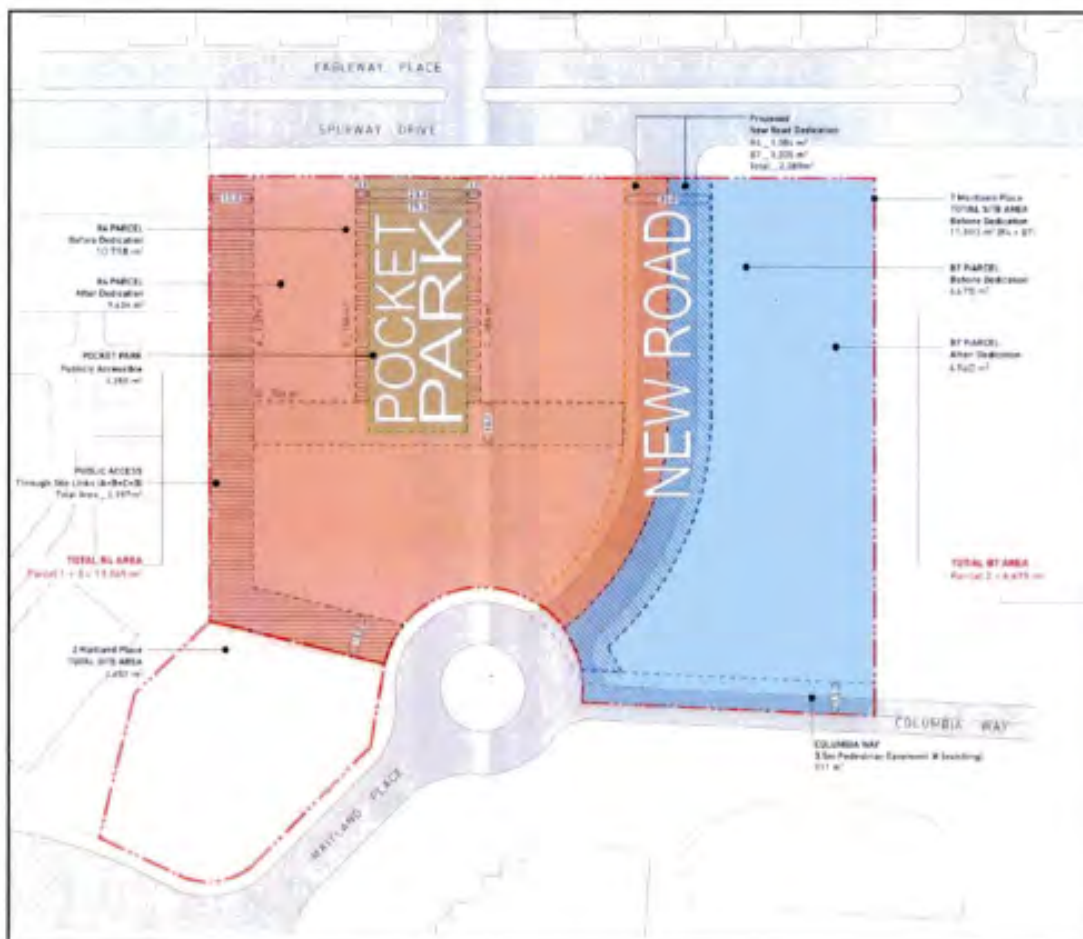


Figure 1 - Dedication Land

Schedule 2 — Works

The Works to be completed is the construction of a new local road connection from the roundabout intersection of Maitland Place and Columbia Way in the south to Spurway Drive in the north as illustrated in Figure 1 (above) and Figure 2 (below), subject to preparation of detailed designs, the requirements under clause 6.4 and the conditions of any Development Consent.

The estimated cost of the Works is \$1,194,894.19

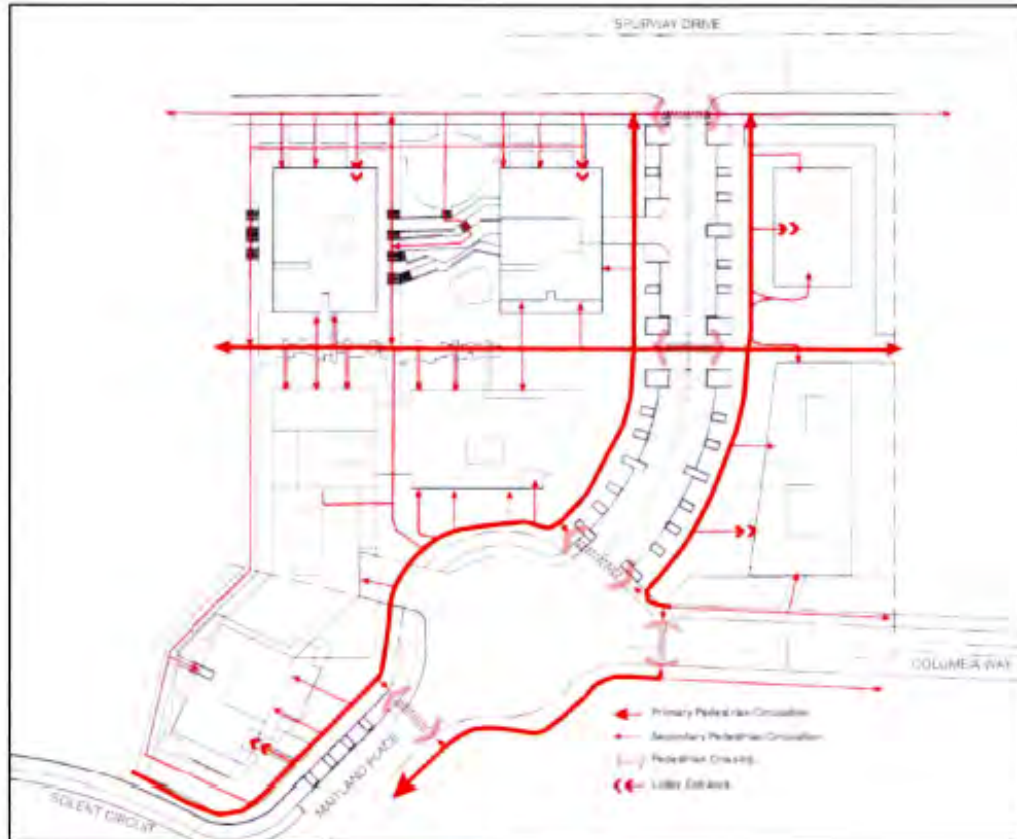


Figure 2 – Proposed Road

Schedule 3 — Monetary Contributions

Total Monetary Contribution	Value \$	Timing
Monetary Contribution	\$4,532,719.03	Prior to the issue of a Strata Subdivision Certificate
Additional Monetary Contribution	Calculated using Additional Monetary Contribution Rates below	Prior to the issue of a Strata Subdivision Certificate
Additional Monetary Contribution Rates		
Monetary rate per 1 bedroom unit	\$7,832.89	
Monetary rate per 2 bedroom unit	\$12,653.12	
Monetary rate per 3+ bedroom unit	\$16,268.30	

Schedule 4 — Proposed Development

Subject to Development Consent, demolition of existing structures and construction of a mixed used development at 2-6 and 7 Maitland Place, Baulkham Hills with approximately:

- 370 residential units; and
- 5,000m² of non-residential gross floor area.

Based on the maximum permissible floor space ratio sought by the Planning Proposal, the maximum residential yield anticipated on the Land (7 Maitland Place, Baulkham Hills) is 300 dwellings.

Anticipated Dwellings on the Land (7 Maitland Place, Baulkham Hills): Up to 300 units*

* In accordance with clause 8.2 of this Agreement, an Additional Monetary Contribution calculated in accordance with Schedule 3 must be paid with respect to any additional dwellings approved on the Land above this yield.

Execution Page

The common seal of **The Hills Shire Council** was affixed under a resolution passed by council on 28 FEBRUARY 2017 in the presence of:




A1 General Manager

MICHAEL EDGAR

Print Name


Mayor

MONICA KLINE


Print Name


Witness

KATRINA REEVES

Print Name

Executed by the Developer in accordance with s127 of the Corporations Act 2001 (Cth):


Secretary/Director

CHRISTINA BION
Print name


Director

QUAN-HUI XIE
Print name

ATTACHMENT 18 – TRANSPORT FOR NSW COMMENTS



Transport
for NSW

9 March 2021

TfNSW Reference: SYD21/00204/01 (A36573811)
Council Reference: 1154/2021/JP

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

Attention: Cynthia Dugan

Dear Sir/Madam,

PROPOSED COMMERCIAL DEVELOPMENT - 7 MAITLAND PLACE, NORWEST

Reference is made to Council's correspondence dated 16 February 2021, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with the *State Environmental Planning Policy (Infrastructure) 2007*.

TfNSW has reviewed the submitted application and has the following comments for Council's consideration in the determination of the application:

1. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for determination prior to the issue of a construction certificate.
2. Council should give consideration to a reduction in the number of car parking spaces to encourage sustainable transport.
3. Council needs to be satisfied that the existing transport network could accommodate the transport requirements of the proposed development.

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'Pahee'.

Pahee Rathan
Senior Land Use Assessment Coordinator

Transport for NSW

27 Argyle Street, Parramatta NSW 2150 | Locked Bag 5085, Parramatta NSW 2124
P (02) 8849 2666 | W transport.nsw.gov.au | ABN 18 804 239 602

ATTACHMENT 19 – ENDEAVOUR ENERGY COMMENTS



The General Manager
The Hills Shire Council

26 February 2021

ATTENTION: Cynthia Dugan

Dear Sir or Madam

I refer to the referral of 16 February 2021 from NSW Planning, Industry & Environment regarding NSW Government concurrence and referral request CNR-18298 for The Hills Shire Council Development Application 1154/2021/JP at 7 MAITLAND PLACE NORWEST 2153 (Lot 1 DP 866565) for 'Construction of a 7 storey commercial building, with 92 strata offices and 3 retails and related landscaping'. Submissions need to be made to Council by 9 March 2021.

Please find attached copies of Endeavour Energy's submissions made to Council on:

- 29 January 2019 regarding Development Application 1235/2018/JP at 7 Maitland Place, NORWEST NSW 2153 (Lot 1 DP 866565) for Construction of 4 x Six to Twenty Five Storey Residential Flat Buildings comprising 287 Units and 3 Levels of Basement Car Parking'.
- 9 July 2018 regarding Development Application 2267/2018/ZA at 7 Maitland Place, BAULKHAM HILLS NSW 2153 (Lot 1 DP 866565) for 'Subdivision creating one mixed use/ development lot including new road'.

Notwithstanding the proposed modifications the recommendations and comments provided therein remain valid and are also applicable to this Development Application.

Endeavour Energy has noted the following in the:

- Statement of Environmental Effects.

2.3 SITE DESCRIPTION

An easement exists on the northern boundary of the site for underground cables 6m wide (vide DP 12011410) while a sewer line adjoins the eastern boundary, both of which will be unaffected by the proposed development.

Design Excellence Panel - 12 Aug 2020

Response

Architecture and Aesthetics

22. The Panel recommends early consideration of utility services required by commercial buildings, which should be suitably screened and integrated into the building fabric. This should be clearly demonstrated in the DA documentation for further consideration at a future Panel meeting.

Services integrated into building with location for electricity kiosk nominated.



51 Huntingwood Drive, Huntingwood, NSW 2148
PO Box 811, Seven Hills, NSW 1730
T: 133 718

endeavourenergy.com.au

ABN 11 247 365 823

- Design Report

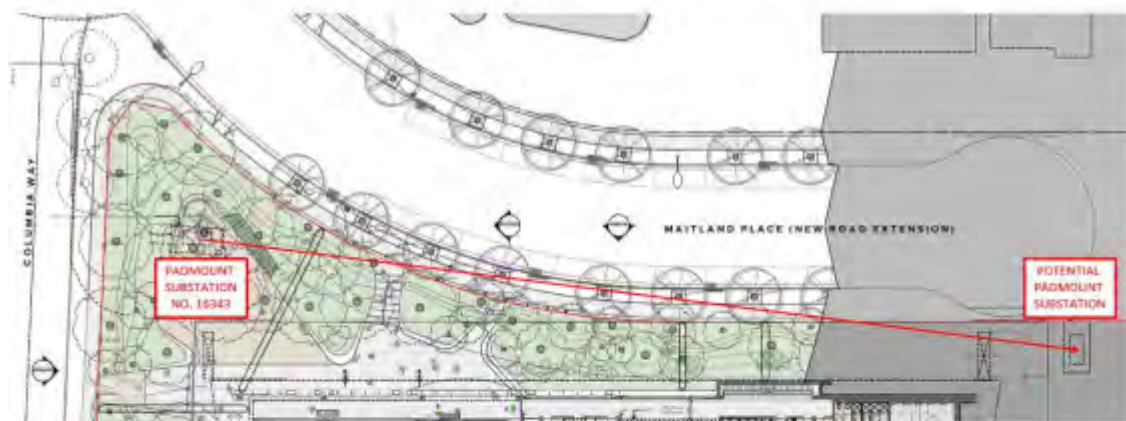
ALIGNMENT WITH COUNCIL CONTROLS

INTERFACE TO COLUMBIA WAY

- Removes the substation from the primary frontage for improved activation and better WSUD management.



The relocated / potential padmount substation is shown in the following extract of the 'GA Plans'.



From Endeavour Energy's perspective the fact that provision is being made for a padmount substation is a positive. Endeavour Energy's general requirements is for a padmount substation to be at ground level and have direct access from a public street (unless provided with appropriate easements for the associated underground cables and right of access).

As shown in the following extract of Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights', Figure A4.3 'Padmount easements and clearances', padmount substations require:

- Easement with a minimum size of 2.75 x 5.5 metres (single transformer).
- Restriction for fire rating which usually extends 3 metres horizontally from the base of the substation footing and 6 metres vertically from the same point.
- Restriction for swimming pools which extends 5 metres from the easement.

A4.3 - Padmount easements and clearances



The easement should not cross property boundaries but the restriction/s may affect any adjoining property provided they are able to be registered on the title to that property.

Generally it is the Level 3 Accredited Service Provider's (ASP) responsibility (engaged by the developer) to make sure that the substation location and design complies with Endeavour Energy's standards the suitability of access, safety clearances, fire ratings, flooding etc. As a condition of the Development Application consent Council should request the submission of documentary evidence from Endeavour Energy confirming that satisfactory arrangements have been made for the connection of electricity and the design requirements for the substation, prior to the release of the Construction Certificate / commencement of works.

Subject to the foregoing Endeavour Energy has no objection to the Development Application. I appreciate that not all the foregoing issues may be directly or immediately relevant or significant to the Development Application. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

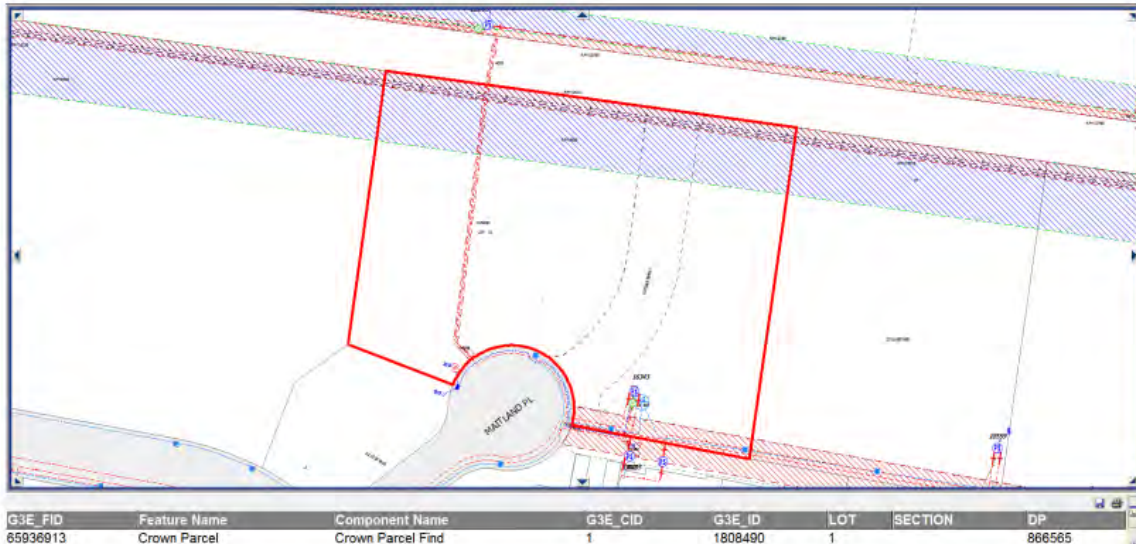
Please note that Endeavour Energy can only assess the development application based on the information provided by the applicant and Council. Due to time and resource constraints it is not possible to refer all development application notifications to the relevant internal stakeholders for review and advice or to request additional information from the applicant or Council. The provision of inadequate detail of the potential impact on the electricity infrastructure / easements on or near the site may result in Endeavour Energy objecting to the Development Application.

Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified in Endeavour Energy's previous submissions in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

With the current easing of the COVID-19 health risk, whilst a significant number of Endeavour Energy staff are returning to the office, they are at times still working from home. Although working from home, access to emails and other internal stakeholders can still be somewhat limited and as a result it may take longer than usual to respond to enquiries. Thank you for your ongoing understanding during this time.

Yours faithfully
Cornelis Duba
Development Application Specialist
Network Environment & Assessment
M: 0455 250 981
E: cornelis.duba@endeavourenergy.com.au
51 Huntingwood Drive, Huntingwood NSW 2148
www.endeavourenergy.com.au





Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. In addition it must be recognised that the electricity network is constantly extended, augmented and modified and there is a delay from the completion and commissioning of these works until their capture in the model. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the *Electricity Supply Act 1995* (NSW).

ATTACHMENT 20 – NORWEST ASSOCIATION LIMITED APPROVAL

**NORWEST ASSOCIATION LIMITED
CONDITIONS OF DEVELOPMENT CONSENT**



Application No: DA 923

Site: 7 Malland Place, Norwest
Lot 11 in Subdivision of Lot 1 DP 866565

Project: Mixed Use Commercial Office Building,
and Food and Beverage Premises

Applicant: Hiltchin Pty Ltd

Approval Date: 7 January 2021

Norwest Association Limited
ACN 003 443 683

Suite 402, 5 Celebration Drive
Norwest Business Park
Bella Vista NSW 2153

Telephone (02) 8824 9621
Facsimile (02) 8824 8497

1. The development is approved in accordance with the details submitted with the application dated 14 December 2020, Statement of Environmental Effects dated December 2020, Traffic Impact Assessment Report dated 11 November 2020, Landscape Concept Report dated October June 2020, supporting reports and drawings including as follows:

Drawing Number	Title	Revision
DA-001-001_DA	Cover Sheet	DA
DA-001-101_DA	Drawing List	DA
DA-100-101_DA	Location Plan	DA
DA-100-102_DA	Site Plan	DA
DA-111-001_DA	Basement Level 3	DA
DA-111-002_DA	Basement Level 2	DA
DA-111-003_DA	Basement Level 1	DA
DA-111-004_DA	Ground Level	DA
DA-111-010_DA	Level 1	DA
DA-111-020_DA	Level 2	DA
DA-111-030_DA	Level 3	DA
DA-111-040_DA	Level 4	DA
DA-111-050_DA	Level 5	DA
DA-111-060_DA	Level 6	DA
DA-111-070_DA	Level 7 Roof Garden	DA
DA-111-080_DA	Roof Level	DA
DA-250-010_DA	North Elevations	DA
DA-250-001_DA	South Elevation	DA
DA-250-001_DA	West Elevation	DA
DA-250-001_DA	East Elevation	DA
DA-350-010_DA	Section AA	DA
DA-350-020_DA	Section BB	DA
DA-350-030_DA	Section CC	DA
DA-720-004	GFA Diagrams	DA
DA-740-001	Landscape and Deep Soil Diagram	DA
DA-740-002	Site Coverage Diagram	DA

NAL Conditions of Approval

Conditions of Development Consent
 Application No. 923 – Mixed Use Commercial Office Building

DA-740-101	Daylight Access Diagrams	DA
DA-830-001_DA	Material Schedule	DA
DA-830-010_DA	Material Detail – Columbia Way Forecourt West	DA
DA-830-011_DA	Material Detail – Main Entry	DA
DA-830-012_DA	Material Detail – Corner Spurway Drive and New Road	DA
DA-830-013_DA	Material Detail – Spurway Drive East	DA
DA-830-014_DA	Material Detail – Columbia Way Forecourt East	DA
DA-830-015_DA	Material Detail – High Levels	DA
DA-900-001_DA	3D Views from Mailland Place/Columbia Way	DA
DA-900-002_DA	3D Views Mailland Place Forecourt	DA
DA-900-003_DA	3D Views Spurway Drive	DA
DA-900-004_DA	3D Views Spurway Drive: View to West	DA
DA-900-005_DA	3D Views Rooftop Garden	DA
DA-900-006_DA	3D Views Columbia Way Forecourt: View to the West	DA
DA-900-007_DA	3D Views Columbia Way Forecourt: View to the East	DA
03 Concept	Landscape Spaces	E
03 Concept	Landscape Ground Floor Masterplan	E
03 Concept	Forest Canopy Deck	E
03 Concept	Ground Floor Plaza	E
03 Concept	Ground Floor Section	E
03 Concept	Discovery Trail	E
03 Concept	Discovery Trail Section	E
03 Concept	Landscape Setback – Section E	E
03 Concept	Landscape Setback – Section F	E
03 Concept	Landscape Setback – Section G	E
03 Concept	Deep Soils Zones	E
03 Concept	Landscape Buffers	E
03 Concept	Tree Densities and Species	E
03 Concept	Landscape WSUD Strategy	E
03 Concept	Landscape Level 7 Masterplan	E
03 Concept	Level 7 Breakout and Meeting Spaces	E
03 Concept	Level 7 Yoga Deck and Social Amenity	E
03 Concept	Landscape Level 7 Program	E
03 Concept	Level 7 Rooftop Section	E
03 Concept	Indicative Planting Palette Ground Floor	E
03 Concept	Indicative Planting Palette Rooftop	E
04 Addendum	Planting Schedule	001 A
04 Addendum	Landscape Plan	100 A
04 Addendum	Softworks Plans	101 A
04 Addendum	Softworks Plans	102 A
04 Addendum	Softworks Plans	103 A
04 Addendum	Softworks Plans	104 A
04 Addendum	Softworks Plans	105 A
04 Addendum	Landscape Details	110 A
04 Addendum	Landscape Specification	110 A

NAL Conditions of Approval

2. A total of 284 car parking spaces (including visitor spaces) are to be provided in accordance with the plans submitted with the Application and to The Hills Shire Council's satisfaction. All car parking is to be located on-site with car parking appropriately sign marked.
3. A car pool of not less than 20% of all spaces is to be directly accessible and unallocated to tenancies to accommodate visitor and casual parking.
4. Adequate turning provision is to be made at the entry driveway to ensure that all vehicles exit in a forward direction.
5. Hours of operation are Monday-Sunday, 24 hours per day.
6. The Applicant is required to reinstate any works, infrastructure, paving or landscaping adjacent to the site boundary disturbed during the construction phase and the existing brick-paved footpath along the full frontage of the site is to be reconstructed 1.5m wide and laid on a concrete base.
7. Landscaping to be carried out and maintained in accordance with the details submitted in the Landscape Concept Report prepared by Arcadia as set out in Section 03 Concept and Section 04 Addendum submitted as part of this Application.
8. A landscape bond for the amount of \$40,000.00 is required to be submitted to Norwest Association Limited prior to the issue of a Construction Certificate to ensure that the approved landscaping is completed.
9. The Applicant to provide certification by a suitable qualified landscape architect at the completion of the landscaping that the landscaping installed fully satisfied the design intent and complies with the approved landscape plans.
10. On-site detention is to be provided in accordance with the Norwest Association Rainwater Harvesting Policy No. 2 and to the satisfaction of Council's stormwater detention requirements.
11. A separate Development Application is to be submitted for any proposed signage, with signage and external lighting to be fully integrated with the landscaping.
12. Compliance with the noise and vibration measures contained in the Acoustic Services Report dated 12 November 2020.
13. All external materials and finishes are to be in accordance with the details submitted with the Application.
14. All waste to be removed in accordance with the details as set out in the Statement of Environmental Effects and to the requirements of Council.
15. All building works are to be undertaken as specified and without impacting upon adjoining properties by way of dust, noise and waste removal.
16. All roof top plant and solar panels are to be screened from public view.

17. The Green Travel Plan is to be implemented to encourage use of sustainable modes of travel including public transport, car share, flexible work hours, cycling and walking, as outlined in the Stattec Green Travel Plan Report dated April 2020.


ALAN ZAMMIT AM
Chair
Norwest Association Limited