COUNCIL ASSESSMENT REPORT

Panel Reference	**PPSSCC-233**
DA Number	DA 1406/2021/JP
LGA	The Hills Shire Council
Proposed Development	Demolition of Existing Structures and Construction of 3 Residential Flat Buildings, 5-7 Storeys in Height Comprising 261 Units and Basement Carparking
Street Address	21 – 31 Hughes Avenue Castle Hill 38 – 40 and 42A – 50A Middleton Avenue Castle Hill
Applicant	Australian Consulting Engineers Pty Ltd
Consultant/s	Town Planner - Sutherland & Associates Planning Architects – Turner Architects Surveyors - Canda Surveyors Landscape Architect – RPS Contamination Report – Environmental Investigations Traffic – Varga Traffic Planning Flood Report – SGC Consulting Engineers Acoustic Report – Koikas Acoustics Arboricultural Assessment – Birds Tree Consulting BCA Report – McKenzie Group BASIX Report – Windtech Waste Management – Elephants Foot Access Review – Morris Goding & Associates Wind Assessment – Windtech Stormwater Concept – SGC Consultiing Engineers Sustainability Report – Northrop Quantity Surveyors – Construction Consultants Legal advice – HWL Ebsworth
Date of DA lodgement	30 March 2021
Number of Submissions	Three
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV exceeding $30 million ($103,398,170)
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy 65 – Apartment Design of Residential Development • The Hills Local Environmental Plan 2019 • The Hills Development Control Plan 2012 • Part B Section 5 – Residential Flat Building • Part B Section 6 – Business • Part C Section 1 – Parking • Part C Section 3 – Landscaping • Part D Section 19 – Showground Station Precinct

List all documents submitted with this report for the Panel's consideration	• Plans • Clause 4.6 Written Submission • Design Review Panel Reports • Applicant's legal advice regarding isolation of site
Clause 4.6 requests	• The Hills LEP 2019 • Clause 4.3 Height of Buildings • R4 High Density zone
Summary of key submissions	• Privacy concerns • Overshadowing impacts • Traffic and parking concerns • Height and number of storeys • Streetscape amenity • Acoustic impacts • Ventilation • Isolation of lot • Excessive building lengths • Devaluation of properties • Dilapidation of adjoining properties
Report prepared by	Cynthia Dugan – Principal Coordinator Development Assessment
Report date	1 December 2022 (Electronic Determination)

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	**Yes**
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? *e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*	**Yes**
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	**Yes**
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**Not Applicable**
Conditions Have draft conditions been provided to the applicant for comment? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*	**Yes**

EXECUTIVE SUMMARY

The 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 2019. Clause 4.3 of LEP 2019 limits the height of the development to 21 metres. The proposed development will have a maximum building height of 26.57 metres, resulting in a variation of up to 5.57m or 26.5%. Notwithstanding, the maximum height exceedance relates to roof of stairwells and lift overruns leading to rooftop communal open space areas. A well-founded Clause 4.6 written submission has been submitted with the application. It is considered strict compliance is unreasonable and unnecessary in this instance and there are sufficient environmental planning grounds to justify contravening the development standard, as the variation relates to upper-level elements which are setback and recessive and the variation can be supported.

- The application was referred to Council's Design Review Panel (DRP) on two occasions. It is noted that previous application DA 406/2020/JP for the site was also reviewed on three occasions by the DRP. Due to the significant concerns raised by the DRP for the previous application, the application was withdrawn. The Applicant engaged a different Architect to address these concerns under the subject application. The Applicant has addressed the concerns raised by the Design Review Panel to the satisfaction of Council officers. It is considered that the proposal meets the provisions under Clause 9.5 of The Hills Local Environmental Plan.

- The application complies with the housing diversity and incentive floor space ratio (FSR) provisions under Clause 9.7 of The Hills Local Environmental Plan which permits a maximum incentive FSR of 2.3:1 to be applied to the development. The proposal results in a maximum FSR of 2.29:1 which complies with the standard.

- The site is identified as a flood control lot. Flood modelling and a Flood Impact Assessment has been submitted which demonstrates the proposal meets the provisions under Clause 5.21 Flood Planning under The Hills Local Environmental Plan. Subject to recommended conditions, the development will be compatible with the flood function and behaviour on the land, will not adversely affect flood behaviour in a way that results in detrimental impacts of other properties, not detrimentally affect the safe occupation and efficient evacuation of people and appropriate measures are provided to manage risk to life in the event of a flood and adverse environmental impacts.

- The proposed development excludes amalgamation of No. 42 Middleton Avenue. Documentary evidence has been provided to demonstrate that a genuine and reasonable attempt has been made to purchase the isolated site based on a fair market value, however this process was unsuccessful. The subject application includes an indicative scheme which illustrates that 42 Middleton Avenue can be redeveloped on an independent basis in a manner which will achieve a uniform streetscape outcome and compliant amenity standards. Orderly development of the isolated site can be achieved consistent with the provisions of The Hills LEP, Apartment Design Guide and DCP. The development is also consistent with the planning principles for site isolation, established by the NSW Land and Environment Court in proceedings of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251.

- Variations are proposed to the design criteria within the Apartment Design Guide including solar access to ground level principal common open space, building separation and habitable room depths for open plan layouts. It is considered that the proposed variations are acceptable in this instance as sufficient amenity is provided for future occupants of the development and adjoining properties.

- Variations are proposed to several controls within the DCP. These relate to site specific controls within the Showground Precinct including the structure plan, undesirable site isolation, site coverage and landscaped area, building setbacks, solar access, built form including building lengths and two storey terrace form on the bottom levels and ground floor residential levels. It is considered that despite these variations, the proposal provides for a high-quality outcome for the site and meets the intent and desired future character for the Showground Station Precinct.

- The application was notified for 14 days. Three submissions were received during the notification period. The concerns raised primarily relate to privacy, overshadowing impacts on adjoining properties, traffic and parking, height and number of storeys, streetscape amenity, acoustics, ventilation, isolation of lots, excessive building lengths, devaluation and dilapidation of adjoining properties. The concerns raised have been addressed in the report and do not warrant refusal of the application.

The Development Application is recommended for approval subject to conditions of consent.

BACKGROUND

The site is within the Showground Precinct which is one of four Precincts identified by the NSW Government to be planned as part of its 'Planned Precinct Program' along the Sydney Metro Northwest corridor. On 15 December 2017 the NSW Government rezoned the Showground Precinct for high and medium density development.

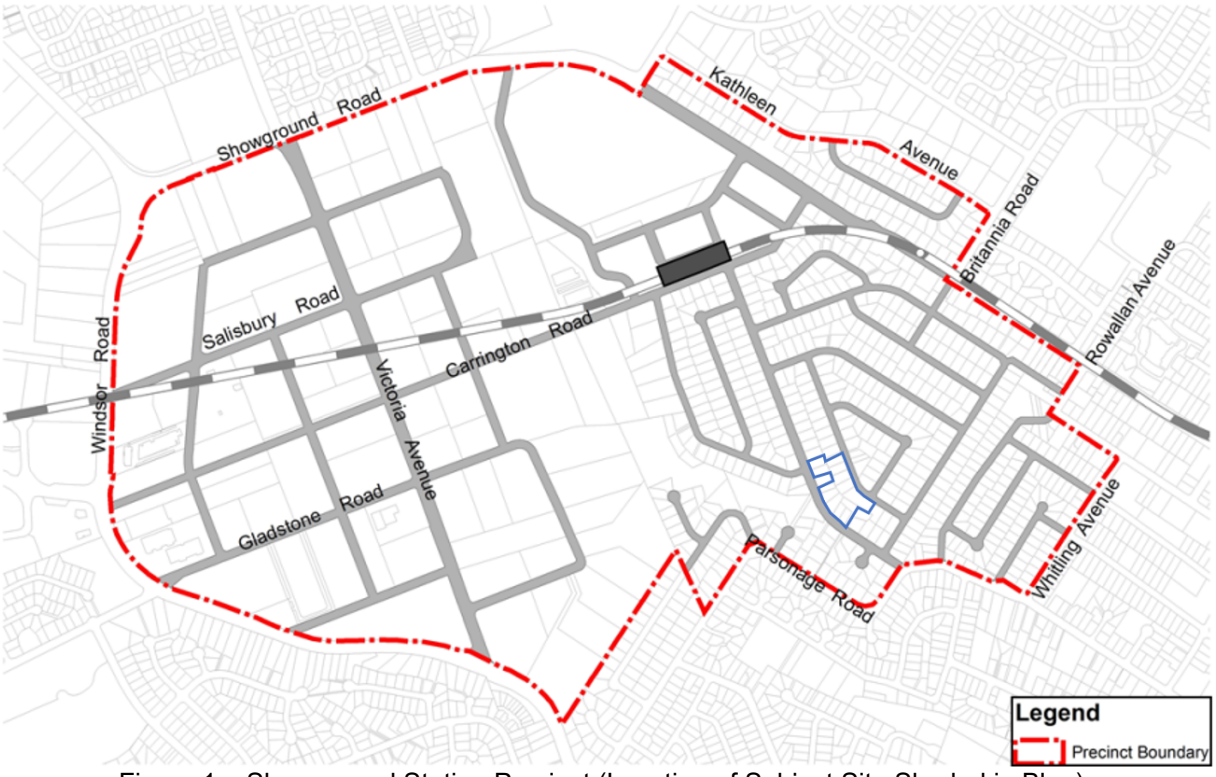

Figure 1 – Showground Station Precinct (Location of Subject Site Shaded in Blue)

On 26 September 2019, Development Application 406/2020/JP was lodged on the subject site for a residential flat building development comprising 260 units. The design was prepared by Australian Consulting Architects. It is noted that on 13 December 2019, Council staff requested a copy of the flood model be provided identifying the variations between pre and post flood affectation. The application was reviewed by the Design Review Panel on 27 November 2019, 22 April 2020 and 26 August 2020. Due to significant design changes required to satisfy the concerns raised by the Design Review Panel, the Development Application was withdrawn on 16 November 2020.

The subject Development Application was lodged on 30 March 2021 for the demolition of existing structures and the construction of three residential flat buildings containing 261 units. The design was prepared by Turner Architects. The proposal was notified between 8 April 2021 and 29 April 2021. Three submissions were received following the notification period.

Council's Design Review Panel reviewed the subject application at the pre-lodgement stage on 27 January 2021 and on 26 May 2021. At the second review, the Design Review Panel commended the design team for meaningful and progressive amendments to the scheme in response to the Design Review Panel's previous comments raised at the pre-lodgement stage however noted that there remains a number of outstanding issues that need to be addressed to achieve design excellence. Recommendations were made in the Design Review Panel report and the Applicant has amended their design in response to these.

The Sydney Central City Planning Panel was briefed on the proposal on 17 June 2021.

On 16 June 2021, a request for additional information letter regarding planning, environmental health, resource recovery, endeavour energy, NSW Police matters was sent to the Applicant. A further request for information letter regarding landscaping matters was sent on 5 July 2021. On 8 July 2021, further information was requested regarding engineering matters including general subdivision, stormwater drainage and traffic issues. It was also noted that a TUFLOW flood model had not yet been submitted.

Amended plans and documentation was submitted on 19 August 2021. Further amended plans were submitted on 30 September 2021.

On 14 October 2021, a further request for additional information regarding engineering matters was sent to the Applicant. It was noted the flood model had not yet been submitted for the application.

The flood model was received by Council staff on 12 and 16 November 2021. On 8 December 2021, a further request for additional information letter regarding outstanding flooding and engineering matters was sent to the Applicant. On 21 December 2021, Council's Waterways Team provided the TUFLOW pre-development flood model data as requested by the Applicant on 14 December 2021. The pre-development flood model was submitted by the Applicant on 28 January 2022. Council's Waterways comments regarding the pre-development flood model was provided to the Applicant on 15 February 2022. A revised pre and post development flood model was provided by the Applicant on 28 February 2022. On 11 March 2022, Council's Waterways Team confirmed that the pre-development flood model was accepted however, concerns were raised regarding the post-development flood model. A revised pre and post model was provided by the Applicant on 9 May 2022. On 31 May 2022, further comments were provided by Council's Waterways Team seeking clarification on the data provided for the pre and post development flood model.

On 16 May 2022, a letter was sent to the Applicant requesting payment of the outstanding compliance levy fee which was required to be paid at lodgement. The letter advised that the fee is to be paid upon determination of the application. Should the fee remain outstanding after this time, proceedings will be instigated to recover this fee as a debt to Council.

On 24 June 2022, an updated flood model was submitted by the Applicant. Comments seeking clarification on several matters were provided by Council staff for this updated flood model on 8 July 2022. An email was sent to the Applicant on 19 August 2022, requesting all outstanding information to be provided within two weeks. The Applicant provided the revised flood modelling on 12 September 2022. The Applicant provided the revised flood impact assessment on 12 October 2022.

On 17 February 2022, a further request for additional information regarding outstanding landscaping matters was sent to the Applicant. The amended landscape plans and arborist report was submitted on 31 October 2022. A further request for additional information regarding outstanding landscaping matters was sent to the Applicant on 4 November 2022. A response to this request was received on 14 November 2022.

DETAILS AND SUBMISSIONS

Zoning:	R4 High Density Residential
Area:	12,333m²
Existing Development:	Existing detached dwelling houses
Section 7.11 Contribution	$3,280,597.30
Exhibition:	N/A
Notice Adj Owners:	Yes, 14 days
Number Advised:	43
Submissions Received:	3 submissions

PROPOSAL

The Development Application seeks consent for the following works:

- Demolition of existing detached residential dwellings and associated structures.

- Associated public domain works including 2m road widening strip along Hughes Avenue is to be constructed and dedicated to Council at no cost. A centrally located pedestrian through site link is also proposed.

- Subdivision including consolidation of all lots and land dedication of the 2m road widening along Hughes Avenue.

- Construction of 3 x residential flat buildings (buildings A, B and C) comprising 261 dwellings and two basement levels comprising 314 car spaces.

- The development will have a unit mix as follows:

    - 65 x 1 bedroom units,
    - 143 x 2 bedroom units, and
    - 53 x 3 bedroom units.

- The built form is proposed as follows:
    - **Building A**
      Building A1 comprising 7 storeys; and
      Building A2 comprising 6 storeys

    - **Building B**
      Building B1 comprising 7 storeys;
      Building B2 comprising 7 storeys;
      Building B3 comprising 4 to 7 storeys;
      Building B4 comprising 6 storeys

    - **Building C**
      Building C comprising 5 storeys and 38 apartments.

- Associated landscaping works, including:
    - Ground level central communal courtyard for Building A;
    - Rooftop communal open space on Buildings A and B.

STRATEGIC CONTEXT

a) Greater 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 to boost Greater Sydney's liveability, productivity and sustainability by spreading the benefits of growth. 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). The subject site is located within walking distance of the Showground Station which opened on 26 May 2019.

A key objective within the Greater Sydney Region Plan which is relevant to the subject Development Application is 'Objective 10 Greater housing supply'. The Greater Sydney Region Plan highlights that providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population. The Plan also notes that 725,000 additional homes will be needed by 2036 to meet demand based on current population projections. To achieve this objective, planning authorities will need to ensure that a consistent supply of housing is delivered to meet the forecast demand created by the growing population.

The proposed development is consistent with this objective as it will assist in maximising housing supply within a Precinct which will have direct access to high frequency public transport services.

The Plan also seeks to reduce exposure to natural and urban hazards such as flooding (Objective 37). To achieve this, the Plan includes strategies to avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards. The Plan also notes that District Plans will set out more detailed planning principles for addressing flood risk.

Subject to recommended conditions in the development consent, the proposal would be consistent with this objective as it would provide mitigation to reduce any flood risk within the site and surrounds.

The development proposal is consistent with the objectives in the Sydney Region Plan.

b) Central City District Plan

The Plan is a guide for implementing the Sydney Region Plan at a district level and is a bridge between regional and local planning. The plan requires integration of land use planning and transport to facilitate walkable 30-minute cities amongst the 34 strategic centres identified.

Planning Priority C5 seeks to provide housing supply, choice and affordability and ensure access to jobs, services and public transport. The proposed development will assist in increasing housing supply in a location which will have access to high frequency public transport services.

Planning Priority C20 seeks to adapt the impacts of urban and natural hazards and climate change with the objectives for people and places to adapt to future stresses and reduce their exposure to natural and urban hazards. The Plan notes that flood constraints exist in the areas in the district which are undergoing significant growth and redevelopment and recommends that planning for growth in flood-prone areas, must recognise the exceptional

risk to public safety and consider appropriate design measures to strengthen the resilience of buildings and the public domain in a flood event.

Subject to recommended conditions in the development consent, the proposal would be consistent with this objective as it would provide mitigation measures to reduce risk to public safety and has considered appropriate design measures to strengthen the resilience of buildings and the public domain in a one in 100 chance per year flood event.

The development proposal is consistent with the Central City District Plan.

c) 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 8 seeks to plan for a diversity of housing with access to jobs and services. It is envisaged that the Showground Station Precinct would provide approximately 9,000 additional dwellings by 2036. The Showground Station Precinct provides for a housing diversity clause under The Hills LEP which promotes family friendly dwellings within the Precinct. The proposal meets this housing diversity clause by providing larger apartment sizes and mix and would provide for an additional 261 dwellings to the emerging precinct. In this regard, the proposal is consistent with the outcomes planned under the Hills Local Strategic Planning Statement.

ISSUES FOR CONSIDERATION

1. Compliance with State Environment Planning Policy (Planning Systems) 2021

Part 2.4 and Schedule 6 of SEPP (Planning Systems) 2021 specifies the referral requirements to a Planning Panel:

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

The proposed development has a Capital Investment Value of $103,398,170 (excluding GST) and therefore requires referral to, and determination by, the Sydney Central City Planning Panel.

2. Compliance with State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspects of the environment. Clause 4.6 of the SEPP states:

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

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

A Preliminary Site Investigation Report and Geotechnical Investigation has been submitted with the Development Application. Section 5 of the report concludes that there was a low potential for contamination to be present on-site.

In this regard, the following recommendations have been made:

- Prior to site demolition, a hazardous materials survey should be conducted on the existing on-site structures to identify potentially hazardous building products that may potentially by released to the environment during demolition. This survey is necessitated by the needs of protecting the site personnel from potential exposure risks and management requirements for implementation as part of site demolition (if necessary).
- Following removal of site structures and vegetation, a site inspection of freshly exposed soil surface should be undertaken by an appropriately trained environmental professional to inspect for visual and olfactory evidence of contamination. If any evidence of contamination is identified, further soil investigation may be warranted.
- The contractor is to develop a Waste Management Plan (WMP) for the excavation, waste classification, and handling of all fill soils from the site in accordance with relevant The Hills Shire Council DCPs and development consent conditions. The WMP should include provisions for the management of waste soils including, but not limited to:
    - Classification of waste soils for off-site disposal in accordance the EPA (2014) Waste Classification Guidelines; and
    - The assessment of any soil materials proposed for importation to the site to be utilised as backfill (if required).

- Preparation of an unexpected finds protocol for implementation following demolition and during site excavation to ensure any potential contamination sources (e.g. soil staining, asbestos) that may be identified are managed in accordance with the NSW EPA legislation and guidelines.

The report has been reviewed by Council's Environmental Health Officer. No objection is raised subject to conditions of consent requiring the implementation of the above recommendations. Refer Condition 21.

Subject conditions, the proposal would meet the requirements under Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

3. Compliance with State Environmental Planning Policy (BASIX) 2004

State Environmental Planning Policy (BASIX) 2004 applies to the proposed development and aims to reduce the consumption of mains-supplied water, reduce emissions of greenhouse gases and improve the thermal performance of the building.

A BASIX assessment has been undertaken and indicates that the development will achieve the required targets for water reduction, energy reduction and measures for thermal performance. The commitments as detailed in the amended BASIX Certificates will be imposed as a condition of consent. Refer Condition 101).

4. Compliance with Local Environmental Plan 2019

a) <u>Permissibility</u>

The subject site is zoned R4 High Density Residential under LEP 2019. The proposed residential flat building is permissible with consent. The proposal satisfies LEP 2019 in this regard.

b) Zone Objectives

The objectives of the R4 High Density Residential zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage high density residential development in locations that are close to population centres and public transport routes.*

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal will provide for housing needs of the community and provide a variety of housing types within a high density residential environment. As such, the proposal is considered satisfactory in respect to the LEP 2019 objectives.

c) Development Standards

The following addresses the principal development standards of the LEP relevant to the subject proposal:

DEVELOPMENT STANDARD	REQUIRED	PROPOSED	COMPLIANCE
Clause 4.3 – Height of Buildings	21 metres	Building A1 – 26.13m Building A2 – 25.14m Building B1 – 25.46m Building B2 – 26.05m Building B3 – 26.57m Building B4 – 23.78m	No, refer to discussion below.
Clause 4.4 – Floor Space Ratio	1.9:1	N/A	N/A – the proposal seeks to utilise the incentive floor space ratio provision under Clause 9.7 of LEP 2012. Refer to discussion below.
Clause 4.6 – Exceptions to Development Standards	Exceptions will be considered subject to appropriate assessment.	A variation to Clause 4.3 – Height of Buildings is proposed and is addressed below.	Yes, refer to discussion below.
9.1 Minimum Lot Sizes for Residential Flat Buildings and Shop Top Housing	Residential flat building with a height of 11 metres or more – R4 High Density Residential – 3,600m^2	Satisfactory – 12,333m^2 (pre land dedication)	Yes
9.2 Site Area of Proposed Development includes dedicated land	Road dedication included as part of the site area for the purpose of calculating FSR.	Noted	Yes
9.3 Minimum Building Setbacks	Front Building Setbacks to be equal to, or greater than, the distances	Satisfactory – 10 metre set back provided to Middleton Avenue	Yes

	shown for the land on the Building Setbacks Map – Middleton Avenue requires a 10m setback.		
9.5 Design Excellence	Development consent must not be granted unless the development exhibits design excellence	Satisfactory – proposal referred to Design Review Panel and amended to address concerns raised by the Panel.	Yes, refer to discussion below.
9.7. Residential Development Yield on Certain Land	If the development is on a lot that has an area of 10,000m² within the Showground Precinct and provides a specific mix, family friendly unit sizes and parking, the following incentivised Floor Space Ratio can be applied as identified on the FSR Mapping instrument: 2.3:1	Site Area: 12,333m^2 Maximum FSR: 2.3:1 (Maximum GFA of 28,366m^2) Building A: 9,267.79m^2 Building B: 17,873.48m^2 Building C: 1,135.43m^2 Total FSR: 2.29:1 (Total GFA 28,276.7m^2)	Yes, refer to discussion below.
9.8 Maximum Number of Dwellings	Development Consent must not be granted to development that results in more than 5,000 dwellings on land within the Showground Precinct	261 units proposed under the subject Development Application. If this application is approved, the total number of dwellings within the Showground Precinct would be 4,457 dwellings.	Yes, refer to discussion below.

i) Variation to Building Height

The site is subject to a maximum building height of 21 metres as shown on the Height of Buildings map under Clause 4.3 of LEP 2019. The proposed development exceeds the maximum building height by a maximum of 5.57 metres or 26.5%. The applicant has provided a Clause 4.6 Variation which is provided at Attachment 16.

Clause 4.6 allows consent to be granted for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clause 4.6 – Exceptions to Development Standards states:

(1) The objectives of this clause are as follows—
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

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

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

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—
(a) the consent authority is satisfied that—
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
(b) the concurrence of the Planning Secretary has been obtained.

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

(6) Development consent must not be granted under this clause for a subdivision of land in Zone 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:

- *The proposed departure from the height control on the site occurs predominantly as a result of the significant fall across the site, and also as a result of the desire to have a lower height when compared with the height control along the southern side of the development to provide a more sensitive interface to the future lower scale development that will occur on the adjacent sites. The proposal presents generally to the adjacent streets as anticipated by the DCP and therefore achieves an appropriate contextual fit which is compatible with the future adjoining development and the future streetscape, notwithstanding the height non-compliance.*
- *The areas of additional height are located away from the southern side of the development, where the buildings are in fact lower than the height control, and so the proposed variation actually facilities a reduced shadow impact to the southern adjacent sites than that which would occur if strict compliance was enforced, and the proposal was forced to decant some floor space to the southern buildings in the development.*
- *The visual impact of the proposed height variation is acceptable…as the area of increased height is relatively minor and results from upper-level elements of the development which are setback behind the street wall and of a recessive character. Therefore, the elements which breach the height control will not be readily perceptible from the public domain. The proposal fits appropriately within the future desired character of the area.*
- *The greatest extent of the proposed height variations is the result of lift overruns which provide access to a roof top common open spaces. As a result of the roof top common open space, the proposal provides common open space which is the equivalent of 40.8% of the site area which significantly exceeds the minimum 25% requirement. In addition, the roof top areas enjoys excellent amenity as a result of district views and generous solar access.*
- *The proposed development provides ADG compliant separation from the adjacent properties (or sufficient privacy measures), such that the proposed variation in height does not result in any adverse privacy impacts to adjacent properties.*
- *There are no public open space areas affected by the proposal and the proposed variation to the height control, noting that the proposal complies with Section 6.7 of Part D Section 19 of the THDCP in that the development does not create additional overshadowing of land identified for public open space between the hours of 11am-2pm on 21 June.*
- *The proposed development is consistent with the objectives of the standard on the basis that the proposed height is compatible with the existing and future scale of the surrounding buildings and will sit comfortably with the context of the site with no significant adverse impacts to adjacent properties.*
- *The proposal has elected to adopt the larger apartment sizes encouraged by the LEP bonus FSR provisions. These larger apartment sizes are significantly larger than the minimum SEPP 65 requirement and the Council have strongly advocated for these larger apartment sizes as highly desirable in order to meet the specific requirements of the Hills Shire community. Notwithstanding that there is a bonus FSR permitted by the THSLEP for the provision of the larger apartments, there is no corresponding relief provided in relation to the height control. Strict compliance with the height control in this instance would discourage the provision of the larger apartments, contrary to the Council's objective for larger apartments and an appropriate mix.*
- *The proposed development provides for a scale to each adjacent street generally as anticipated by the DCP. Whilst there are some components of the development which are 7 storeys in scale, these are an appropriate response to the context of the site and also the scale that has recently been supported by Council directly opposite the site. In*

addition, the proposal has deliberately reduced the scale for the elements along the southern edge of the site in order to achieve a more sensitive transition in scale to the lower height on the adjacent site. Therefore the proposal provides for a compatible outcome with the forthcoming context of the site notwithstanding the height non-compliance.

Comment:

Pursuant to Clause 4.6(2) of LEP 2019, consent may be granted for development even though the development would contravene a development standard prescribed by an environmental planning instrument. The maximum building height is not expressly excluded and thus the clause can be applied in this instance.

The specific proposed building heights for each building is summarised in the table below:

Building	Building Height Development Standard	Maximum Height from Existing Ground Level	Proposed Height Exceedance and Extent of Variation
Building A1	21 metres	26.13 metres	5.13 metres (24.4%)
Building A2	21 metres	25.14 metres	4.14 metres (19.7%)
Building B1	21 metres	25.46 metres	4.46 metres (21.2%)
Building B2	21 metres	26.05 metres	5.05 metres (24%)
Building B3	21 metres	26.57 metres	5.57 metres (26.5%)
Building B4	21 metres	23.78 metres	2.78 metres (13.2%)
Building C	21 metres	<21 metres	Nil

Pursuant to Clause 4.6(4)(a) of LEP 2019, consent can only be granted if the consent authority is satisfied that the applicant's written request to vary the development standard has addressed the criteria of Clause 4.6(3). The application is supported by a detailed submission addressing the provisions of Clause 4.6 of LEP 2019 (refer to Attachment 16). The submission is considered regarding the criteria of Clause 4.6(3) of the LEP, as follows:

- *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

In accordance with the NSW LEC findings in the matter of Wehbe v Pittwater Council, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard. The objectives of Clause 4.3 Height of Buildings of the LEP are:

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

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 because of the significant fall of approximately 6m from Ashford Avenue to Middleton Road and the flooding

constraints on the land which requires the finished floor levels of the residential buildings to be above the 100-yr ARI flood level. Notwithstanding this, the variation to the height standard will not cause adverse impacts on the amenity of adjoining properties with respect to overshadowing, privacy, view loss and perceived bulk and scale. The largest variation to the height standard occurs to Building B, where Building B3 comprising a 5.57 metre (26.5%) variation and Building B2 with a 5.05 metre (24%) variation. This relates to stair roof access to communal open space and lift overruns/plant services. Similarly, the largest variation to Building A comprising a 5.13 metre (24.4%) variation relates to a lift overrun. Whilst a portion of the habitable floor areas of the buildings A and B exceed the maximum height plane, the portion of these buildings are setback approximately 4m from the building façade and not immediately to the south of the development. The buildings directly adjoining the southern property boundaries are only four to five storeys in height which is approximately one to two storeys below the maximum height standard permitted on the site. These buildings are set back between 6 metres to 7.5m from the southern property boundaries. This provides an appropriate transition to the adjoining R3 Medium Density zone and would result in a reduction of overshadowing impacts compared to a scheme that fully complies with the height standard along the southern property boundary.

This, together with the generous front and upper-level setbacks, the well-articulated design is considered to integrate with the form of the building when viewed from the streetscape.

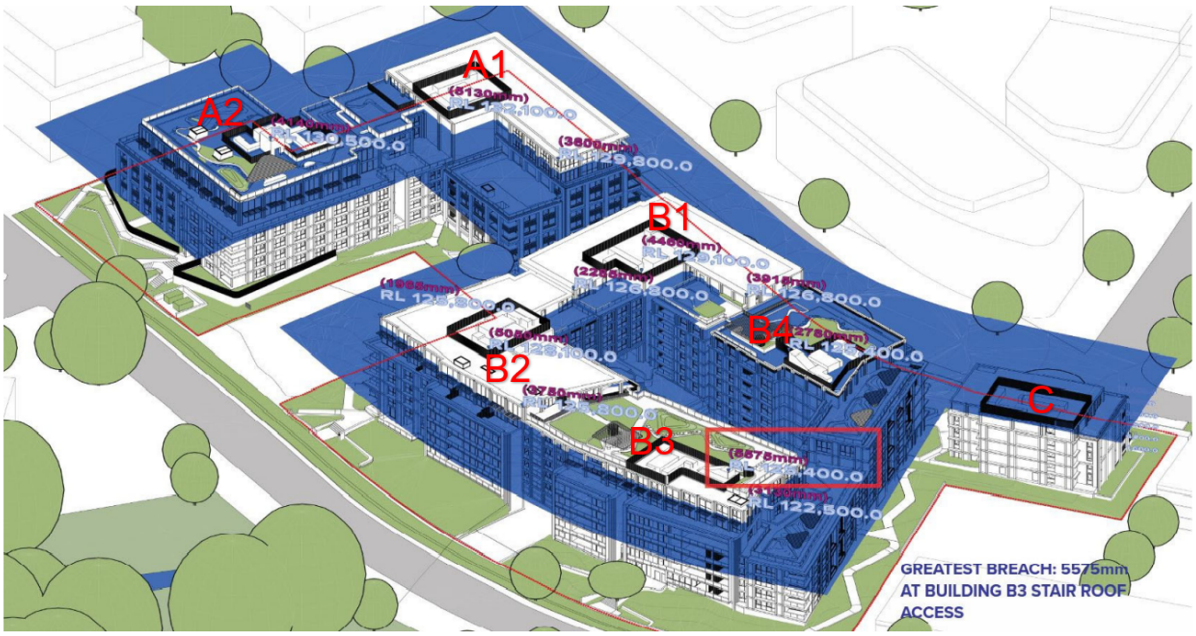

Figure 2: Image indicating extent of height exceedance

The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints, being within walking distance to Showground Station, complies with FSR standards for the site and is compatible with the future scale and character envisaged for the Showground Station Precinct. This is consistent with the objectives of the R4 High Density zone which encourages high density residential development in locations that are close to population centres and public transport routes.

The applicant's written submission has satisfactorily demonstrated that the proposal will achieve consistency with the objectives of the building height development standard, and as such strict compliance is considered to be unreasonable and unnecessary in the circumstances of this application.

- *That there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant's submission states that the elements of the development which exceed the maximum building height will not result in unreasonable impacts on the built environment or the amenity of nearby properties and is consistent with a seven-storey development concept proposal approved opposite the site under 1262/2019/JP. It is considered that the proposal will not be unreasonably impacted in respect to overshadowing, noting that a four to five storey element for the development has reduced the overshadowing impacts along the southern edge of the development. The building height non-compliance allows for a higher level of amenity for roof top access to common open space areas which are approximately 40% of the site area which is well above the minimum Apartment Design Guide design criteria of 25%. The proposed development demonstrates a high quality outcome for the site, which has the capacity to accommodate larger units in accordance with the strategic direction of the Showground Precinct with full compliance with the housing diversity provisions for incentive FSR under Clause 9.7 of the LEP.

It is considered that the applicant's justification for non-compliance satisfactorily demonstrates that there are sufficient environmental planning grounds to justify contravention of the maximum building height development standard. It is considered that the applicant's written request has satisfactorily addressed the requirements under Clause 4.6(3) of LEP 2019.

Under the provisions of Clause 4.6(4) of LEP 2019, consent must not be granted to a proposal that contravenes a development standard unless that proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is to be carried out. The Clause 4.6 written submission has demonstrated that the objectives of the standard are achieve as addressed above.

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 R4 High Density 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.

Pursuant to Clause 4.6(4)(b) of LEP 2019, development consent must not be granted to a development that contravenes a development standard unless the concurrence of the Secretary has been obtained. In accordance with Planning Circular PS18-003 (dated 21 February 2018) issued by the NSW Department of Planning, the Secretary's concurrence may be assumed in this instance as the application relates to a development standard within an EPI that adopts Clause 4.6 of the Standard Instrument.

ii) Clause 9.5 – Design Excellence

Clause 9.5 of LEP 2019 states the following:

(1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.

(2) This clause applies to development involving the erection of a new building or external alterations to an existing building on land within the Showground Station Precinct.

(3) Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

(4) 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 in the development control plan referred to in clause 9.4,
(e) the requirements of the development control plan referred to in clause 9.4,
(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 impact on any special character area,
(xii) achieving appropriate interfaces at ground level between the building and the public domain,
(xiii) excellence and integration of landscape design.

(5) In addition, development consent must not be granted to development to which this clause applies unless:
(a) if the development is in respect of a building that is, or will be, higher than 21 metres or 6 storeys (or both) but not higher than 66 metres or 20 storeys (or both):
(i) a design review panel reviews the development, and
(ii) the consent authority takes into account the findings of the design review panel, or
(b) if the development is in respect of a building that is, or will be, higher than 66 metres or 20 storeys (or both):
(i) an architectural design competition is held in relation to the development, and
(ii) the consent authority takes into account the results of the architectural design competition.

(6) Subclause (5) (b) does not apply if:
(a) the NSW Government Architect certifies in writing that an architectural design competition need not be held but that a design review panel should instead review the development, and
(b) a design review panel reviews the development, and
(c) the consent authority takes into account the findings of the design review panel.

As the proposed residential flat building exceeds 21 metres and 6 storeys, but is not higher than 66 metres or 20 storeys, the proposal is required to be reviewed by the Design Review Panel, and the consent authority is required to take into account the findings of the design review panel.

Comment:

The Design Review Panel (DRP) first considered the proposal under a previous Development Application 406/2020/JP lodged on 26 September 2019 for a 5 to 8 storey residential flat building development. The DRP reviewed this previous application on three occasions and found that the proposal did not exhibit design excellence. In particular, the Panel raised concern about the sites immediate context including the approved development to the east under DA 1262/2019/JP and the lower density R3 zone to the immediate south of the site. The DRP was "*not convinced that the proposed 8 storey-built form integrates successfully into a zone designated in the DCP to be a maximum of 5-6 storeys in height*" or that "*the proposed transition to the southern 3-storey R3 precinct is consistent with planning controls*". Refer below images for previous design.

Figure 3: Previous proposal DA 406/2020/JP Site Plan

Figure 4: Previous proposal DA 406/2020/JP Perspective from Hughes Ave

Figure 5: Previous proposal 406/2020/JP Perspective from Middleton Ave

Due to the significant concerns raised, the previous application was withdrawn.

The Applicant engaged a different architect (Turner architects) for the subject application. Several massing studies were undertaken by Turner Architects and the recommendations made by the Council's Design Review Panel at the pre-lodgement stage were also implemented into the subject application.

The Design Review Panel reviewed the subject application on 26 May 2021. At this review, the Design Review Panel commended the design team for meaningful and progressive amendments to the scheme in response to the Design Review Panel's previous comments however noted that there remained outstanding issues that needed to be addressed to achieve design excellence. Recommendations were made in the Design Review Panel report. Refer Attachment 17. A detailed response was provided by the Applicant. Refer Attachment 18. A summary of the key recommendations by the DRP and the Applicant's response are detailed below.

Key recommendations made by the DRP:

1) The DCP primary and secondary setback non-compliances should be revised to ensure sufficient residential amenity and that the desired future character of the showground precinct and the garden shire identity is retained. The applicant has not provided a sound urban design justification for this non-compliance.
2) The non-compliant building lengths, non-compliant wall height to the street frontage and the lack of diversity of articulation in the street frontage façade as per DCP controls present a development that is massive in bulk and scale.
3) The Panel noted that the diversity in architectural articulation previously presented appeared to be substantially diminished or lost during the design development process. The upper levels' dark material facing Middleton, its similarity to the lower portions of the building and in some cases complex edges on the skyline, add to the reading of the overall mass as one building and do not diminish visual bulk or building length.
4) Adequate built form separation, visual privacy, acoustic amenity, and solar access compliance appears to be a problem with a few apartments. This requires ongoing design resolution.
5) The isolated site has a considerable impact on site planning and the ability to achieve the maximum FSR whilst retaining appropriate residential amenity. The Panel also acknowledges that the applicant has made persistent but ultimately unsuccessful attempts to secure the missing site.
6) The applicant presented several apartments as having planter boxes to establish a garden façade. The Panel endorses the provision of natural landscape treatments to all elements of the development but advises that appropriate maintenance measures, access to water, ease of access to the planter for self-maintenance by residents and adequate waterproofing of the planter box and balcony areas be provided.

7) The Panel recommends that all larger sized apartments be mapped on the documents for Council Officers to clearly identify compliance.
8) The submitted arborist report removes almost all trees in both street setbacks. Efforts should be made to retain as may trees in the setback as possible. The Panel recommends the following trees be retained and the paths and landscaping detail be arranged about the trees: Tree 11, 48, 38, 34, 35, 59, 60 and 82.
9) The new landscape design creates much more green front courtyards to the dwellings. This approach is supported. Attention is required to ensure that fences and walling do not restrict opportunities for tree planting. One or two large trees should be accommodated in each yard frontage. The proposed Blueberry Ash do not provide the scale required for the building.
10) The central courtyard is dominated by circulation paths. More opportunities for amenity and useable spaces should be provided in the central yard. The access walkway immediately south of Lot 9 appears to be restricting tree planting in this area. Reconsider the layout of the walkway in this area to allow additional tree planting and additional useable amenity / informal seating areas.
11) The rooftop communal spaces are a great asset to the proposal. Effort should be made to ensure that amenity is provided for all ages to the communal spaces. Small scale play spaces should be integrated to the communal spaces and in particular the rooftop landscapes.

The following response has been provided by the Applicant:

1) The DCP setback and height requirements are typically adhered to. Variations to this are consistent with the approval for the masterplan for the site on the opposite side of Hughes Avenue under DA1262/2019/JP where the 'shoulder' of the building has been increased from 4 storeys to 6 storeys, and the main portion of built form has been increased from 6 storeys to 7 storeys. The proposal for the subject site is consistent with this contextual benchmark. While the proposal incorporates minor encroachments into the Hughes Avenue setback and height plane, there are also many elements of the built form that have setbacks and built form height reductions that well within the controls to respond to contextual and amenity requirements. The minor encroachments are therefore not a requirement of FSR so much as a balance in reducing volume elsewhere on the site to provide a well-considered overall design approach.

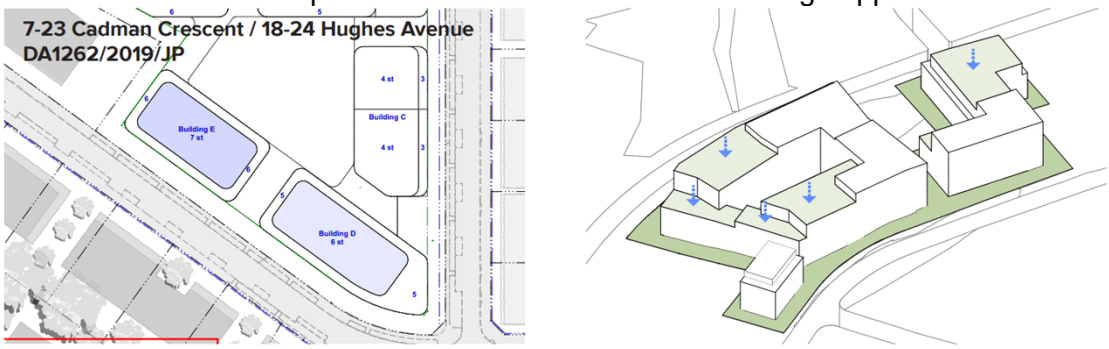

Figure 6: Diagrams demonstrating a balanced approach to adjoining development

2) All façade lengths are compliant with the 40m maximum façade length required under the DCP. Refer figure below.

Figure 7: Diagram demonstrating compliance with maximum 40m facade length control

The overall building length of B2 and B3 is part of the natural curve of the road so that only fragments are seen at the same time. It is strongly articulated with the 'Gardenside' and 'Parkside' façade types. The vertical elements of Parkside are particularly strong break elements to denote separate building forms. Further breaks have been incorporated at roof level to reduce the feeling of façade length and mass. The gaps between Buildings B1, B3 and C have been increased to provide a greater level of articulation.

3) The material of the building has been revised and the brickwork to 'Gardenside' has been amended from dark grey to blonde brick, the dark grey of the roof elements have been lightened and the form of the roof elements facing the park have been simplified and given clearer breaks to reduce the overall feeling of mass to Middleton Avenue and to break the façade into smaller parts. Refer perspectives below:

Figure 8: Left: Previous external finishes scheme. Right: Updated external finishes scheme

Figure 9: Left: Previous external finishes scheme. Right: Updated external finishes scheme

4) The geometry of Building B1 has been adjusted to increase the distance between Building A1 and B1. The configuration of apartments in Building A1 have also been amended so that the bedroom that was previously facing B1 is now facing the open courtyard. All habitable rooms are now compliant with the ADG separation distances.
5) The following diagram outlines that the layouts and built form of the neighbouring site at 42 Middleton Avenue have been considered and that amenity is afforded to it by way of solar access.

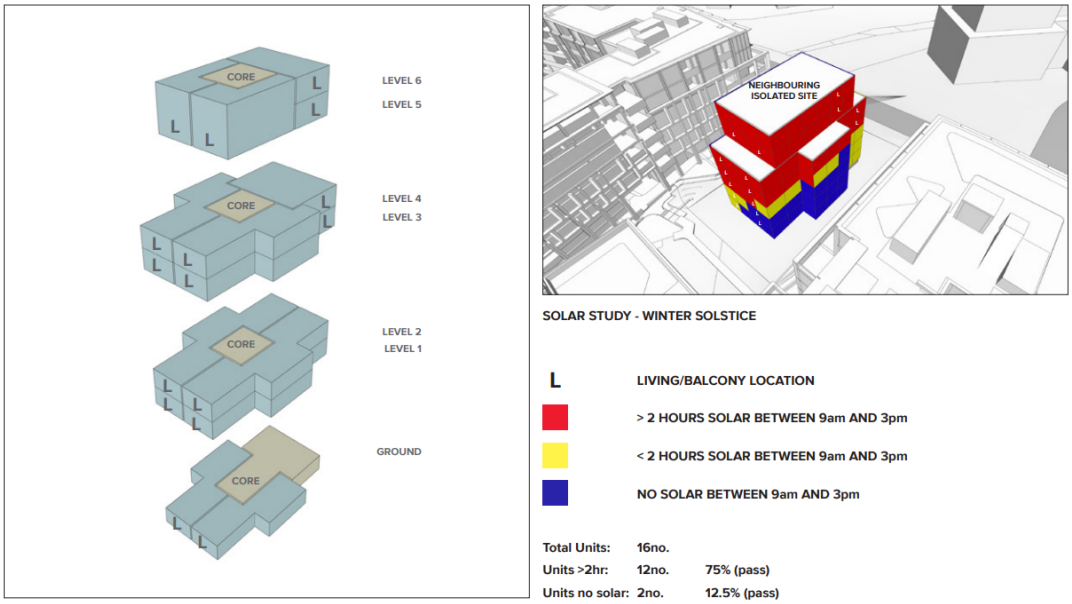

Figure 10: Diagram indicating solar access to isolated site

6) Section 4.7 of the revised Landscape report details the maintenance guidelines including a maintenance schedule, shrub pruning and trimming, turf maintenance, fertilising, soil improvement and pest control and mulching and weeding. The Applicant indicates that maintenance measures and other technical details with the planter boxes will be provided with the CC submission. It is also noted that condition 41 is recommended in the development consent requiring planter boxes to comprise the following minimum soil depths: 1.2m for large trees or 800mm for small trees; 650mm for shrubs;300-450mm for groundcover; and 200mm for turf.
7) Drawings DA-840-010, DA-840-011 and DA-840-012 have been provided demonstrating that the development complies with the housing diversity provisions including larger apartment sizes as required under Clause 9.7 of the LEP.
8) An amended landscaping report has been providing indicating that efforts have been to retain as many trees in the street setbacks as possible. An amended Arborist report and landscape plans have been provided indicating the majority of trees can be retained as recommended including trees 34 *Melaleuca quinquenervia,* 35 *Citharexylum spinosum*, 38 *Sapium sebiferum,* 59 *Jacaranda mimosifolia*, 60 *Jacaranda mimosifolia* and 82 *Cupressus spp.* However, tree 11 Eucalyptus saligna contains extensive decay within base of trunk and tree 48 Lophostemon confertus is not viable for retention due to encroachment within the Tree Protection Zone by the proposed development works. Fencing and walling details have also been submitted demonstrating that these structures have been integrated into the landscape design.
9) The amended landscape design ensures larger trees are integrated into the scheme. The planting plan indicates that large trees including brush boxes are provided in the front courtyards of dwellings facing Hughes Avenue. See below figure for typical private terrace detail.

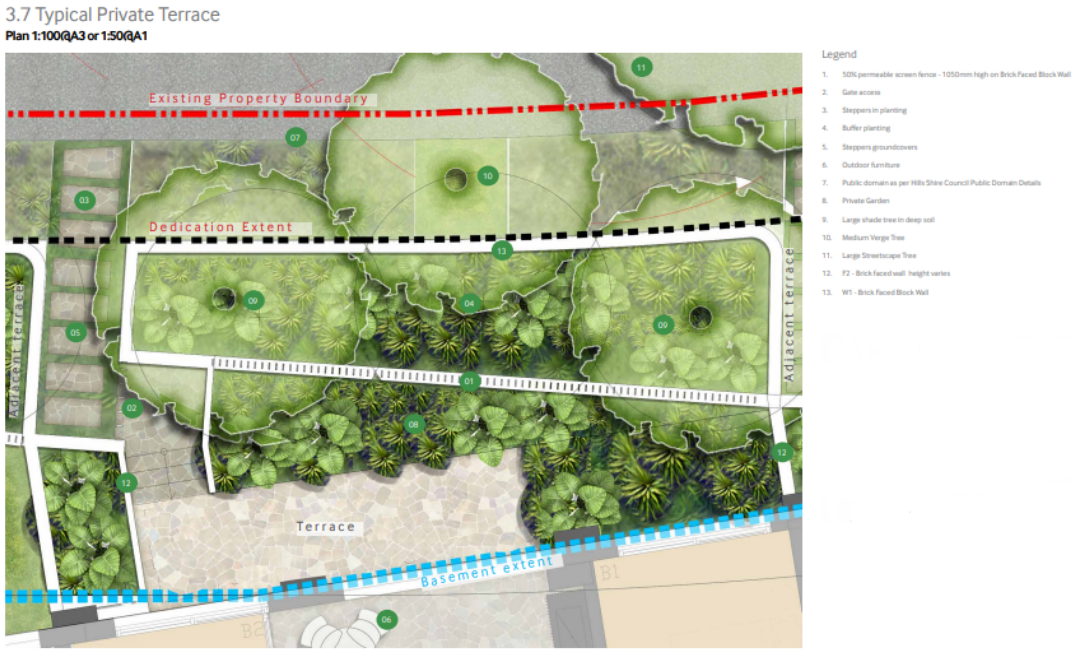

Figure 11: Typical Private Terrace detail

10) A response has been provided by the Landscape Architect indicating that the central courtyard provides a passive recreation space for all residents with opportunities for informal quiet seating areas, safe informal play spaces for children, discovery play elements nestled in fern gardens, natural elements such as water and planting, nature play for children and an urban oasis reducing the heat island effect. The central courtyard also provides dense planting allowing internal facing apartments to connect to nature and have a view out to the tree canopy. Refer figure below.

Figure 12: Central Courtyard Detail Plan

11) An amended landscape programming plan has been provided by the Applicant indicating amenity is provided for all ages including small scale play spaces being integrated to the roof top communal space landscapes.

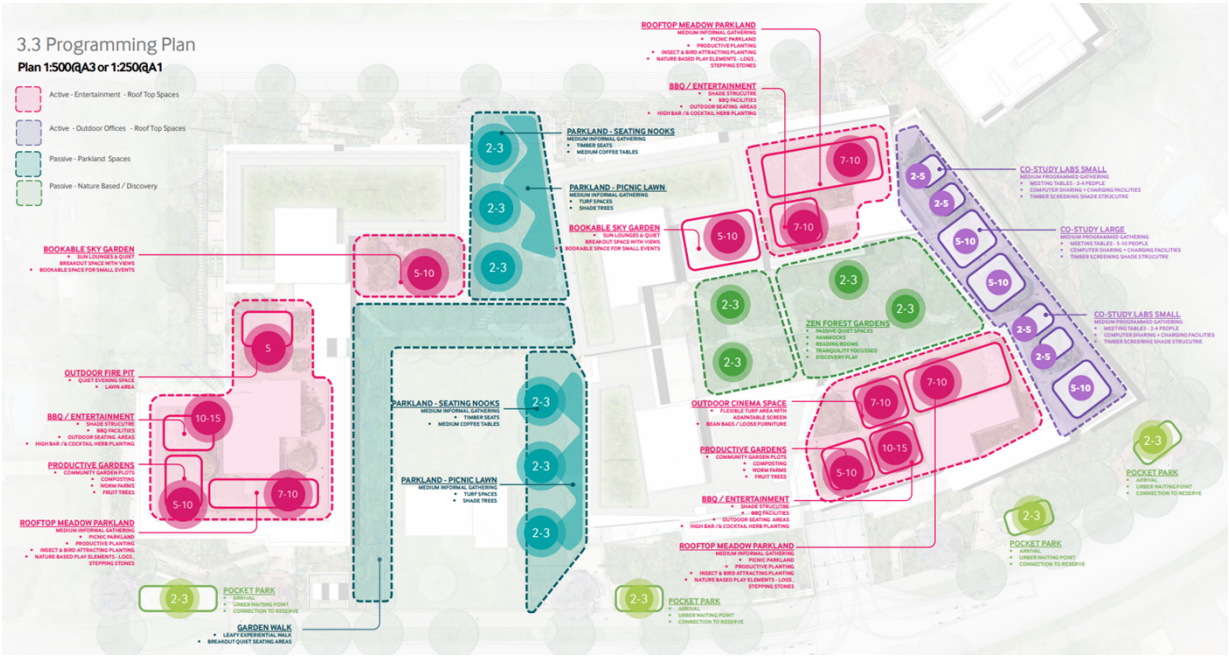

Figure 13: Programming Plan for Communal Open Space Areas

The other matters required to be addressed under Clause 9.5 have been assessed as satisfactory by the Design Review Panel or addressed in other sections of this report. It is considered that the proposal satisfies Clause 9.5 of the LEP.

iii) Clause 9.7 – Residential Development Yield on Certain Land

Clause 9.7 of LEP 2019 enables the application of a bonus FSR that does not exceed the FSR identified on the Floor Space Ratio Incentive Map to development that contain dwellings on a lot that is within the Showground Station Precinct and has an area of 10,000m², if the development meets a certain unit mix, diversity and car parking requirements.

The proposal comprises a consolidated site area of 12,333m² exceeding the minimum site area requirements within the Showground Station Precinct and meets the unit mix and diversity and car parking requirements as demonstrated in the below table:

APARTMENT MIX	REQUIRED	PROPOSED	COMPLIANCE
Maximum of 25% of dwellings (to the nearest whole number of dwellings) to be studio or 1 bedroom dwellings	Maximum 66 dwellings to be studio or 1 bedroom dwellings	Satisfactory – 24.9% or 65 x 1 bedroom dwellings are proposed	Yes
Minimum 20% of dwellings (to the nearest whole number of dwellings) to be 3 or more bedroom dwellings	Minimum 53 dwellings to be 3 or more bedroom dwellings	Satisfactory – 20.3% or 53 x 3 bedroom dwellings are proposed	Yes
Minimum 40% of 2 bedroom dwellings will have a minimum internal floor area of 110m²	Minimum 58 dwellings to have a minimum internal floor area of 110m²	Satisfactory – 44% or 63 x 2 bedroom dwellings will have a minimum internal floor area of 110m²	Yes
Minimum 40% of 3 bedroom dwellings	Minimum 22 dwellings to have a	Satisfactory – 52.8% or 28 x 3 bedroom	Yes

will have a minimum internal floor area of 135m^2	minimum internal floor area of 135m^2	dwellings will have a minimum internal floor area of 135m^2	
Minimum 1 parking space per dwelling, minimum 1 visitor car parking space for every 5 dwellings	261 dwellings proposed, minimum 314 spaces required	Satisfactory – 314 spaces comprising 261 residential car parking spaces and 53 visitor car parking spaces proposed.	Yes

iv) Clause 9.8 Maximum Number of Dwellings

Clause 9.8 of the LEP prescribes the following:

> *The consent authority must not grant development consent to development that results in more than 5,000 dwellings on land within the Showground Station Precinct.*

261 new dwellings are proposed under the subject Development Application. If this application is approved, the total number of dwellings (inclusive of existing, new and dwellings approved under Complying Development Certificates) within the Showground Precinct would be 4,457 dwellings which complies with the above Clause. It is noted that the Panel will be considering another Development Application within the Showground Station Precinct under DA 488/2021/JP for 772 new dwellings. Approval of both applications would result in 5,229 dwellings.

On 2 November 2022, the Department of Planning and Environment wrote to the Sydney Central City Planning Panel Chair advising as follows:

> *The purpose of the dwelling cap within the LEP is to ensure the precinct's growth is aligned with local and state infrastructure. The Department has been in discussions with School Infrastructure NSW and Transport for NSW regarding the infrastructure needed to support the development of the precinct. It has been determined that additional work is required to assist in these discussions.*
>
> *To address the immediate need of granting consent to development applications where these may exceed the dwelling cap, while not compromising on the serviceability of infrastructure, the Department is proposing a two staged approach. The Department will implement an interim measure, clarifying the cap only applies to new dwellings (not the dwellings that were existing in the precinct when it was rezoned) and does not apply to concept development applications via an expedited amendment (Section 3.22) to the LEP. It is anticipated the expedited amendment will be in place by 8 December 2022. The Department will consider the preparation of a SEPP amendment to remove the dwelling cap when satisfied that appropriate infrastructure has been planned for the precinct. This approach addresses the immediate need to ensure there is capacity for additional development applications to be approved in the precinct while allowing time for further work and consultation to be undertaken.*

The amendment to the Clause has not yet occurred at the date of this report. However, if the above amendments were implemented, approval of the subject application would result in 2,344 new dwellings (exclusive of existing and concept development applications) within the Showground Station Precinct.

v) Clause 5.21 Flood Planning

Clause 5.21 Flood Planning of the LEP prescribes the following:

(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

(a) is compatible with the flood function and behaviour on the land, and
(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
(d) incorporates appropriate measures to manage risk to life in the event of a flood, and
(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

(a) the impact of the development on projected changes to flood behaviour as a result of climate change,
(b) the intended design and scale of buildings resulting from the development,
(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

The objectives of this clause are as follows:

- *to minimise the flood risk to life and property associated with the use of land,*
- *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Comment:
The Development Application has demonstrated that the following flood planning provisions under this Clause have been satisfied:

(2)(a) is compatible with the flood function and behaviour on the land

The site is identified as flood prone land as it is located adjacent to Cattai Creek and all water run-off from the large catchment upstream flows into the creek. An overland flow path exists along the south eastern boundary of the site and flooding occurs due to insufficient in-ground drainage infrastructure. The existing flood extent is depicted in the below maps. Without upgrades to the existing drainage infrastructure, the flood extent will be exacerbated by an increase in residential density as envisaged with the rezoning of the Precinct.

The Applicant has submitted a hydrological model (DRAINS) of the local catchment which estimates the runoff during the 10% AEP, 5% AEP and 1% AEP critical storm bursts. A local hydraulic model (TUFLOW) of the floodplain was also submitted which converts the catchment runoff into 10% AEP, 5% AEP and 1% AEP flood levels, depths, velocities and flood hazard categories under existing and future conditions.

Figure 14: Existing Conditions 1% AEP Flood Level

Figure 15: Future Conditions 1% AEP Flood Hazard Categories

The information provided demonstrates that subject to appropriate design and mitigation methods, the proposal could be compatible with the flood function and behaviour on the land. Council's Engineering and Waterways sections have reviewed the information submitted and are satisfied that subject to conditions, the proposal would be compatible with the flood function and behaviour on the land.

(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties

A flood impact assessment has been provided with the application that demonstrates that the proposed flood levels, flood velocities and flood hazards, particularly along the overland flow path will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affection of other downstream development or properties.

(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood

A Flood Emergency Response Plan has been submitted with the Development Application. This Plan provides an evacuation strategy, measures and procedures and a flood safe plan that demonstrates that the proposal will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.

(d) incorporates appropriate measures to manage risk to life in the event of a flood

As above, a flood impact assessment and flood emergency plan has been provided to address the risk associated. Occupants most at risk during major storm events would be residents and/or visitors within the communal open space areas along the eastern end of the site. Residents in Building C and in Building B adjacent to the public through site link are also indirectly at risk. Appropriate measures have been recommended to manage risk to life in the event of a flood. Compliance with the flood emergency response plan is reinforced by condition 35 in the development consent.

(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Subject to recommended conditions 50, 73 and 78, the proposal will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of Cattai Creek.

3(a) the impact of the development on projected changes to flood behaviour as a result of climate change

As above, pre and post development flood modelling and a flood impact assessment has been provided to determine if the development will impact flood behaviour because of climate change.

(b) the intended design and scale of buildings resulting from the development

The design and scale of the buildings are consistent with the rezoning of the Precinct. Proposed Building B2/B3 comprises a finished floor level of RL 100 and Building C comprises a finished floor level of RL 101.6, which are both above the Flood Planning Level (FPL) which is set 0.5m above the 100-yr ARI flood level. This meets the provisions under the DCP, Part C Section 6 Flood Controlled land and is reinforced by condition 34 in the development consent. In addition, whilst the overland flow path is located within the pedestrian through site link, the level of the path is elevated above the 1% AEP flood level. Further, condition 36 Flood Protection Requirement is recommended in the development consent to ensure that all structural elements below the flood planning level is designed and constructed with the principal set out in the publication “Reducing Vulnerability of Buildings to Flood Damage – Guidance on Building in Flood Prone Areas” published by the NSW Government Safety for pedestrians, condition 57i) is recommended requiring 1.2m high non climbable fence be installed along this elevated walkway.

(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood

As above, a flood impact assessment and flood emergency response plan has been provided which incorporate measures to minimise the risk to life and would ensure the safe evacuation of people in the event of a flood.

(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

The potential to modify the buildings resulting from development if the surrounding area is impacted by flooding could occur subject to modification to the development consent, pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979.

Overall, the proposal has demonstrated that appropriate and sufficient flood and stormwater measures have been considered to ensure no adverse flooding impacts result from the proposal. Accordingly, the subject proposal is satisfactory in relation to the provisions of Clause 5.21 of the LEP.

vi) Other Provisions

The proposal has been considered against the following provisions of the LEP:

- 2.7 Demolition requires development consent,
- 5.9 Preservation of trees or vegetation,
- 6.2 Public utility infrastructure, and
- 7.2 Earthworks.

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

5. Compliance with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The required Design Verification Statement was prepared by James McCarthy of Turner Architects (registration number 10759).

a) <u>Design Quality Principles</u>

The Development Application has been assessed against the relevant design quality principles contained within SEPP No. 65 as follows:

Principle 1 – Context and Neighbourhood Character
The proposal is compatible with the desired context and neighbourhood character of the Showground Station precinct. The proposal seeks to respond to and contribute to the desired future character Showground Station precinct which is to become an attractive and well-connected neighbourhood that achieves housing targets, creates vibrant, safe and desirable places, reinforces the garden shire character and lifestyle, and is supported by necessary infrastructure. The subject development is located within a R4 High Density Residential zone. The future desired character for residential areas are to be green and walkable, providing a lifestyle alternative to the traditional suburban context, focused highly on an appropriate scale and an attractive environment for pedestrians. The proposal has addressed comments made by Council's Design Review Panel and it is considered that the amended proposal provides an attractive streetscape presentation, generous apartment sizes and a diverse unit mix within a highly landscaped setting which reinforces the garden shire character and lifestyle. In this regard, the proposal is compatible with the desired neighbourhood character of the Showground Station precinct.

Principle 2 – Built Form and Scale

The site is located within the Showground Station Precinct for future high density residential flat buildings. The proposal complies with the LEP standards including the maximum height and floor space ratio for the site. The bulk and scale of the development is generally consistent with the built form controls specified in the site specific DCP and the recommendations made by the Design Review Panel have been incorporated into the design. The variety of finishes along the elevations and layering of façade elements assist in creating an expressive street frontage which enhances the development's relationship with the public domain.

Principle 3 – Density
The proposed development will deliver 261 new apartments across seven buildings. The building contains a diverse mix of 1, 2 and 3 bedroom apartments, including Apartment Design Guide compliant and larger 'family friendly' sized apartments as required under Clause 9.7 of the LEP. The proposal also complies with the incentive FSR provisions under the same Clause under the LEP. The development is located within close proximity to the Showground Metro Station, future business precinct, shops and services and the density proposed is suitable for the site.

Principle 4 – Sustainability
The design achieves natural ventilation and solar access as required by the Apartment Design Guide. The incorporation of insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

Principle 5 – Landscape
The landscape plan indicates that all open spaces including ground floor areas will be appropriately landscaped with native trees and shrubs to provide a high quality finish. The proposed landscaping integrates with the overall appearance of the development. The communal open space area has been designed as a focal points within the development. In particular, the common open space area within Building B is centrally located. The rooftop communal open space areas will receive good solar access throughout the day and year and have been designed to provide opportunities for both informal and formal gatherings. The mix of hard paved areas and open lawn and green space in the common area has been carefully considered.

Principle 6 – Amenity
The building design has been developed to provide for the amenity of the occupants as well as the public domain. The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas and laundries have been provided for each unit. The proposal would provide convenient and safe access to lifts connecting the basement and all other levels.

The Communal Open Space will incorporate active and passive components, creating opportunities for the residents to interact as well as spaces for quiet enjoyment of the communal space/facilities. A children's play area, barbeque facilities, open lawns and benches are distributed for the enjoyment of all residents.

Principle 7 – Safety
All buildings address the street and the location of communal open space areas and pedestrian paths and through site links would assist with passive surveillance. The proposed communal open spaces are accessible, usable, and safe. All entry points to the development will be accessed via the public domain. The residential ground floor apartments fronting

Hughes Avenue will have individual gates and entrances accessed directly from the street. The main entry and control points for visitors to the buildings are provided via intercom at the street frontages. Basement carpark access will be strictly secured and controlled via intercom and roller shutters separating visitors and residents.

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

Principle 8 – Housing Diversity and Social Interaction
Communal open space is designed to cater for various activities appropriate for the demographic of the area, a multicultural community with predominantly young families and elderly people. 10% of all apartments are adaptable. Landscape areas are provided with the anticipation to cater for a diverse range of occupants. Informal play spaces, a pocket parks, garden walk pathways, barbeque areas, outdoor fire pits, productive gardens, picnic lawns, cinema screens on the rooftop garden and co-study labs are spread across the development for equitable access.

Principle 9 – Aesthetics
The built form is well articulated and modulated, with a contemporary and elegant design and is consistent with the desired future character of the Showground Precinct. The development was reviewed by Council's Design Review Panel who provided recommendations which have generally been incorporated to the amended development proposal. The materials include solid, masonry walls that are consistent with the existing housing stock, as well as lightweight cladding at the roof levels that will provide a counterpoint and layering of composition.

b) <u>Apartment Design Guide</u>

In accordance with Clause 30(2) of SEPP 65, a consent authority in determining a Development Application for a residential flat building is to take into consideration the Apartment Design Guide. The following table is an assessment of the proposal against the Design Criteria provided in the Apartment Design Guide.

Clause	Design Criteria	Compliance
Siting		
Communal open space	Minimum 25% of the site area. For a site area of 12,025m², a minimum of 3,007m² is required.	Yes. 33% of the development site area (3,980m^2) is provided for communal open space. The proposal also provides supplementary rooftop terraces on Buildings A and B.
	Minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours mid-winter.	No. The ground level communal open space areas to the south east of Building A1 and the central courtyard within Building B, is considered the principal useable part of the communal open space and is predominantly overshadowed throughout the day and does not achieve the required solar access. However, the principal usable part of the roof top communal open space areas on the rooftops of Building A and B will receive at least 50% direct sunlight for 2 hours during midwinter.

		Refer to discussion below.
Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m^2 and 15% for sites greater than 1500m^2.	Yes. Approximately 16% of the development site area 1,883m² is true deep soil zones as defined within the ADG.
Separation	For habitable rooms, 12m (6m to boundary) for 4 storeys, 18m (9m to boundary) for 5-8 storeys and 24m (12m to boundary) for 9+ storeys	No. The proposal provides adequate privacy mitigation measures to ensure adequate amenity is achieved. Refer to discussion below.
Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	Yes. The visual privacy of the development has been considered with the placement of windows and balconies. Screening devices and blade walls set at oblique angles, full height privacy screens and louvres have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties.
Car parking	Car parking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 39 0.9 spaces per 2 bedroom unit. 128.7 1.40 spaces per 3 bedroom unit. 74.2 1 space per 5 units (visitor parking). 52.2	Yes. The site is located within 700m of the Showground Station. 294.1 spaces would be required in accordance with the RMS rate. 314 spaces comprising 261 residential and 53 visitor car parking spaces are provided in accordance with the LEP and DCP provisions.
Designing the Building		
Solar and daylight access	1. Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter. 2. A maximum of 15% of apartments in a building	Yes. The proposed development will receive two hours direct solar access for 70% (183 of 261) of apartments between 9am and 3pm midwinter. Yes. There are 14.6% (38 of 261) of apartments

	receive no direct sunlight between 9 am and 3 pm at mid-winter.	that receive no direct sunlight between 9am and 3pm midwinter.
Natural ventilation	1. At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed. 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes. A total of 61.3% (160 of 261) of units will meet the cross ventilation requirements or can be naturally ventilated. Yes, all cross through apartments will not exceed an overall depth of 18m.
Ceiling heights	For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 30^0 minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.	Yes. Floor to ceiling height at least 2.7 metres for all apartments. N/A. N/A.
Apartment size	1. Apartments are required to have the following internal size: Studio – $35m^2$ 1 bedroom – $50m^2$ 2 bedroom – $70m^2$ 3 bedroom – $90m^2$ The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by $5m^2$ each. A fourth bedroom and further additional bedrooms increase the minimum internal area by $12m^2$ each.	Yes. No studios proposed 1 bedroom $52m^2$ – $62m^2$ 2 bedroom $76.5m^2$ – $116.9m^2$ 3 bedroom $95.5m^2$ – $151.8m^2$ Where additional bathrooms are proposed, an additional $5m^2$ has been provided. No four bedroom units proposed.

	2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Yes. All habitable rooms have windows with a glass area of greater than 10% of the floor area of the dwelling.
Apartment layout	Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height. In open plan layouts the maximum habitable room depth is 8m from a window. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts. Master bedrooms have a minimum area of $10m^2$ and other bedrooms $9m^2$ (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space). Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments and 4m for 2 and 3 bedroom apartments	Yes. No habitable room exceeds a maximum depth of 6.75 metres. No. 47 of 261 units (18%) exceed the maximum depth for the living areas (back of kitchen wall to window). However the proposal provides adequate amenity for the apartments. Refer to discussion below. Yes. All cross-through apartments achieve a minimum width of 4 metres. Yes. All bedrooms comply with the minimum area. Yes. All bedrooms comply with the minimum dimensions. Yes. All 1 bedroom apartments achieve the minimum 3.6 metres and all 2 and 3 bedroom apartments achieve the minimum 4 metre living/dining room width.
Balcony area	The primary balcony is to be: Studio – $4m^2$ with no minimum depth 1 bedroom – $8m^2$ with a minimum depth of 2m 2 bedroom – $10m^2$ with a minimum depth of 2m 3 bedroom – $12m^2$ with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of $15m^2$ with a minimum depth of 3m is required.	Yes. Yes. The development provides adequate useable private open space areas. It is noted that B3.G04, B3.G06 and B3.G07 are located on the first floor and meet the

		above provisions.
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight. However, where the design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes. Maximum of 10 units provided off a circulation core on a single level. N/A as proposal is less than 10 storeys.
Storage	Storage is to be provided as follows: Studio – 4m^3 1 bedroom – 6m^3 2 bedroom – 8m^3 3+ bedrooms – 10m^3 For the unit mix proposed, A total storage of 2,064m^3 required. At least 50% of the required storage is to be located within the apartment.	Yes. Storage schedule provided which demonstrates that adequate storage is provided within each unit and within the basement.
Apartment mix	A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	Yes. The apartment mix accords with the Clause 9.7 of The Hills LEP 2019 and is considered satisfactory.

i) <u>Communal Open Space – Solar Access</u>

The Apartment Design Guide requires that developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June. The principal useable part of the ground level communal open space is to the south east of Building A (approximately 905m²) and centrally located within Building B (658m^2). Due to the location of these ground level areas, being to the south east of Buildings A1 and B1/B4, it is not possible for the area to achieve the minimum 2 hours during mid-winter. See diagram below.

Figure 2: Plan indicating solar access to communal open space areas

Accordingly, the proposal does not meet the requirements of the Apartment Design Guide.

Comment:

The Apartment Design Guide provides the following objectives relating to common open space:

- *An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping,*
- *Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting,*
- *Communal open space is designed to maximise safety, and*
- *Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood*

The development provides supplementary useable common open space areas through the provision of landscaped roof top terraces on Buildings A and B. These common open space areas will achieve full solar access on June 21 and provide high-level amenity for residents of the development. Equitable access to all communal open space areas is also provided. In this regard, a variation to the design criteria is considered acceptable in this instance.

ii) Building Separation

The Apartment Design Guide requires that habitable rooms provide a 12 metre building separation between habitable rooms for 4 storeys, 18 metre separation for 5-8 storeys and 24 metre separation for over 9 storeys. The Guide also provides the following design guidance:

> *Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping.*

The proposal does not meet the above design criteria/guidance, with the following building separation distances proposed:

Buildings	Design Criteria/Guidance	Building Separation
Buildings A and B	18m (5-8 storeys)	12m (5 to 6 storeys) for Units A1.507/A1.607and B1.603/B1.703
Building A to 42 Middleton Avenue	9m to boundary (5-8 storeys)	6m (5th storey) for balconies of Units A1.501, A2.501, A2.502, A2.503 and A2.504 to the northern boundary of 42 Middleton Avenue
Building B to 42 Middleton Avenue	9m to boundary (5-8 storeys)	6.6m (5 to 7 storeys) for balcony of Units B1.501 and B2.506 to southern boundary of 42 Middleton Avenue
Building B3/B4 to south eastern boundary	9m to boundary (up to 4 storeys) for lower density zone	8m (up to 4 storeys) for all habitable rooms and balconies facing the south eastern boundaries
Building C to south eastern boundaries	9m to boundary (up to 4 storeys) for lower density zone	6m (up to 4 storeys) for all habitable rooms and balconies facing the south eastern boundaries

Table 1

The applicant has provided the following justification in support of the variation:

Between Building A and B
Various screening and window reconfiguration measures have been applied to the development to address these concerns.

To the isolated site – 42 Middleton Avenue
The identified apartment does not result in an unacceptable separation from the adjacent site as its interface is to the future rear setback area and not actual future building on the site. Apartment B2.506 looks past the rear of the future building.

Southern Separation
The southern adjacent site at 33 Hughes Avenue and 52 Middleton Avenue is located in a different zone which permits a lower density of development and the Design Guidance for Objective 3F-1 suggests that apartment buildings should have an increased separation distance of 3m when adjacent to a different zone that permits lower density residential development "to provide for a transition in scale and increased landscaping". However, the proposed development already provides for a transition in scale at the southern end of the development as the proposed building is generally only 4 storeys instead of the permissible 6 storeys which could be achieved under the height control along the southern edge. Notwithstanding that a transition is achieved within the site, the proposal still provides an increased separation distance of 1.5 metres above the minimum ADG requirement which further assists in achieving a sensitive transition to the adjacent lower density sites, as well as increased landscaping at this interface. Accordingly, the proposal has achieved the objective of the suggested increased separation distance at the interface with a lower density zone.

Comment:

The Apartment Design Guide provides the following objective relating to building separation:

- *Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual amenity.*

Whilst most habitable rooms and windows meet the building separation distances as required under the Apartment Design Guide, several balconies/habitable room windows in upper-level units between Buildings A and B and from Buildings A and B to a future development at No. 42 Middleton Ave do not meet the design criteria of the Apartment Design Guide (as detailed

in Table 1). Notwithstanding, all relevant balconies and windows are angled or will be conditioned to contain privacy mitigation measures such as privacy screens to minimise direct overlooking (refer Condition 1). Condition 1 recommends that all balconies facing No. 42 Middleton Avenue that encroach within the required ADG design criteria will require the installation of 1.8m high privacy screens.

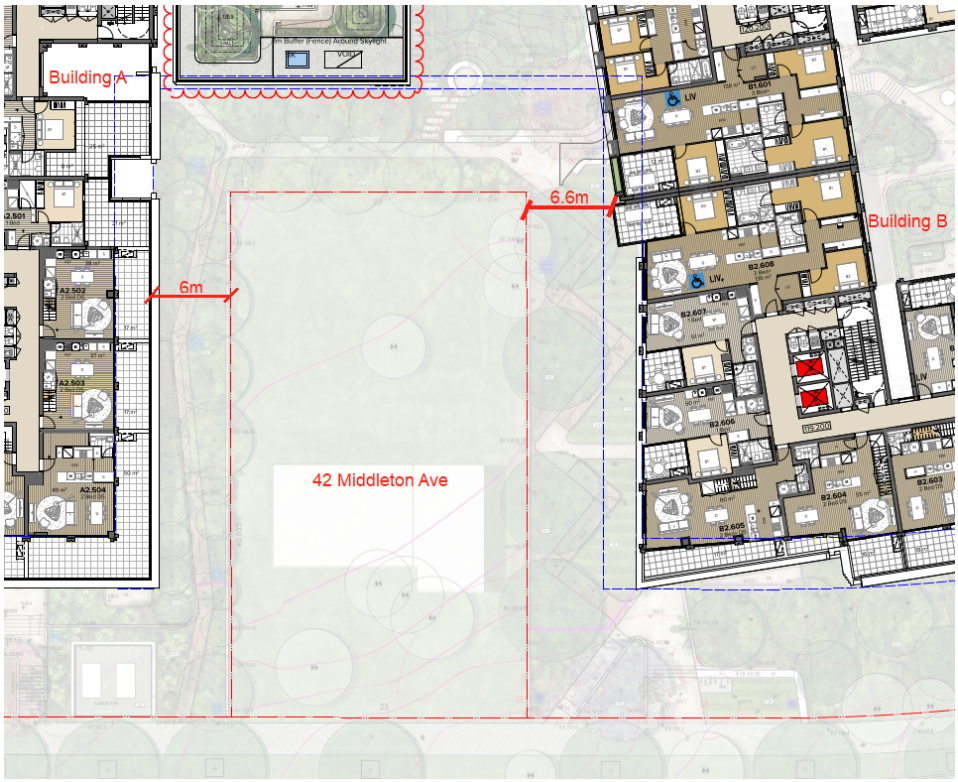

Figure 3: Level 6 Floor Plan indicating separation distance to 42 Middleton Ave

The south eastern boundary transitions from a R4 High Density Residential to R3 Medium Density Residential zone. Balconies and habitable room windows in Buildings B and C facing the south eastern property boundary do not provide the increased separation distance of 3m as recommended in the design guidance of the Apartment Design Guide. The intent of the design guidance is to provide for a transition in scale and increased landscaping. It is noted that the proposal provides a transition in height to 4 to 5 storeys at the southern end of the development where 6 storeys is permitted under the LEP and DCP. High quality landscaping is provided to the southern boundary adjoining Building C and a well landscaped public through site link is provided along the southern boundary adjoining Building B. Despite the variation, it is considered that the intent of the design guidance is achieved.

Subject to conditions, the proposed development is considered to afford a reasonable degree of privacy for future residents. The proposal still provides for a development that is consistent with the desired future character of the Showground Precinct, assists in providing residential amenity and provides for suitable areas for communal open space, deep soil zones and landscaped area.

A variation to the design criteria is considered acceptable in this instance.

iii) <u>Apartment Layout – Habitable Room Depth</u>

The ADG requires open plan apartment layouts to have a maximum habitable room depth of 8 metres from a window. 47 of 261 units (18%) exceed the maximum depth for the living areas (back of wall of kitchen to window) as follows:

Building A	A1.101, A1.105, A1.201, A1.205, A1.301, A1.305, A1.401, A1.405, A1.505, A1.606, A1.703, A1.704, A2.101, A2.104, A2.201, A2.203, A2.204, A2.301, A2.303, A2.304, A2.401, A2.403 and A2.404 (23 units)
Building B	B1.103, B1.305, B1.405, B1.505, B1.605, B1.704, B1.705, B2.303, B2.403, B2.503, B2.504, B3.G01, B3.106, B3.201, B3.301, B3.401, B4.102, B4.103, B4.202, B4.302, B4.402, B4.502, B4.602 and B4.603 (24 units)

Comment:

The Apartment Design Guide provides the following objectives relating to building depth:

- *Environmental performance of the apartment is maximised*

The units that exceed the apartment depth to a maximum of 9m are from windows to the back wall of kitchens. The applicant has provided diagrams indicating most of the above units comply if the measurements are taken from the kitchen bench, rather than the back of kitchen wall. Most of these units would receive at least 2 hours of solar access during mid-winter and are naturally cross ventilated. The proposed open layouts are considered functional, well organised and provides sufficient amenity and environmental performance. A variation to the design criteria is considered acceptable in this instance.

6. Compliance with DCP 2012

The proposal has been assessed against the following provisions of DCP 2012:

- Part B Section 2 – Residential
- Part B Section 5 – Residential Flat Buildings
- Part C Section 1 – Parking
- Part C Section 3 – Landscaping
- Part C Section 6 – Flood Controlled Land
- Part D Section 19 – Showground Station Precinct

The proposed development achieves compliance with the relevant requirements of the above DCPs with the exception of the following:

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED	COMPLIANCE
Showground Precinct Structure Plan	The structure plan indicates the subject site is for residential development up to 6 storeys in height.	The proposal is a maximum 7 storeys in height.	No, however the proposal is considered an acceptable outcome within the Showground Precinct. Refer to discussion below.
Site Coverage	The site coverage of future development shall not exceed 50% of the site area (excluding land to be dedicated or acquired for a public purpose).	Does not comply – Area to be dedicated: 302.4m^2 Site Area less land to be dedicated: 12,030.6m²	No, however if footpaths are excluded would comply with the control. Refer to discussion below.

		Maximum Site Coverage: 6,015.3m^2 Proposed Site Coverage: 6,670m² or 55.4%	
Building Setbacks	A 7.5m setback is required from Hughes Avenue. A 10m setback is required from Middleton Avenue. Storeys above the fourth storey shall be setback a minimum of 4 metres behind the front building line	Minimum of 6m to Hughes Avenue for Building B and minimum of 6.3m for Building C. Minimum 10m setback provided. The buildings provide an 3m upper level setback behind the front building line above the fifth storey.	No, however the proposed setback is acceptable taking into consideration the slope of the site and design response. Refer to discussion below.
Landscaping	A minimum of 50% of the site area (excluding building footprint, roads, access driveways and parking) shall be landscaped. Terraces and patios within 1 metre of natural ground level shall be included in the calculation of landscaped open space.	The proposal will have a total landscaped area of 5,105m² or 42% of the site area.	No, however the development proposes a high quality landscaping outcome throughout the site, including within the front setbacks, the central common open space area and on rooftops. Refer to discussion below.
Built Form Design	Buildings are to have a maximum length of 65 metres. Where a building has a length greater than 30 metres it is to be separated into at least two parts by a significant recess or projection.	Buildings B exceeds the maximum building length. The proposed maximum building lengths are detailed below: Building A1 (facing Hughes Ave): 39.5 metres Building A2 (facing Middleton Ave): 34 metres Building B1/B4 (facing Middleton Ave): 78 metres Building B2/B3	No, however the design of the building is an appropriate response to the site context. Refer to discussion below.

		(facing Hughes Ave): 60m Building C: 25 metres	
Residential Uses on Ground and First Floors	Ground floor residential apartments are to be elevated from the street level by a minimum of 300mm and a maximum of 600mm	The following units will be 600mm above street level: <u>Hughes Avenue</u> Unit A1.05 - 1.8m above B1.102 - 700mm above B4.103 - 1.1m above B4.104 - 1.3m above C1.102 - 1.3m above <u>Middleton Avenue</u> B3.G01 – 3m above B3.G06 – 3.5m above B3.G07 – 2.7m above	No, however the site is a flood controlled lot and the finished floor levels are required to ensure sufficient flood planning is provided. Refer to discussion below.
Solar Access and Overshadowing	Development shall achieve direct sunlight to the principal usable part of the communal open space within the development site for a minimum of 2 hours between 9am and 3pm on 21 June	Does not comply – the central courtyard, which is considered the principal useable part of the communal open space, is predominantly overshadowed throughout the day.	No, however the proposal provides supplementary rooftop terraces on Buildings A and B which receive full sunlight on June 21. Refer to discussion below.

a) <u>Showground Precinct Structure Plan</u>

The DCP requires development to comply with the Showground Precinct Structure Plan which indicates residential development of up to 6 storeys for the subject site.

The proposal includes residential development of up to 7 storeys for Buildings A and B. The applicant has provided the following justification in support of a variation:

The DCP provides that where variations are proposed, development is to demonstrate how the vision, development principles, key elements for the Precinct and relevant specific objectives are to be achieved. The height of the proposed development is acceptable and capable of support for the following reasons:

- *The proposed street wall heights are entirely consistent with the 4 storey control with the areas which are 7 storeys being setback at recessive.*
- *The 7 storey elements respond to the established principle to the north across Hughes Avenue under approved DA 1262/2019/JP for a Concept Plan for five residential flat buildings up to 7 storeys in height.*
- *The 7 storey elements allow for an equal reduction in scale at the southern interface of the development where only four or five storey heights are proposed to achieve a more sensitive relationship to the lower scale development which will occur to the south.*

- *The proposal is consistent with the desired future character in that it provides for a contemporary and attractive development set in high quality landscaped surrounds.*
- *The proposed number of storeys and distribution of height across the site is considered to represent an appropriate urban design response to the constraints and opportunities of the site with an optimal use of the permissible GFA.*
- *The proposed built form and composition of the development responds to the desired future character of the Showground Station Precinct in that it will significantly improve the casual surveillance of the public domain given the number of apartments designed to overlook the surrounding streets whilst also improving accessibility and connectivity within the precinct, will provide a positive contribution to the visual quality of the area and will contribute to the precinct being an activated and vibrant place.*
- *The orientation of the site combined with the distribution and configuration of the built form ensure that the public domain areas surrounding the site will receive good levels of solar access.*
- *The scale of the development will not be perceived as jarring or antipathetic in the future streetscape and urban design context which will develop in the area.*
- *The non-compliance with the height in storeys control is particularly minor and will not prevent the achievement of a compatible relationship with the forthcoming surrounding context.*

Comment:

The relevant objectives of this DCP control are as follows:

- *To ensure that development occurs in a coordinated manner consistent with the Precinct vision and the development principles of housing diversity, employment opportunities, transit oriented development, quality infrastructure and open space and place making.*
- *To provide a mix of housing, retail, employment and services in appropriate and logical locations within the Precinct.*
- *To local higher scale residential apartments and commercial use closest to the station, the Castle Hill Showground and Cattai Creek corridor to optimise access to station facilities as well as outlook and natural amenity.*

The Showground Station Structure Plan is indicative only and has not taken into consideration the additional heights required if the incentive FSR is applied to sites which meet the provisions under Clause 9.7 of LEP 2019. The site has a significant fall from Hughes Avenue to the east, to Middleton Avenue to the west. The development has been designed to respond to the topography of the site. The proposal meets the provisions for housing diversity as required under the clause and seeks to utilise the incentive FSR. A Clause 4.6 written variation to the building height development standard has been submitted, and is considered well-founded. A variation to the structure plan is considered acceptable in this instance.

b) Site Coverage

The DCP requires site coverage should not exceed 50% of the site area (excluding land to be dedicated or acquired for a public purpose) and notes that determination of site cover includes driveways, footpaths and other impervious surfaces. The development proposes a total site coverage of 55.4% of the site area.

Comment:

The relevant objectives of this DCP control are as follows:

- *To provide sufficient space for landscaping that will complement the building form and enhance the landscape character of the street.*

- *Development sites have sufficient area to provide adequate access, parking, landscaping and building separation.*

The DCP requires footpaths to be included in the site coverage calculation. The proposal includes 778m² impervious footpath/paving which equates to 6.5% of the site area. Refer to diagram below. If the pedestrian paths through the common areas at ground level were not included in the calculation, the proposal would result in a site coverage of 49%.

Figure 14: Diagram indicating site coverage

The proposal provides for an appropriate landscape outcome for the site with 16% deep soil landscaping which is 9% more than the design criteria of the Apartment Design Guide. In addition, the landscaping has been substantially amended as recommended by the Design Review Panel and provides for active and passive recreation space for all residents with opportunities for informal and formal gathering spaces for residents, safe informal natural play spaces for children and an urban oasis reducing the heat island effect. Footpaths have been incorporated into the integrated landscape strategy of the development.

It is considered that the proposal provides sufficient space for landscaping that will complement the building form and enhance the character of the street frontages. A variation to the site coverage control is considered acceptable in this instance.

c) Building Setbacks

The DCP requires a 7.5m setback from Hughes Avenue and that storeys above the fourth storey shall be setback a minimum of 4 metres behind the front building line. Variations occur to the required setbacks as highlighted in red in the below figure.

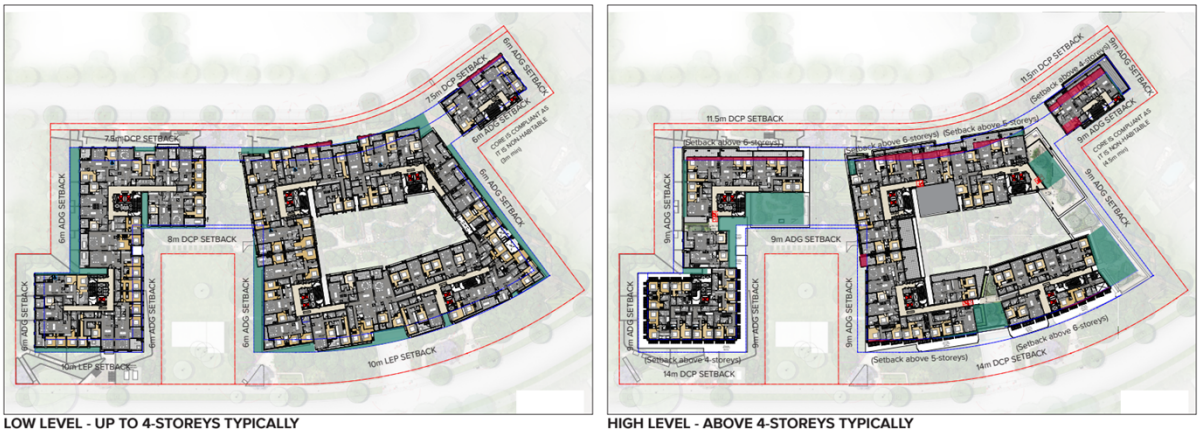

Figure 15: Front setback variations

A lower-level minimum setback of 6m is proposed for Building B and 6.2m for Building C. For buildings A, B and C, the fifth storey and above are setback a minimum of 3 metres behind the front building line (refer to figure above). This does not strictly comply with the numeric controls.

The applicant has provided the following justification in support of the variation:

Minor encroachments into the Hughes Avenue setbacks are offset by large portions of façade that sit back further than the minimum. The encroachments are typically flat façade elements that are navigating the curve of the street by way of rationalised segments.

At the lower levels the encroachments are extremely minor, as this is where they would be felt more evidently by a pedestrian. For the length of the facade there is a far greater length that is well behind the setback, plus large gaps between the buildings themselves.

At the upper levels these encroachments are set back from the lower level built form and will therefore be less visible. The floating roofs of the previous presentation have been removed as a means to reduce the bulk of the building and the extent of the encroachment. This has resulted in a large reduction in the perceived and real encroachment.

The overall width and proportion of the street at this point is such that these incursions will not detrimentally affect the urban form and streetscape.

Comment:

The relevant objectives of this DCP control are as follows:

- *To provide strong definition to the public domain and create a consistent streetscape.*
- *To set taller building elements back from the street to reduce building scale and bulk and enable adequate sunlight access to the public domain.*
- *To provide articulation zones to complement building mass and emphasise key design elements such as entrance points and respond to environmental conditions including solar access, noise, privacy and views.*
- *To ensure adequate separation between buildings on different sites to alleviate amenity impacts, including privacy, daylight access, acoustic control and natural ventilation.*
- *To facilitate a landscaped streetscape that can accommodate larger trees.*

While the proposal incorporates minor encroachments into the Hughes Avenue setback, the built form generally complies with the setback controls. The non-compliant lower-level front setbacks for Building B consist of point encroachments which occur at the curvature of the road and predominantly to balconies within Building C. These variations are consistent with the approval for the Concept Development Application on the opposite side of Hughes Avenue

under DA1262/2019/JP where two seven storey residential flat buildings fronting Hughes Avenue comprise a 6.5m lower-level street setback and a 3m upper-level setback for 5 storeys.

Figure 16: Concept DA approved under 1262/2019/JP

The subject site also adjoins a lower R3 Medium Density residential zone to the south which is envisaged for three storey terrace housing comprising a 3m setback to Hughes Avenue. The encroachment to the setback control for Building C would provide a transition to the adjoining lower density zone. It is considered that despite the variations, the development would still provide a strong definition to the public domain, be consistent with adjoining developments and provide an appropriate transition to future terrace housing envisaged to the south of the site.

The proposed variation will not have an adverse impact on the overall streetscape of the Showground Station Precinct. A variation to this control is considered acceptable in this instance.

d) Landscaping

The DCP requires that a minimum of 50% of the site area (excluding building footprint, roads, access driveways and parking) shall be landscaped. Terraces and patios within 1 metre of natural ground level shall be included in the calculation of landscaped open space. The development proposes 42% of the site area to be landscaped, resulting in a variation of 8%.

The Applicant submits that the proposal complies with the landscaping control if the rooftop communal open space areas are included in the calculation as demonstrated in the below figure.

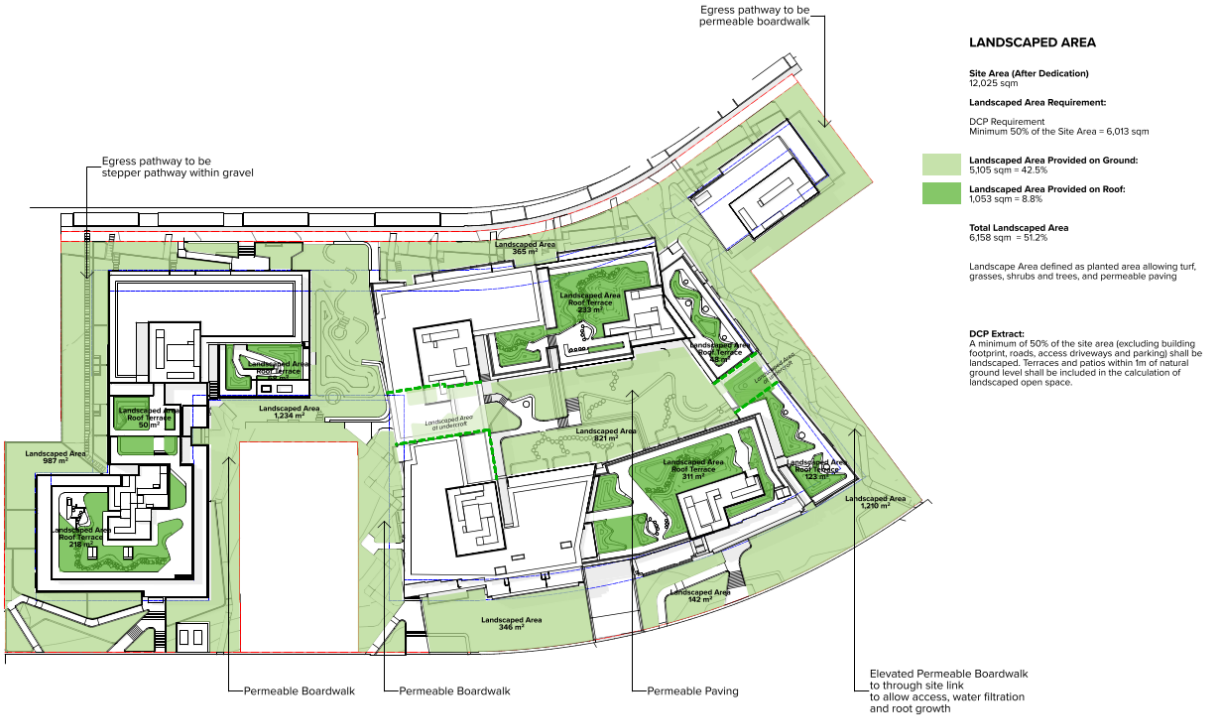

Figure 17: Landscaped Open Space Areas

Comment:

The relevant objectives of this DCP control are as follows:

- *To maximise opportunities for landscaping, including the retention and/or planting of trees within deep soil areas to ensure a high level of amenity.*
- *To assist with the management of water quality.*
- *To provide communal open space for the enjoyment of residents.*
- *Communal open spaces:*
- *Are accessible, usable and safe;*
- *Enhance the attractiveness of the development;*
- *Provide opportunities for social interaction; and*
- *Create pleasantly shaded outdoor areas.*
- *To ensure development sites have sufficient space for landscaping that will complement the building form and enhance the landscape character of the street.*

It is considered that the proposal provides sufficient space for landscaping that will complement the building form and enhance the landscape character of the street. The proposal is supported by a detailed landscape report which has been amended to incorporate the landscape recommendations made by the Design Review Panel. Refer to Section 5. The proposal provides a satisfactory landscape outcome to the street, public domain including a pedestrian through site link, communal open space, and private open space areas. Further, the proposal complies with deep soil planting areas as per the ADG. Supplementary landscaping is also provided as part of the rooftop terraces on Buildings A and B, to further contribute to the landscape setting of the Showground Precinct. A variation to the landscape control is considered acceptable in this instance.

e) Built Form Design

The DCP requires that buildings are to have a maximum length of 65 metres. Where a building has a length greater than 30 metres it is to be separated into at least two parts by a

significant recess or projection. Building B (B1/B4 facing Hughes Avenue and B2/B3 facing Middleton Avenue) exceeds the maximum building length permitted and/or does not provide a significant recess or projection.

The applicant has provided the following justification in support of the variation:

Due to the geometry of the site and the site frontage, this is inevitable and is also compensated by the fact that Building A-2 has a greatly reduced façade length of only approximately 35 metres. In addition, the street façade along Building B-2 and Building B-3 is highly articulated and broken into five distinct sections which are all separated by recesses and also involved distinctly different façade expression and alignment. Accordingly, despite the proposed variation to the building length control, the objective of this control to ensure development creates a positive streetscape and achieves a high quality architectural design has been achieved. The entries to the development are visually identifiable from the street frontage with clear sight lines.

The overall building length of B2 and B3 is part of the natural curve of the road so that only fragments are seen at the same time. It is strongly articulated with the 'Gardenside' and 'Parkside' façade types. The vertical elements of Parkside are particularly strong break elements to denote separate building forms. Further breaks have been incorporated at roof level to reduce the feeling of façade length and mass. The gaps between Buildings B1, B3 and C have been increased to provide a greater level of articulation.

The material of the building has been revised and the brickwork to 'Gardenside' has been amended from dark grey to blonde brick, the dark grey of the roof elements have been lightened and the form of the roof elements facing the park have been simplified and given clearer breaks to reduce the overall feeling of mass to Middleton Avenue and to break the façade into smaller parts.

The form of the podium responds to both the fall in topography across the site and the surrounding streetscapes. There will be no blank, featureless walls visible from the public domain. The architecture of the development combined with a high-quality landscape treatment will ensure that the development addresses the street and creates a human scale for pedestrians.

The proposed massing of the development provides a high level of modulation in scale between the various buildings within the development whilst also realising the environmental capacity of the site. The design of the proposal involves a dynamic architectural language and a façade treatment with a high level of materiality that will compliment and improve the character of the area. The proposed massing of the development facilitates a high level of environmental performance within the development, reduced impacts on surrounding properties, allows for integration with the surrounding landscape and retention of significant views and appropriate levels of solar access, combined with a high level of visual permeability throughout the site.

The proposal adopts a contemporary flat roof typology which ensures that the roof form does not unnecessarily increase the bulk and scale of the development. Each lift overrun is centrally located within the floorplate such that they will not be readily perceived from the public domain. Due to the heights of the towers the roof is not readily visible from the public domain.

Comment:

The relevant objective of this control is as follows:

- *To ensure development creates a positive streetscape and achieves a high quality architectural design.*

Whilst the proposal results in a variation to the maximum building length for Building B when viewed from Middleton Avenue and does not provide a significant recess or projection when viewed from both Hughes Avenue or Middleton Avenue, it is considered that the development still provides a positive streetscape and achieves a high-quality architectural design.

The Design Review Panel has reviewed the proposal on five occasions under previous application 406/2020/JP and the subject application and their recommendations have been incorporated in the final built form. It is noted that the previous application was withdrawn, and a different Architect was engaged who undertook numerous massing studies and made substantial amendments to the original design to address previous design concerns raised.

The design intent of the development seeks to draw the pedestrian through differing contexts, making the transition into an event. "Gridside" seeks to define the future urban context, "Gardenside" is drawn from the existing low density residential context with guiding principles such as defining white horizontal datums, regular brick vertical intervals, definition of key corners and filigree detail and planting and "Parkside" seeks a connection to a wider natural landscape. The final design incorporates the composition of three main façade types extrapolated from the three differing contexts. Refer figures below.

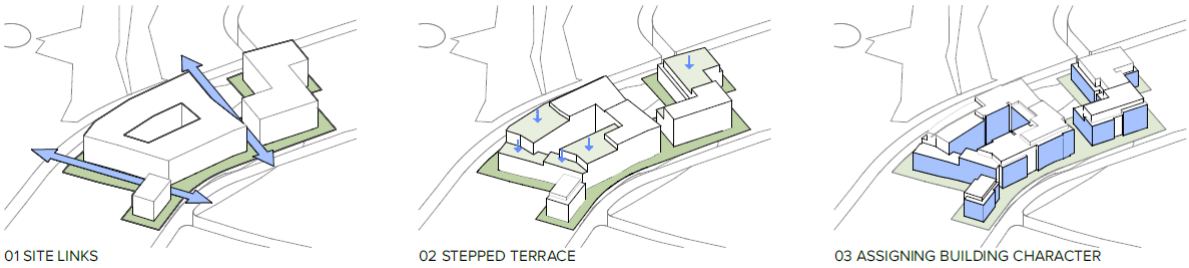

Figure 18: Massing Development

Figure 19: Different contexts to the site

Figure 20: Different types of Facades

Figure 21: Composition of Facade Types

It is considered that the materiality, composition, and massing of the built form would achieve a positive streetscape and well considered design given the context of the site. The proposal is consistent with similar designs approved and currently being constructed within the Showground Station Precinct.

In this regard, the proposal meets the intent of the control and the variation is considered satisfactory.

f) <u>Residential Uses on Ground and First Floors</u>

The DCP requires that higher density development with residential ground and lower floor uses is to adopt a two storey terrace house appearance to present a fine grain articulation to the street frontage. The proposal does not provide a two storey terrace house appearance on the bottom two floors.

The DCP also requires that ground floor residential apartments are to be elevated from the street level by a minimum of 300mm and a maximum of 600mm. The following units will be above the street level by over 600mm:

Hughes Avenue
Unit A1.05 - 1.8m above
B1.102 - 700mm above
B4.103 - 1.1m above
B4.104 - 1.3m above
C1.102 - 1.3m above

Middleton Avenue
B3.G01 – 3m above
B3.G06 – 3.5m above
B3.G07 – 2.7m above

The applicant has provided the following justification in support of the variation:

The proposal incorporates a high level of materiality and demonstrates fine grain active frontages. The buildings architecture combined with the public domain improvements will serve to activate and enliven the street frontages of the site. Where appropriate direct pedestrian access is provided for ground floor apartments. The height of fencing to both Hughes Avenue and Middleton Avenue has been minimised and generally does not exceed 1.2 metres in height.

Whilst the DCP suggests that ground floor residential apartments are to be elevated from the street level by a minimum of 300mm and a maximum of 600mm, due to the significant and varied falls along the street frontages of the site as well as the cross fall from one street to another and the length of the buildings, it has not always been possible to achieve compliance with this control. Notwithstanding, the proposal has been deliberately designed to provide an optimised relationship between ground level apartments and the street edge having regard to these constraints. Deep soil soft landscaping is proposed in the setback areas that will allow for the establishment of substantial landscaping.

Comment:

The relevant objectives of the control are as follows:

- *To provide residential activation to streets.*
- *To provide for residential identity and legibility.*
- *Encourage the provision of housing for a diversity of dwelling types and users.*
- *To introduce a fine grain built form and architectural diversity within a street block and/or building development.*
- *To provide for future flexibility in use.*

Two Storey Terrace Form
Whilst the proposal does not provide a two-storey terrace house appearance on the bottom two floors, the design has been carefully considered. Architectural diversity has been introduced with three types of contextual facades and the architectural language, materials and finishes present a fine grain-built form outcome. Entry points to each of the buildings are also clearly highlighted and visible from the street providing residential identity. In this regard, the proposal meets the objective of the control and a variation is considered acceptable in this instance.

Levels of Ground Floor Units

The slope of the site has an approximate cross-fall of 6 metres from east to west. The proposal is considered to provide satisfactory residential activation of Hughes Avenue irrespective of the variations to the finished floor levels of the ground floor units. With the exception of A1.06, all ground floor units provide individual access to Hughes Avenue. It is noted that the site is subject to flooding with the affectation concentrated along the southern boundary and Middleton Avenue. To ensure appropriate measures are made to manage risk to life in the event of a flood and safe occupation of the building, the Flood Planning Level (FPL) adopted for the proposal is required to be 0.5m above the 100-yr ARI flood level and meets the provisions under the DCP, Part C Section 6 Flood Controlled land. Building B2/B3 has a ground floor level of RL 100 and complies with the FPL however this results in substantial variations to the ground floor to street levels control from Middleton Avenue.

The proposal is considered to achieve a balanced response to this control taking into consideration the constraints of the site. A variation is considered acceptable in this instance.

g) Overshadowing

The DCP requires that developments shall achieve direct sunlight to the principal usable part of the communal open space within the development site for a minimum of 2 hours between 9am and 3pm on 21 June. The proposal does not achieve compliance with this control. The central courtyard, which is considered the principal useable part of the communal open space, is predominantly overshadowed throughout the day.

The applicant contends that the proposed development achieves direct sunlight to the principal usable part of the communal open space within the development site for a minimum of 2 hours between 9am and 3pm on 21 June, due to the common rooftop terraces.

Comment:

The relevant objectives of this control are as follows:

- *To provide adequate solar access to common open spaces and the open space of adjoining properties, so as to ensure a high level of amenity is achieved for both future and adjoining residents.*
- *To ensure that overshadowing from new development does not result in significant loss of sunlight and diminish the enjoyment of public and private open spaces.*
- *To protect, and where possible, increase the level of sunlight to public and private open spaces during the times of the year when outdoor spaces are most commonly used.*
- *To facilitate the equitable sharing of future impacts of new development on the public domain.*

The development provides supplementary useable common open space areas through the provision of landscaped roof top terraces on Buildings A and B. These common open space areas will achieve full solar access on June 21, and provide a high level amenity for residents of the development. Equitable access to all communal open space areas will be provided. A variation to the DCP control is considered acceptable in this instance.

h. Site Requirements – Orderly Development

The DCP notes that the creation of isolated sites is not desirable and should be avoided where possible and indicates that where a property is likely to be isolated by development and it cannot be demonstrated that the site can be developed to its full potential, applicants should provide documentary evidence that a genuine and reasonable attempt has been made to purchase the isolated site based on a fair market value.

The proposal excludes one lot (42 Middleton Avenue) within the site. The site area of this lot is 941m².

The Applicant has provided legal submission regarding the potential site isolation of 42 Middleton Avenue. Refer Attachment 19. The Applicant indicates the following:

The owner of 42 Middleton Avenue (Neighbouring Site) has formally rejected every offer and documentary evidence has been provided in a separate 'commercial in confidence' package to Council under separate cover.

Trifalga (Middleton Project Group Pty Ltd) have therefore satisfied the requirement of Clause 6.1 Site Requirements of Part D, Section 19 - 'Showground Precinct' of the Hills Development Control Plan 2012 to purchase 42 Middleton Avenue with appropriate documentary evidence which demonstrates that a genuine and reasonable attempt has been made to purchase the site in excess of fair market value. This satisfies the first question of Karavellas v Sutherland Shire Council [2004] NSWLEC 251. In relation to the second question, of Karavellas v Sutherland Shire Council [2004] NSWLEC 251, this application is accompanied by a reference scheme prepared by Turner Architects which illustrates a potential future design for the redevelopment of 42 Middleton Avenue which demonstrates that the orderly and economic use and development of the site is possible on a stand alone basis.

Comment:

The planning principle of site isolation in *Karavellas v Sutherland Shire Council [2004] NSWLEC 251* and Melissa Grech v Auburn Council [2004] NSWLEC 40 sets out two general questions to be answered when dealing with when a site is to be isolated for redevelopment. These questions are discussed below:

Is amalgamation of the sites feasible?

Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.

In accordance with Clause 9.1 of the LEP, the excluded lot does not meet the minimum lot size requirement of 3,600m² for a residential flat building with a building height of more than 11m or 1,800m² for a residential flat building with a height of less than 11m. Documentary evidence has been submitted with the application that demonstrates that efforts have been made by the Applicant to purchase the adjoining property prior to lodgement of the development application. Details of the negotiations between the landowners have been submitted with the application including a record of communications and letter of offer from the Applicant's Solicitor. Whilst an initial offer was made and accepted on 4 July 2016, the landowner at No. 42 Middleton Avenue advised that they were no longer interested and would not sign the Option Deed.

A reasonable offer, for the purposes of addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property. An independent valuation report is submitted with the application and was included in the letter of offer to the landowner of No. 42 Middleton Avenue. The offer made was 10% above the independent valuation.

Although it is preferrable for No. 42 Middleton Avenue to be amalgamated into the subject site, this is not a feasible solution because negotiations based on a reasonable offer have been unsuccessful.

Can orderly and economic use and development of the separate sites be achieved if the amalgamation is not feasible?

The key principle for the orderly and economic use of land is whether both sites can achieve development to the site's full potential and context (Petro v Blacktown City Council [2008] NSWLEC 1299. This includes an assessment against consistency with the planning controls. If variations to the planning controls are required, such as non-compliance with a minimum allotment size, the development application is required to demonstrate that the isolated site can achieve a development appropriate in urban form with an acceptable level of amenity.

Indicative building envelope plans for No. 42 Middleton Avenue have been provided demonstrating that the isolated lot can deliver orderly and economic use of the land, despite amalgamation not being feasible. The isolated lot comprises a site area of 941m² and is zoned R4 High Density Residential with a base FSR of 1.6:1, incentive FSR of 2.3:1 and a maximum height of 21m. The plans provided indicate that a five storey residential flat building can be built on the isolated site achieving general compliance with the LEP and design criteria under the Apartment Design Guide such as building separation, solar access and ventilation. The plans provide sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for the residential flat building developments. The plans demonstrate the site can be developed in a manner that is consistent with the objectives of the zone and could be developed in a manner that meets the desired future character of the area.

It is also noted that at its meeting of 28 August 2018, Council resolved to adopt an amendment to Clause 9.7 of The LEP (planning proposal 3/2019/PLP) to enable undersized development sites (<10,000m²) within the Showground Precinct to unlock the incentive Floor Space Ratio standards where sites have been isolated due to the existing lot configuration. Clause 9.7 was amended on 24 January 2020 as follows:

9.7 Residential development yield on certain land

(1) This clause applies to development that involves the erection of one or more buildings containing dwellings on a lot within the Showground Station Precinct but only if—

(a) the site of the development has an area of at least 10,000 square metres, or

(b) the site satisfies one of the following and the consent authority is satisfied that development of the site under this clause will promote the orderly development of the precinct—

(i) the site has an area less than 10,000 square metres only because of the creation of roads,

(ii) the site is isolated and it is not practicable to aggregate lots to achieve a site area of 10,000 square metres because of the existing lot configuration,

(iii) the whole of the rear boundary of the site adjoins land zoned RE1 Public Recreation and the site has a depth of no more than 45 metres from that boundary to the road frontage of the site,

(iv) the site comprises lots 41, 42, 43, 44, 45, 46 and 47, DP 259525.

In this regard, the incentive floor space ratio could be applied for a residential flat building with an anticipated building height exceeding 11m for the excluded lot.

Whilst the subject Development Application results in the exclusion of No. 42 Middleton Ave, the lot can be developed to its full potential without variations to the development standards under the LEP and orderly and economic use of the separate sites can be achieved.

7. Issues Raised in Submissions

The Development Application was notified between 8 April 2021 to 29 April 2021 and in response, three submissions were received. The issues raised in the submissions are addressed in the table below:

ISSUE/OBJECTION	COMMENT	OUTCOME
Height and Streetscape Amenity: The 7 storey development is excessive in height. Building B should only be 4 storeys in height when viewed from Middleton Avenue. The development will not be in keeping with the streetscape as the site adjoins an R3 Medium Density zone.	Clause 4.3 of the LEP permits a maximum height of 21m for the subject site which is approximately six storeys. Whilst the proposal exceeds this height for Building A and the northern portions of Building B, Building C is reduced to four storeys in height. The application is supported with a Clause 4.6 written submission to vary the height standard. The written submission is considered well founded and the proposal would result in acceptable streetscape and amenity outcomes for future residential development to the adjoining developments in the emerging Precinct. Refer Section 4c) for detailed discussion.	Issue addressed.
Overshadowing impacts to adjoining southern dwellings including pool areas.	The development includes 4 storey buildings to the southern side of the site which is two storeys below the permitted height standard under Clause 4.3 of the LEP. It is acknowledged that some overshadowing will occur to the existing detached dwellings to the south of the site. However, the subject site is located within the Showground Station Precinct which was rezoned from R2 Low Density Residential to R4 High Density Residential by the Department of Planning, Industry and Environment in December 2017. The adjoining southern lots have been rezoned to R3 Medium Density Residential. It is envisaged that the lots to the south of the subject site will not remain as single dwelling houses but will be consolidated for medium density residential development. The site specific DCP for the Showground Precinct requires Residential Flat Buildings in the R4 High Density zone to provide a minimum of 4 hours of sunlight between the hours of 9am and 3pm on 21 June to at least 50% of the landscaped open space of adjoining properties. This use of 'landscaped open space' rather than 'private open space' correlates to future residential buildings rather than individual dwelling houses. It is envisaged that the development could provide at least 4 hours of solar access to the landscaped open space for a future residential terrace housing on the adjoining southern lots.	Issue addressed.
Increased traffic on	It is acknowledged that there will be an increase	Issue

ISSUE/OBJECTION	COMMENT	OUTCOME
existing quiet streets	in traffic generated for the development compared to that of the existing dwellings currently located on site. However, the site is located within the Showground Precinct which has been rezoned by the Department of Planning and Environment to allow for higher density residential development. The RMS Technical Direction nominates 0.19 vehicles trips per unit during AM peak and 0.15 vehicle trips per unit during PM peak. Application of this rate to the residential development results in a traffic generation potential of approximately 50 vehicle trips per hour during the AM peak hour and 40 vehicle trips per hour during the PM peak hour. Given that the existing 13 residential dwellings generate 19 vehicle trips during the AM peak and 20 vehicle trips during PM peak, it is estimated that the trip generated from the proposed development will be 19 and 20 vehicle trips during morning and evening peak hour respectively, the development proposal will result in a net increase in the traffic generation potential of the site of approximately 31vph during the AM peak hour and 20vph during the PM peak hour. This is within the environmental capacity of a local collector road as specified in the 'Guide to Traffic Generation Developments'. Therefore, the traffic generated from the proposed development is unlikely to have a significant impact on the local road network.	addressed.
Privacy concerns to adjoining existing dwellings from proposed units and rooftop gardens.	The site and adjoining properties are located within the Showground Precinct which has been rezoned by the Department of Planning and Environment to allow for higher density residential development. The proposed residential flat buildings comply with the objectives of the building separation and privacy design criteria under the Apartment Design Guide (ADG) and The Hills DCP as discussed in the body of this report. The ADG requires a building separation of 6m to the property boundary for the first four storeys and 9m to the property boundary for five to eight storeys. The proposal fully complies with the design criteria along the southern elevation. It is noted that the rooftop gardens above Building B are located 8m from the southern property boundary. To ensure sufficient privacy is maintained, a condition is recommended that the balustrades along the southern edge of the rooftop gardens are to be installed with obscured glazing at a minimum of 1.5m in height. The south facing	Issue addressed and condition imposed. Refer amendment in red in condition 1.

ISSUE/OBJECTION	COMMENT	OUTCOME
	units in Building B and C comprise low use spaces such as bedrooms and bathrooms and all balconies contain privacy screens to mitigate overlooking impacts to adjoining southern properties.	
Acoustic impacts • During Construction • On rooftop communal open areas. Requests rooftop communal open space on Building B be deleted. • From the location of the pedestrian through link along the southern boundary.	Condition of development consent 90 is recommended to be imposed in respect to hours of work during construction. Recommended condition 92 of the development consent requires the emission of noise from the construction of the development to comply with the *Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009).* Concerns regarding construction noise are to be directed to the Principal Certifier or reported to Council's Development Monitoring Team. The location of the rooftop communal open space on Building B is set back 8m from the southern property boundary. Notwithstanding, a condition is recommended in the consent requiring a 1.5m high impermeable balustrades along the southern and western perimeter edge of the outdoor communal open spaces (refer amendment in red in condition 1)	Issue addressed and conditions imposed. Refer amendment in red in condition 1 and conditions 20, 22, 23, 48, 90, 92
Ventilation	The development complies with the Apartment Design Guide criteria which requires at least 60% of the units to be cross ventilation. In addition, a Pedestrian Wind Environment Statement prepared by Windtech dated 4 March 2021 was submitted with the application that concludes that any wind effects can be ameliorated by treatment strategies in the design including densely foliating trees along the street frontages, communal open space areas and along the pedestrian through site link and a 1.5m high impermeable balustrades be provided along the southern and western perimeter edge of the outdoor communal open spaces. The landscape plans indicate densely foliating trees will be provided along the street frontages, communal open space areas and along the pedestrian through link. To ensure wind effects are ameliorated on the rooftop communal open space areas of Building B, a condition is recommended requiring a 1.5m high impermeable balustrades along the southern and western perimeter edge of the outdoor communal open spaces.	Issue addressed and condition imposed. Refer condition 1.
Isolation of lot. The development will result in the isolation of a house which will look	Although it is preferrable for No. 42 Middleton Avenue to be amalgamated into the subject site, the application has addressed the planning principles for site isolation, established by the	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
"unattractive and not aesthetically pleasing".	NSW Land and Environment Court in proceedings of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251. In particular, the application includes documentary evidence demonstrating that a reasonable offer has been made based on a fair market value and this offer was rejected by the landowner at No. 42 Middleton Avenue. The Applicant has also demonstrated that the lot can be developed to its full potential without variations to the development standards under the LEP and orderly and economic use of the separate sites can be achieved. Refer Section 6h for detailed discussion.	
Excessive building lengths	It is considered that the materiality, composition, and massing of the built form would achieve a positive streetscape and well considered design given the context of the site. The proposal is consistent with similar designs approved and currently being constructed within the Showground Station Precinct. This has been discussed in detail in Section 6e of this report.	Issue addressed.
Devaluation of properties	This is not a matter of consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. There has been no evidence to substantiate this view.	Issue addressed.
Dilapidation of adjoining properties	A Property Condition Report – Private Assets Report will be required by a structural engineer recording the condition of any dwelling or ancillary structures on adjoining properties (33 Hughes Avenue, 52 Middleton Avenue, 42 Middleton Avenue, 36 Middleton Avenue, and 19 Hughes Avenue) within the likely zone of influence from any excavation, dewatering or construction induced vibration (refer Condition No. 81).	Issue addressed. Condition imposed. Refer condition 81.
Development Application is misleading as it states 4-7 storeys however there is no 4 storey building indicated.	A portion of Building B (B3) comprises a 4 storey component.	Issue addressed.

8. EXTERNAL REFERRALS

The application was externally referred to the following agencies:

- Transport for NSW
- Endeavour Energy,
- NSW Police

Relevant comments are provided below:

TRANSPORT FOR NSW

The application was referred to Transport for NSW as the development is considered traffic generating development under Section 2.122 and Schedule 3 of the SEPP (Transport and Infrastructure) 2021. No objections were raised to the proposal and the recommendations made have been considered by Council's Engineering and Traffic sections.

ENDEAVOUR ENERGY COMMENTS

The application was referred to Endeavour Energy. No objections were raised to the proposal, subject to condition 6.

NSW POLICE COMMENTS

The application was referred to the NSW Police. No objections were raised to the proposal subject to condition 5.

9. INTERNAL REFERRALS

The application was referred to the following sections of Council:

- Engineering,
- Waterways,
- Environmental Health,
- Forward Planning (Contributions),
- Landscaping/Tree Management,
- Land Information Systems,
- Resource Recovery, and
- Traffic.

No objections were raised to the proposal subject to conditions. Relevant comments are provided below:

ENGINEERING AND WATERWAYS

All objections previously raised have been satisfactorily addressed or can be mitigated subject to recommended conditions of development consent. Refer to Section 4(c)v for discussion on flood planning.

TRAFFIC

Council's Traffic section has reviewed the application and raise no objections to the proposal regarding potential traffic generation impacts however, raised concern that the submitted plans indicate that existing trees east of the proposed driveway on Middleton Avenue may affect sight distances. In this regard, condition 67 is recommended requiring the submission of a diagram showing the sight lines from the proposed driveway is clear of obstruction and complies with the requirements of AS2890.1:2004, prior to the issue of a Construction Certificate.

Subject to the above condition, Council's Traffic Engineer raises no objection to the proposal.

CONCLUSION

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, Local Environmental Plan 2019 and 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 R4 High Density Residential zone objectives.

The variations to the Apartment Design Guide and DCP have been assessed on merit and are considered worthy of support.

It is considered that the proposal is consistent with the desired future character of the Showground Station Precinct, follows transit-oriented development principles, provides for high quality architectural design incorporating transitions in heights to the adjoining lower density zone to the south, substantial landscaping within the frontages and provides appropriate residential amenity for future occupants of the site and adjoining properties.

Three submissions were received objecting to the proposed development. The concerns raised in the submissions have been addressed in the report and do not warrant refusal of the 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 consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

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

Clause 4.3 of the LEP prescribes a maximum height of 21m for the subject site. The proposed development exceeds the maximum building height by 5.13m (24.4%) for Building A and 5.57m (26.5%) for Building B. The variation to the development standard can be supported for the following reasons:

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R4 High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance and there are sufficient environmental planning 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.

CONDITIONS OF CONSENT

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.

Amendments in red are to include the following:

- 1.5m high obscured and impermeable balustrades are to be provided along the southern and western perimeter edge of the rooftop communal open space area on Building B.
- The balconies of the following units facing No. 42 Middleton Avenue shall be provided with a 1.8m high privacy screen which is to be maintained for the life of the development:

  - Units A1.501, A2.501, A2.502, A2.503 and A2.504. B1.501 and B2.506
- All services and service provision visible from the street, public domain and nearby taller buildings are required to be carefully and substantially screened in a manner to match the aesthetic of the approved development.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA-100-040	Demolition Plan	S1	11/08/2021
DA-010-020	Site Plan with Current Context	S2	11/08/2021
DA-110-006	Basement 02	S3	03/12/2021
DA-110-007	Basement 01	S3	03/12/2021
DA-110-008	Ground Level	S3	03/12/2021
DA-110-010	Level 01	S3	03/12/2021
DA-110-020	Level 02	S3	03/12/2021
DA-110-030	Level 03	S3	03/12/2021
DA-110-040	Level 04	S3	03/12/2021
DA-110-050	Level 05	S3	03/12/2021
DA-110-060	Level 06	S3	03/12/2021
DA-110-070	Level 07	S3	03/12/2021
DA-110-080	Level 08	S3	03/12/2021
DA-110-100	Roof Level	S3	03/12/2021
DA-210-001	East Elevation – Hughes Ave	S3	03/12/2021
DA-210-002	West Elevation – Middleton Ave	S3	03/12/2021
DA-210-003	North Elevation – Building A	S3	03/12/2021
DA-210-004	North Elevation – Building B	S3	03/12/2021
DA-210-101	Elevations – Building A	S3	03/12/2021
DA-210-201	Elevations – Building B	S3	03/12/2021
DA-210-301	Elevations – Building C	S3	03/12/2021

DA-310-010	Section AA	S3	03/12/2021
DA-310-020	Section BB	S3	03/12/2021
DA-310-030	Section CC	S3	03/12/2021
DA-310-040	Section DD	S3	03/12/2021
DA-310-050	Section EE	S3	03/12/2021
DA-320-010	Carpark Entry & Loading Dock Section	S3	03/12/2021
DA-890-001	Materials & Finishes Board	S2	11/08/2021
DA-910-001	Perspective 01	S2	11/08/2021
DA-910-002	Perspective 02	S2	11/08/2021
DA-910-003	Perspective 03	S2	11/08/2021
DA-910-004	Perspective 04	S2	11/08/2021
DA-910-005	Perspective 05	S2	11/08/2021
DA-910-006	Perspective 06	S2	11/09/2021
146460	Landscape Design Report prepared by RPS (53 pages - including detailed landscape drawings, planting plans and fencing details)	N	15/11/2022
PR146821-DP1	Plan of Subdivision of Lots 338, 339 & 345 in DP252593, Lot 2 in DP249973, Lots 506-508 in DP258587, Lot 11 in DP260249, Lot 201 in DP249973, Reference: Lots 4-6 in DP771507 and Lots 100-101 in DP829384.	-	13/08/2021
-	Amended Unit Numbering Plans prepared by The Hills Shire Council (9 pages)	-	-

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. External Finishes

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

Before any works are carried out a Construction Certificate must be obtained and a Principal Certifying Authority appointed. The plans and accompanying information submitted with the Construction Certificate must comply with the conditions included with this consent.

As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifying Authority for subdivision works.

5. Compliance with NSW Police Requirements

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

Surveillance:

- Installation of a security intercom system is required to access the basement car park and main lobbies. Each unit 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.

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.
- Accessways/exit driveways are to be adequately lit.

Territorial Reinforcement:

- All public access points are to be well marked.

Environmental Maintenance:

- Use of anti-graffiti building materials.

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.
- Signage to be installed in the car park warning residents to watch those who come in the entry/exit door behind them.

6. Compliance with Endeavour Energy requirements

- **Network Capacity / Connection**

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.

The submission of an appropriate application based on the maximum demand for electricity for connection of load via Endeavour Energy’s Network Connections Branch to carry out the final load assessment and the method of supply will be determined. Straightforward applications can be completed online and permission to connect may be provided immediately if submitting a complying application.

Depending on the outcome of the assessment, any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions

benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'.

For more complex connections, advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.

Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on business days from 9am - 4:30pm on telephone: 133 718 or (02) 9853 6666 or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link: http://www.endeavourenergy.com.au/ .

Alternatively the applicant may need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development. The ASP scheme is administered by Energy NSW and details are available on their website via the following link or telephone 13 77 88:

https://energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/asp-scheme-and-contestable-works

- **Network Asset Design**

The proposal is to comply with Endeavour Energy's Company Policy 9.2.5 'Network Asset Design' and requirements for electricity connections to new urban subdivision/development under Section 5.11 Reticulation Policy.

- **Streetlighting**

With the significant increase in both vehicular and pedestrian traffic, given the existing streetlighting is designed for a non-urban environment, the streetlighting for the proposed development should be reviewed and if necessary upgraded to comply with the series of standards applying to the lighting of roads and public spaces set out in with Australian/New Zealand Standard AS/NZS 1158: 2010 'Lighting for roads and public spaces' as updated from time to time.

Whilst the determination of the appropriate lighting rests with the road controlling authority, Endeavour Energy as a Public Lighting Service Provider is responsible for operating and maintaining the streetlights on behalf of local councils, Roads and Maritime Services and other utilities in accordance with the NSW Public Lighting Code, January 2006 (Code). Endeavour Energy recognises that well designed, maintained and managed Public Lighting offers a safe, secure and attractive visual environment for pedestrians and drivers during times of inadequate natural light.

For any Code implementation and administration / technical matters please contact Endeavour Energy's Substation Mains Assets Section via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or email mainsenquiry@endeavourenergy.com.au .

- **Flooding and Drainage**

Endeavour Energy requires the electricity network needed to service an area / development to be fit for purpose and meet the technical specifications, design, construction and commissioning standards based on Endeavour Energy's risk assessment associated with the implementation and use of the network connection / infrastructure for a flood prone site. Risk control has focused typically on avoiding the threat, but where this is not possible, reducing the negative effect or probability of flood damage to assets by implementing good design and maintenance practices.

Distribution substations should not be subject to flood inundation or stormwater runoff ie. the padmount substation cubicles are weatherproof not flood proof and the cable pits whilst designed to be self-draining should not be subject to excessive ingress of water. Section 7 'Substation and switching stations' of Endeavour Energy's Mains Construction Instruction MCI 0006 'Underground distribution construction standards manual' provides the following details of the requirements for flooding and drainage in new padmount substation locations.

- **Earthing**

The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. Inadequate connection to the earth to allow a leaking/fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury.

- **Vegetation Management**

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

- **Prudent Avoidance**

The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions form electricity infrastructure such as electric and magnetic fields (EMF) and noise which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV). In practical terms this means that when designing new transmission and distribution facilities, consideration is given to reducing exposure and increasing separation distances to more sensitive uses such as residential or schools, pre-schools, day care centres or where potentially a greater number of people are regularly exposed for extended periods of time.

These emissions are usually not an issue but with Council's permitting or encouraging development with higher density, reduced setbacks and increased building heights, but as the electricity network operates 24/7/365 (all day, every day of the year), the level of exposure can increase.

Applicants (and Council) should also adopt a policy of prudent avoidance by the siting of more sensitive uses eg. the office component of an industrial building, away from and less susceptible uses such as garages, non-habitable or rooms not regularly occupied eg. storage areas in a commercial building, towards any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.

Where development is proposed near electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development. The proposal is to copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at https://www.energynetworks.com.au/electric-and-magnetic-fields

- **Dial Before You Dig**

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

- **Removal of Electricity Supply**

Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out.

- **Demolition**

Demolition work is to be carried out in accordance with Australian Standard AS2601: The demolition of structures (AS 2601). All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected ie. the existing customer service lines will need to be isolated and/or removed during demolition. Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. street light columns, power poles, overhead and underground cables etc.

- **Asbestos**

Endeavour Energy's G/Net master facility model indicates that the site is in an area identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network. Whilst Endeavour Energy's underground detail is not complete within G/Net in some areas, in older communities, cement piping was regularly used for the electricity distribution system and in some instances containing asbestos to strengthen the pipe; for insulation; lightness and cost saving. When undertaking works on or in the vicinity of Endeavour Energy's electricity network, asbestos or ACM must be identified by a competent person employed by or contracted to the applicant and an asbestos management plan, including its proper disposal, is required whenever construction works has the potential to impact asbestos or ACM.

- **Public Safety**

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

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

If the applicant has any concerns over the proposed works in proximity of the electricity infrastructure, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of multiple stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is: Construction.Works@endeavourenergy.com.au .

- **Emergency Contact**

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

7. 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 the Common Property is to be a future property number to Middleton Avenue.

All property addresses will be allocated and approved by Councils' Land Information Team at a future date. Buildings will be addressed as follows:-

Buildings A1, B3 & B4 will be addressed to Middleton Avenue;

Buildings A2, B1, B2 & C will be addressed to Hughes Avenue.

Under no circumstances are property addresses to be allocated unless approved by Council.

Approved numbering is as per plans submitted as DWG Revision S2 Nos 110-008; 110-010; 110-020; 110-030; 110-040; 110-050; 110-060; 110-070; 110-080 and marked up as 'Numbering Plans' by Council's Land Information Team within consent documentation; and as follows:

Level	**BLDG A1**	**BLDG A2**	**BLDG B1**	**BLDG B2**	**BLDG B3**	**BLDG B4**	**BLDG C**
Future property number to	Middleton Ave	Hughes Ave	Hughes Ave	Hughes Ave	Middleton Ave	Middleton Ave	Hughes Ave
Lower Ground	Nil	Nil	Nil	LG08-LG09	Nil	LG01-LG07	Nil
Ground	G01-G06	G07-G14	G15-G18	G19-G24	G27-G31	G32-G37	G25-G26

One	101-106	107-115	116-120	121-124	128-133	134-143	125-127
Two	201-206	207-215	216-221	222-228	232-237	238-244	229-231
Three	301-306	307-315	316-321	322-325	329-334	335-340	326-328
Four	401-409	410-416	417-422	423-428	431-436	437-442	429-430
Five	Nil	501-507	508-513	514-517	518-525	526-531	Nil
Six	Nil	601-605	606-610	Nil	611-615	Nil	Nil

These unit numbers 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 to ensure that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination easily & quickly.

Mail Boxes

Cluster mail box locations as provided on plans DA 110-008, 110-010 and 110-020 Rev S2 are to be approved by 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 to be provided to Council.

The number of mail boxes to be provided is to be equal to the number of units plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietor's additional mail box is to be located within the cluster located at Building A1.

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.

8. Management of Construction and 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.

9. 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.

10. Commencement of Domestic Waste Service

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

11. Provision of Kitchen Waste Storage Cupboard

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

12. Construction of Waste Storage Areas

The waste storage areas must be designed and constructed in accordance with the following requirements. The areas must provide minimum storage facility for 30 x 1100 litre bins and 2-bin linear track system for the collection of garbage and recyclables in each garbage room where chutes terminate. Garbage is to be compacted at a ratio of 2:1.

- The waste storage areas must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins and associated waste infrastructure as specified above.
- The layout of the waste storage areas must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage areas must be constructed of brickwork.
- The floor of the waste storage areas must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).

- The waste storage areas must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred). The waste servicing door must be must be supplied with a lock through Council's Waste Management Master Key System 'P3520'. See condition titled 'Installation of Master Key System to Waste Collection Room' for further details.
- All doors of the waste storage areas, when fully opened, must be flush with the outside walls and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- All waste storage areas must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- An insect control system is to be installed in the waste holding room. The equipment procured must be an ultra violet fly trap with a UV lamp of at least 20W or higher. The fly trap must be an electric-grid style and mounted to the wall or chained to the ceiling. In addition, an air deodoriser must also be installed to maintain cleanliness and hygiene within the waste holding room.
- All waste storage areas must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage areas, it is not to conflict with the space designated for the placement of bins.
- All waste storage areas must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage areas must have appropriate signage (Council approved designs) mounted in a visible location on internal walls and are to be permanently maintained by Owners corporation
- Finishes and colours of the waste storage areas are to complement the design of the development.

Example Bin Measurements (mm)

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

13. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2-2002 for the standard 12.5m long Heavy Rigid Vehicle (minimum 4.5m clear vertical clearance). The following requirements must also be satisfied.

- All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 4.5m. Any nearby areas where the clear headroom is less than 4.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.
- All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.

- Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
- The requirement for reversing on site must be limited to a single reverse entry into the designated waste service bay (typical three point turn).
- The designated waste service bay must allow additional space servicing of bins (wheeling bulk bins to the back of the waste collection vehicle for rear load collection).
- The loading area must have a sufficient level of lighting and have appropriate signage such as “waste collection loading zone”, “keep clear at all times” and “no parking at any time”.
- Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of heavy vehicles, remote access or alternative solution which ensures there is no requirement for waste collection contractors to exit the cab. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

14. Communal Composting Areas

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

15. Provision of Waste Chute System

The development must incorporate a twin chute system within each of the seven buildings. Chute openings must be provided on every residential floor within the building corridors. The waste chutes must terminate into the waste storage rooms. Garbage must discharge into 1100 litre bins housed on 2-bin linear track systems with compactor (2:1 compaction ratio) and recyclables must discharge into 1100 litre bins housed on 2-bin linear track system. The waste chute system must be maintained in accordance with manufactory standards.

16. Provision of Bin Cupboards

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

17. Imported ‘Waste Derived’ Fill Material

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

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

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

18. 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.

19. Litter Control

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

20. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Koikas Acoustics Pty Ltd, referenced as Proposed Residential Development 38 & 40, 42A – 50A Middleton Avenue & 21-31 Hughes Avenue, Castle Hill, dated Friday 12th March 2021 and submitted as part of the Development Application are to be implemented as part of this approval.

21. Contamination Assessment & Site Remediation

The recommendations of the Site Assessment and Report prepared by Eiaustralia Pty Ltd, referenced as 38, 40 & 42A to 50A Middleton Avenue and 21-31 Hughes Avenue Castle Hill, dated 17th May 2019 and submitted as part of the Development Application are to be implemented as part of this approval.

22. Control of early morning noise from trucks

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

23. Control of Noise from Trucks

The number of trucks waiting to remove fill from the site must be managed to minimise disturbance to the neighbourhood. No more than one truck is permitted to be waiting in any of the streets adjacent to the development site.

24. Secure Properties and Maintain Vegetation

The houses that are currently located on the development site are to be made secure so that the public cannot access the house or dump rubbish on the land. The vegetation (excluding live trees, live shrubs and plants under cultivation) on the properties is to be maintained and controlled so that the properties do not become overgrown and thus creating an unsafe and / or unhealthy environment.

25. Road Opening Permit

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

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

26. 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.

27. 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.

28. Structures Adjacent to Piped Drainage Easements

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

29. Requirements for Council Drainage Easements

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

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

30. 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.
- Where blinds aisles are included with are 7 or more car spaces in length consideration should be given to allocating this to residents only. If a blind aisle as 7 or more car spaces and is open to visitors (i.e. the public) suitable turning provisions need to be made to ensure a car can turn around and leave in a forward direction, in accordance with AS2890.1. Alternatively, a traffic management plan including line signage plan shall be prepared by a qualified traffic engineer to direct the visitors to the visitor's parking spaces. Written evidence from a qualified traffic engineer satisfying this requirement shall be provided to the Principle certifier.

31. Parking Spaces

The development is required to be provided with 314 off-street car parking spaces comprising 261 resident spaces and 53 visitors spaces. These car parking spaces shall be available for off street parking at all times.

32. Vehicular Crossing Request

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

33. 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.

34. Finished Floor Level – Flooding

The finished floor level (or levels) of the structure must reflect the approved construction plans and are to be no lower than respective/adjacent 1% AEP plus 500mm freeboard as estimated by Cardno (now Stantec) flood model

35. Site Flood Emergency Response Plan

The approved Site Flood Emergency Response Plan prepared in accordance with the requirements of this consent (i.e. considering the PMF) and Part C Section 6 – Flood Controlled Land of Council's DCP must be complied with.

Any proposed flood sign/indicators/colour coded markers relating to the flood evacuation plan, must be installed within the site boundary.

36. Flood Protection Requirements

The structure is affected by flooding and needs to be designed and constructed to address this constraint.

Structural elements of the structure below the flood planning level (respective/adjacent 1% AEP plus 500mm freeboard for the adjacent 1%AEP as estimated by Cardno (now Stantec) flood model) AHD must be designed and the as-built works certified by a structural engineer to ensure structural soundness during potential floods. The following criteria must be addressed having regard to the depth and velocity of flood water:

- Hydrostatic pressure;
- Hydrodynamic pressure;
- Impact of debris;
- Buoyancy forces;
- Saturated ground conditions;
- Shear stress and scour forces around and downstream of the structure.

For the purposes of this design the flood levels and associated flood velocities expected prepared by Cardno (now Stantec) flood model.

The following additional requirements apply:

- The design materials and construction of the structure must comply with the principal s set out in the publication “Reducing Vulnerability of Buildings to Flood Damage – Guidance on Building in Flood Prone Areas” published by the NSW Government.
- See Schedule B of Part C Section 6 – Flood Controlled Land of Council’s DCP for more detail.
- The structure is must be used for the approved use only. Specifically, this relates to any non-habitable structures below the FPL.
- The structure has been orientated parallel to the direction of flows so that impediment to these flows is minimised.
- The openings in the structure have been located in line with the direction of flows. These are to be opened prior to the onset of a flood to allow for the through-flow of floodwater.
- All structures to have flood compatible building components below FPL3.
- Note that foundations need to be included in the structural analysis.
- All service conduits located below FPL3 are to be made fully flood compatible and suitable for continuous underwater immersion. Conduits are to be self-draining if subject to flooding.
- No external storage of materials below FPL3 which may cause pollution or be potentially hazardous during any flood.
- Demonstrate that the structure can withstand the forces of floodwater, debris and buoyancy up to and including FPL3 and up to FPL4 to satisfy the evacuation.
- Walkway within the overland flow path must be minimum 300mm above the 1%AEP level, with suitable edge protection if required due to height of walkway relative to base of overland flow path.

37. Minor Engineering Works

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

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

a) Disused Layback/ Driveway Removal

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

b) Footpath Verge Formation

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

c) Site Stormwater Drainage

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge (connection to the easement and street drainage)

38. Subdivision Certificate Preliminary Review

Prior to the submission of a Subdivision Certificate application a draft copy of the final plan, administration sheet and Section 88B instrument (where included) must be submitted in order to establish that all conditions have been complied with.

Street addresses for the lots within this subdivision will be allocated as part of this preliminary check process, for inclusion on the administration sheet.

39. Tree Removal

Approval is granted for the removal of forty-nine (49) trees identified and located within the Arboricultural Development Impact Assessment Report prepared by Birds Tree Consultancy dated 11/11/2022 as 2, 12, 15-19, 21, 24-32, 39, 40-45, 48, 49, 50-54, 65, 74-81, 83, 84, 87, 88, and 91-95.

The following non-prescribed trees are also to be removed, although do not require Council consent for removal: 8-10, 20, 22, 23, 46, 47, 61-64, 66, 67, 68, 69, 70-73, 85, 86, and 96-98.

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

40. Replacement Planting Requirements

To directly replace trees numbered 17-19 within the Middleton Avenue setback, 3 x advanced 100 litre replacement trees from the following list are to be planted in a similar location as to where they were removed within the deep soil setback.

- *Waterhousea floribunda* (Weeping Lilly Pilly)
- *Elaeocarpus eumundi* (Eumundi Quandong)
- *Stenocarpus sinuatus* (Firewheel Tree)
- *Alloxylon flameum* (Tree Waratah)

41. Planting Requirements

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

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.

Note: this is the soil depth alone and not the overall depth of the planter. Mounding to achieve soil depth is not supported.

42. 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 Arborist report prepared by Birds Tree Consultancy dated 11/11/2022 and the following requirements:

- No level changes are permitted between the western boundary and the basement to retain trees 35, 36, 37, 38, 55, 56, 57, 58, 59, 60, 82, and 90. Excavation for stormwater pipes and pits within this setback is to be undertaken utilising tree sensitive non-destructive excavation techniques under direct supervision of the project Arborist.
- Basement construction within the TPZ of the above trees are to be constructed using contiguous piling to limit over excavation.

- No swale is permitted within the western setback. Recommendations in the Arborist Report in relation to the swale are to be disregarded.
- No site entry/access is permitted within the Tree Protection Zone (TPZ) of any tree to be retained.
- No crane pad is to be located within the TPZ of any tree to be retained
- No site offices, storage, stockpiles, or lunch/seating areas are to be located within the TPZ of trees to be retained.

43. Tree Removal on Public Land

Approval is granted for the removal of twelve (12) trees identified and located within the Arboricultural Development Impact Assessment Report prepared by Birds Tree Consultancy dated 11/11/2022 as 20, 21, 22, 40, 44, 46, 47, 50, 51, 52, 91 and 92 located on the Council nature strip that will be impacted by works associated with the development.

All tree works must be undertaken by the owner/applicant at their cost. Prior to any works commencing on site, the owner/applicant must provide the following details to The Hills Shire Council's Manager – Environment & Health:

- Time and date of when the tree works will occur;
- Full details of the contractor who will be undertaking tree works (Minimum AQF level 3 Arborist);
- Current copy of the contractors Public Liability Insurance (Minimum $10,000,000).

Note: The owner/applicant is to keep a photographic record pre and post tree removal works of the tree and surrounding Council infrastructure (e.g. concrete footpath, kerb & gutter) and provide these to Council upon request. The grass verge must be reinstated with any holes filled to existing natural ground level.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

44. Section 7.11 Contribution

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

Payments comprise of the following:-

	Purpose: 1 bedroom unit	***Purpose: 2 bedroom unit***	***Purpose: 3 bedroom unit***	***Purpose: Credit***
Open Space - Land	$ 4,502.04	$ 6,302.84	$ 7,803.52	$ 10,204.25
Open Space - Capital	$ 2,275.62	$ 3,185.87	$ 3,944.41	$ 5,157.91
Transport Facilities - Land	$ 1,119.69	$ 1,567.55	$ 1,940.78	$ 2,537.87
Transport Facilities - Capital	$ 1,742.38	$ 2,439.33	$ 3,020.12	$ 3,949.25
Water Management - Capital	$ 454.92	$ 636.89	$ 788.54	$ 1,031.13
Administration	$ 59.86	$ 83.84	$ 103.79	$ 135.71
Total	**$ 10,154.51**	**$ 14,216.32**	**$ 17,601.16**	**$ 23,016.11**

No. of 1 Bedroom Units: 65	***No. of 2 Bedroom Units: 143***	***No. of 3 Bedroom Units: 53***	***Sum of Units***	***No. of Credits: 15***	***Total S7.11***
$ 292,632.48	$ 901,305.58	$ 413,586.33	$ 1,607,524.39	$ 153,063.74	**$ 1,454,460.65**
$ 147,915.34	$ 455,579.87	$ 209,053.91	$ 812,549.13	$ 77,368.61	**$ 735,180.51**
$ 72,779.61	$ 224,160.26	$ 102,861.50	$ 399,801.37	$ 38,067.98	**$ 361,733.40**
$ 113,254.49	$ 348,824.13	$ 160,066.27	$ 622,144.88	$ 59,238.73	**$ 562,906.15**
$ 29,569.91	$ 91,075.94	$ 41,792.75	$ 162,438.59	$ 15,467.00	**$ 146,971.59**
$ 3,891.20	$ 11,988.54	$ 5,500.91	$ 21,380.65	$ 2,035.65	**$ 19,345.00**
$ 660,043.03	**$ 2,032,934.32**	**$ 932,861.66**	**$ 3,625,839.01**	**$ 345,241.71**	**$ 3,280,597.30**

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are periodically indexed and will be updated at the time of payment, in accordance with the provisions of the applicable plan. A reference to the

'applicable plan' within this condition refers to the Contributions Plan in force at the time this consent was issued.

Prior to payment of the above contributions, the applicant is advised to contact Council's Development Contributions Officer on 9843 0555.

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

This condition has been imposed in accordance with Contributions Plan No 19.

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

45. Internal Pavement Structural Design Certification

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

46. 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).

47. Protection of Internal Noise Levels (Residential Unit Development)

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

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

In particular the acoustic statement shall detail that all recommendations contained within the Acoustic Assessment and Report prepared by Koikas Acoustics Pty Ltd, referenced as Proposed Residential Development 38 & 40, 42A – 50A Middleton Avenue & 21-31 Hughes Avenue, Castle Hill, dated Friday 12th March 2021, have been included in the construction plans of the development.

48. Construction Noise and Vibration Assessment and Management

Prior to the issue of a Construction Certificate, a Construction Noise and Vibration Assessment and Management Plan is to be submitted to the certifying authority for review and approval. The Plan is to include the following information at a minimum;

- Review of all stages of the construction project to identify all relevant noise and vibration generating construction works and activities including but not limited to
    i. Work Sites;
    ii. Construction traffic including truck movements
    iii. Equipment in use on site
    iv. Excavation and rock breaking.
- Identification of sensitive and critical receivers
- Conduct ambient pre-construction noise monitoring and vibration monitoring
- Set Project Specific Noise Levels
- Predict noise impacts
- Detail how project specific noise levels will be monitored during construction
- Provide recommendations on minimising noise impact on neighbouring residential properties.

49. 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.

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

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

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

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

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

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

An SWMP is required for this development.

51. Onsite Stormwater Detention – Hawkesbury River Catchment Area

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters for the site storage requirement and permissible site discharge.

The stormwater concept plan prepared by S&G CONSULTANTS PTY LTD, project No. 20180280, Drawing No. SW203 - SW207 included, SW300, All Rev. H, all dated: 14/11/202 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and the following necessary changes:

a) OSD shall be checked against drowned condition and against effects of 1% AEP on the DCP outlet/figure 6.3 of Rev. 3 of the Upper Parramatta River Catchment Trust. Note: The Top of the kerb can be used for the down outlet condition

b) Non-return valve is required for the drainage pipe connecting the junction pit from "building C" to the existing easement.

c) The proposed swales/Flood mitigation measure shall be designed as a dry condition upto include the 20 year ARI (i.e swale shall be engaged/operate for major events only).

d) The stormwater pits located within the proposed swales and fronting the street shall not surcharge for stormwater event upto and including the 20 year ARI

e) The extent of the 1%AEP shall be shown on the stormwater and civil plan as per TUFLOW model prepared by Cardno (now Stantec) model dated 13/09/2022.

f) The overflow weir from the OSD tank shall be set min 300mm above the adjacent 1%AEP (i.e TWL for the 1% AEP within the overland flow path)

g) The proposed swale behind building "A" shall be removed/deleted

h) The MUSIC model shall be revised to include the total site area excluding the land dedication area only.

i) The MUSIC model and catchment shall be updated to comply with the requirement within this consent

j) The swale icon will need to be deleted as it will not act as a treatment rather bypassing area.

k) Additional SORB cartridges and Oceanguard pit will need to be included with the revised model

l) The OSD shall be located on a common area only.

m) Any existing retaining wall at the site boundary shall be shown on the stormwater plans too.

Water sensitive urban design elements, consisting of SORB cartridges, Oceanguard pit inserts and rainwater tanks, are to be located generally in accordance with the plans and information submitted with the application.

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

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

All model parameters and data outputs are to be provided.

NOTE: The inputs of the MUSIC model parameters shall be consistent with Council's design guidelines subdivision/developments dated Sep 2011, and relevant Council's DCP

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

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

52. Stormwater Pump/ Basement Car Park Requirements

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

53. Works in Existing Easement

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

54. Works on Adjoining Land

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

55. 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 $308,320.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side (410) multiplied by the width of the road (8).

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.

56. Security Bond – External Works

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

confirmed with Council prior to payment. The tendered value of the work must be provided for checking so the bond amount can be confirmed.

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

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

57. 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 S&G CONSULTANTS PTY LTD, project No. 20180280, Drawing No. C201, C202, C501 and C502, All Rev. H, all dated: 14/11/2022 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Indented Parking Bays/ Road Widening (Showground Precinct)

The entire site frontage to Hughes Ave must be reconstructed including footpath paving, stormwater drainage adjustments and any other ancillary work to make this construction effective.

The existing 3.5m wide footpath verge measured from the face of kerb must be widened by 2m to 5.5m (and this road widening dedicated to the public). Within this widened verge the required formation must generally be in accordance with Council's Showground Precinct Public Domain Plan, Council's Showground Precinct Verge Treatment Detail/ Plans dated 15 February 2019, the above documents and Council's standard drawings/ details relating to these works.

The pedestrian pavement type and street lighting category must match the Showground Precinct Public Domain Plan.

b) Pathway/ Local Drainage Link

A variable width pathway/ local drainage link must be constructed in the locations shown on the approved stormwater plan, revised TUFLOW model and the requirements of this consent.

c) Overland Flow Path.

A compliance certificate from a qualified civil engineer specialise in flood modelling shall be provided to the Principal Certifier confirming that the TUFLOW model prepared by Cardno (now Stantec) model dated 13/09/2022 over the proposed overland flow path shall be revised/updated to comply with the requirements of this consent.

d) 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.

e) Concrete Cycleway/ Shared Path

A 2.5m wide concrete cycleway/ shared path, including access ramps at all intersections, must be provided on the Middleton Ave and fronting the whole site in accordance with the DCP and the above documents.

f) 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.

g) Service Conduits

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

h) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to that shown on the approved architectural plans as referred to earlier in this consent. No level adjustment is permitted at the property boundaries, as shown in the approved plans.

The proposed retaining wall shall be designed to such that it accepts and caters for any surface runoff from the up slope adjoining land in a 'failsafe' manner without affecting any other property. No diversion or concentration of stormwater surface flows will be permitted. The proposed retaining wall including footing and subsoil drain shall be design and constructed fully inside the property boundary

i) Pedestrians/ elevated walkway

The proposed pedestrians/ elevated walkway over the overland flow path channel/swale shall incorporating the appropriate measures (i.e a 1.2m high non-climbable fence) to stop future resident from falling into flood water. These requirements shall be reflected on the construction plans prior to the issue of any construction certificate.

j) Consistency with the TUFLOW model

The architectural, landscaping, civil and stormwater plans shall be consistent with the design requirements of future/revised Tuflow model referenced within this consent and to the satisfaction of Council's Manager - Subdivision & Development Certification. These requirements shall be reflected on the Construction Certificate plans and supporting documentation prior to the issue of any Construction Certificate

58. Construction Management Plan

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

59. Revised TUFLOW model

Prior to the issue of the construction certificate by the principal certifier, The TUFLOW model prepared by Cardno (now Stantec) model dated 13 September 2022 over the proposed overland flow path shall be revised/updated to comply with the requirements, as follows:

a) Increase the velocity outside the development site is not permitted. The TUFLOW model shall be revised to ensure that the velocity outside the development site is equal or less than the post development case along the boundary of properties No. 52 and 54 Middleton Avenue.
b) The TUFLOW model must be revised to include the Probable Maximum Flood (PMF). Once the PMF is modelled and the PMF extent is provided on the architectural plans, and the stormwater plans,

c) Satisfy all flooding conditions under the heading general matters
d) Satisfy all flooding conditions under the heading prior to the issue of the construction certificate
e) Satisfy all flooding council's comments relating to the flood model dated 08 July 2022
f) The extent of the 1% AEP shall be shown on the landscape, architectural, landscaping, civil and stormwater plans.
g) The landscape, architectural, civil and stormwater plans shall be revised to comply with the revised TUFLOW model.
h) The flood model shall comply with councils Part C Section 6 – Flood Controlled Land of Council's DCP, and in accordance with Council's Works Specification Subdivisions/ Developments
i) The Site Flood Emergency Response Plan (SFERP) shall be revised to adopt the recommendation from the revised TUFLOW model. The Site Flood Emergency Response Plan (SFERP) shall direct the resident to ground above the PMF level. A copy of the approved Site Flood Emergency Response Plan (SFERP) shall be provided to Council for record keeping purposes.
j) Details of the proposed pedestrian path shall be provided including cross-section. The pedestrian path shall not impact the flood storage within the 1% AEP within the overland flow path
k) The proposed pedestrians/ elevated walkway over the overland flow path channel/swale shall incorporating the appropriate measures (i.e a 1.2m high non-climbable fence) to stop future resident from falling into flood water.
l) Flood impact assessment shall be provided with the submission demonstrating compliance with the requirements of this consent.
m) Prior to the issue of any construction certificate, the Principal Certifier shall ensure that the revised TUFLOW model referenced within this condition has been accepted and signed off by Council's Manager - Subdivision & Development Certification.

60. Digital Elevation Model

Prior to the issue of the construction certificate by the principal certifier, the Digital Elevation Model including existing and design service levels for architectural, landscaping, civil and stormwater plans shall be consistent with Digital Elevation Model used within the TUFLOW model prepared by Cardno (now Stantec) model dated 13/09/2022. These requirements shall be reflected on the construction plans prior to the issue of any construction certificate.

A compliance certificate from a qualified civil engineer specialise in flood modelling shall be provided to principal certifier confirming that the above condition is satisfactory.

61. Roughness Value

Prior to the issue of the construction certificate by the principal certifier, the proposed landscaping/planting over the overland flow path channel/swale shall be light to medium landscaping planting type within a roughness value of 0.035 to 0.1 and as per the TUFLOW model prepared by Cardno (now Stantec) model dated 13/09/2022. The architectural, landscaping, civil and stormwater plans shall be revised to comply with this requirement. These requirements shall be reflected on the construction plans prior to the issue of any construction certificate.

A compliance certificate from a qualified civil engineer specialise in flood modelling shall be provided to principal certifier confirming that the above condition is satisfactory.

62. Basement protection

All access points, Crest of the Driveway, the Pedestrian Access way to the underground basement, ventilation points and lift lobby for underground basement carpark that subject to potential floodwaters ingress must be flood proofed up to the respective/adjacent 1% AEP plus 500mm freeboard for the adjacent 1%AEP as estimated by the revised Cardno (now Stantec) flood model and requirement of this consent

63. Approval of the flood model

Prior to the issue of any construction certificate, the Principal Certifier shall ensure that the revised TUFLOW model referenced within this condition has been accepted and signed off by Council's Manager - Subdivision & Development Certification.

64. Irrigation

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

65. Landscape Plan

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

The plan must indicate:

a) amended stormwater elements such as pits and OSD, as well as any elements requiring amendment resulting from revised OSD design and TUFLOW Model e.g height of elevated walkways;

b) the extent of the 1% AEP in accordance with the Revised TUFLOW Model condition of this consent;

c) amended planting within the 1% AEP area to ensure plants tolerant of temporary inundation;

d) an accurate representation of the interface between the approved buildings 52 Middleton Avenue in regard to levels and any existing and proposed retaining walls, and fencing over; and

e) sufficient finished ground levels and TOW levels over the OSD to ensure sufficient depth over for the approved landscape planting.

66. Planting over OSD

Amended stormwater plans are to be prepared and submitted to the satisfaction of The Hills Shire Council's Manager - Environment and Health for approval prior to the issue of Construction Certificate. These plans are to demonstrate through levels and sectional drawings that OSD pits are accessible at finished soil levels within approved raised planter boxes.

67. Sight Line Diagram

A diagram demonstrating that the sight lines from the proposed driveway is clear of obstruction and complies with the requirements of AS2890.1:2004 is to be submitted prior to the issue of a Construction Certificate.

PRIOR TO WORK COMMENCING ON THE SITE

68. Sydney Water Building Plan Approval

A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.
A copy of the building plan approval and receipt from Sydney Water Tap in™ (if not already provided) must be submitted to the Principal Certifier upon request prior to works commencing.
Please refer to the website http://www.sydneywater.com.au/tapin/index.htm, Sydney Water Tap in™, or telephone 13 20 92.

69. 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.

70. Discontinuation of Domestic Waste Services

Council provides a domestic waste service to the property subject to this Development Application. This service must be cancelled prior to demolition of the existing dwelling or where the site ceases to be occupied during works, whichever comes first. You will continue to be charged where this is not done. No bins provided as part of the domestic waste service are to remain on site for use by construction workers, unless previous written approval is obtained from Council. To satisfy this condition, the Principal Certifying Authority must contact Council on (02) 9843 0310 at the required time mentioned above to arrange for the service to be discontinued and for any bins to be removed from the property by Council.

71. Construction and 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.

72. Details and Signage - Principal Contractor and Principal Certifier

Details

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

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

Signage

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

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

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

57. Contractors Details

The contractor carrying out the civil 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.

73. Erosion and Sedimentation Controls

Erosion and sedimentation controls shall be in place prior to the commencement of site works and maintained throughout construction activities, until the site is landscaped and/or suitably revegetated. These requirements shall be in accordance with *Managing Urban Stormwater – Soils and Construction (Blue Book)* produced by the NSW Department of Housing.

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

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

74. Site Water Management Plan

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

75. Notification of Asbestos Removal

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

76. 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.

77. Contractors Details

The contractor carrying out the subdivision 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.

78. Erosion and Sediment Control/ Soil and Water Management

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

79. Separate OSD Detailed Design Approval

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

80. 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.

81. Property Condition Report – Private Assets

A property condition report must be prepared and submitted by a structural engineer to Council and the listed property owners, recording the condition of any dwelling or ancillary structures on properties (33 Hughes Avenue, 52 Middleton Avenue, 42 Middleton Avenue, 36 Middleton Avenue, and 19 Hughes Avenue) within the likely zone of influence from any excavation, dewatering or construction induced vibration.

82. Dust Management Plan

A site specific dust management plan must be developed to proactively address the issue of dust during construction. This plan must be submitted to Council's Manager – Subdivision and Development Certification for written approval before works commence. The plan must address/ include the following matters, where relevant:

- Water carts must be used to regularly wet down exposed areas. The number of water carts required on site (at all times, and with additional carts available on demand) must be nominated and justified.
- Additives that can be mixed with the water to aid dust suppression.
- A dust cloth must be installed along the perimeter of the site.
- Where required, a sprinkler/ misting system along the perimeter of the site.
- Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- Speed control on haul routes.
- Stockpile management such as location, orientation, volume and height to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- Final topsoil placement and planting or seeding exposed areas as soon as possible.
- Jute matting of the core riparian zone within any creeks/ riparian corridors.
- Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- Education of all site personnel on reducing dust.
- Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to.
- How the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.

83. Tree Protection Fencing

Prior to any works commencing on site (including demolition) Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. Fencing shall as per the Tree Protection Plan within the Arboricultural Development Impact Assessment Report prepared by Birds Tree Consultancy dated 11/11/2022.

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

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

Where fencing is located to protect trees on the Council Nature Strip, lower fencing such as crowd control barriers may be utlised to maintain sight lines, while excluding the above tree-

damaging actions occurring. Where this cannot be achieved without blocking existing pedestrian paths, trunk protection shall be erected around nominated trees to avoid accidental damage. The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8m metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with galvanised hoop strap.

Tree protection fencing must only be relocated or removed under written direction from the Project Arborist. Fencing must be reinstated after works within the Tree Protection Zone has been completed.

84. 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.

85. 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.

86. 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.

87. 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.

88. 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).

89. 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.

DURING CONSTRUCTION

90. Hours of Work
Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

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

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

91. Rock Breaking Noise

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

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

92. 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).*

93. Contamination

Ground conditions are to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council's Manager- Environment and Health is to be notified and a site contamination investigation is to be carried out in accordance with the *State Environmental Planning Policy (Resilience and Hazards) 2021.*

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

94. Stockpiles

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

95. Asbestos Removal

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

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

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

96. Dust Management Plan

Prior to the issue of the Construction Certificate, a site specific Dust Management Plan (DMP) must be prepared by a suitably qualified and experienced construction management consultant in conjunction with the civil contractor to proactively address this dust management. This DMP must be approved by the certifying authority prior to work commencing and shall address/ include the following matters:

- Water carts must be used to regularly wet down exposed areas. The number of water carts on site at all times (and additional carts available on demand) must be nominated and justified.
- Additives that can be mixed with the water to aid dust suppression.
- A dust cloth must be installed along the perimeter of the site.
- A sprinkler/ misting system along the perimeter of the site.

- Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- Vehicle speed control on access routes.
- Stockpile management such as location, orientation, volume and height must be carefully considered to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- Final topsoil placement and planting or seeding exposed areas as soon as possible.
- Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- Education of all site personnel on reducing dust.
- Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to.
- The DMP must also demonstrate how the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.

97. Further contamination assessment

A contamination assessment of the soils shall be carried out in areas that were inaccessible at the time of the initial contamination assessment. A copy of the assessment shall be submitted to Council's Manager – Environment & Health.

98. Standard of Works

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

99. Project Arborist

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

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

100. Survey Report and Site Sketch

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

101. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate Nos. 1183794M_02, 1183824M_02 and 1183835M_02 are to be complied with. Any subsequent version of these BASIX Certificates will supersede all previous versions of the certificates.

102. Washing of Vehicles

All wastewater from car washing is to be discharged to the sewer under a suitable Trade Waste Agreement from Sydney Water. The carwash bay area shall be bunded and graded to drain to sewer and ensure no run-off wastewater enters the stormwater drainage system.

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

Section 6.6 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Clause 162A of the

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

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

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

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

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

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

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

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

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

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

110. Installation of Master Key System to Waste Collection Room

Before the issue of an Occupation Certificate, the site project manager must organise with Council's locksmith to install a lockbox fitted with Council's Waste Management Master Key System 'P3520' on an accessible external wall of the waste holding room. The lockbox must store the site-specific keys that open the waste holding room so that Council's Waste Collection Contractor can access the room for ongoing waste collection. The lockbox fitted with Council's Master Key System is to be installed through Council's locksmith at the cost of the developer. Please contact Council's Resource Recovery Project Officer to organise the installation.

111. Procurement of Mechanical Bin Mover

Prior to an Occupation Certificate being issued, a mechanical bin mover, suitable for 1100 litre bins must be purchased and delivered to the site. The equipment procured must have capacity to move full bins over all ramps and slopes between the waste storage areas and waste collection point. All waste moving equipment must be lawfully handed into the ownership of the Owner Corporation.

112. Regulated Systems

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

a) Australian/New Zealand Standard AS/NZS 1668.1:1998 – The use of ventilation and air conditioning in buildings – fire and smoke control in multi-compartment buildings;
b) Australian Standard AS 1668.2 – 2002 - The use of ventilation and air conditioning in buildings – ventilation design for indoor air contaminant control;
c) Australian/New Zealand Standard AS/NZS 3666.1:2011 – Air handling and water systems of buildings – Microbial control – Design, installation and commissioning;
d) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control - Operation and maintenance;
e) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control – Performance based maintenance of cooling water systems; and
f) Public Health Regulation 2012.

The regulated system is to be registered with Council by submitting an Application for Registration of Regulated Water Cooling/Warm Water Systems, available on Council's website www.thehills.nsw.gov.au prior to commissioning.

113. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled Proposed Residential Development 38 & 40, 42A – 50A Middleton Avenue and 21 -31 Hughes Avenue, Castle Hill NSW prepared by Koikas Acoustics Pty Ltd dated 12th March 2021. Certification is to be provided.

114. Clearance Certificate

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

115. Validation report

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

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

116. Subdivision Works – Submission Requirements

Once the subdivision works are complete the following documentation (where relevant/ required) must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments and submitted to Council's Construction Engineer for written approval:

- Works as Executed Plans
- Stormwater Drainage CCTV Recording
- Pavement Density Results
- Street Name/ Regulatory Signage Plan
- Pavement Certification
- Public Asset Creation Summary
- Concrete Core Test Results
- Site Fill Results
- Structural Certification

The works as executed plan must be prepared by a civil engineer or registered surveyor. A copy of the approved detailed design must underlay the works as executed plan so clearly show any differences between the design and constructed works. The notation/ terminology used must be clear and consistent too. For bonded/ outstanding work the works as executed plan must reflect the actual work completed. Depending on the nature and scope of the bonded/ outstanding work a further works as executed plan may be required later, when that work is completed.

All piped stormwater drainage systems and ancillary structures which will become public assets must be inspected by CCTV. A copy of the actual recording must be submitted electronically for checking.

A template public asset creation summary is available on Council's website and must be used.

117. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the subdivision works is required to be submitted to Council. The bond will be held for a minimum defect liability period of six months from the certified date of completion of the subdivision works. The minimum bond amount is $5,000.00. The bond is refundable upon written application to Council and is subject to a final inspection.

118. Confirmation of Pipe Locations

A letter from a registered surveyor must be provided with the works as executed plans certifying that all pipes and drainage structures are located within the proposed drainage easements.

119. 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.

120. 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.

121. 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.

122. Public Road/ Road Widening Dedication

An Occupation Certificate must not be issued until the proposed public roads/ road widening have been dedicated in accordance with the undertaking submitted relating to dedication INSERT.

123. Consolidation of Allotments

All allotments included in this consent must be consolidated into a single allotment before an Occupation Certificate is issued. A copy of the registered plan must be submitted to Council.

124. 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.

125. Stormwater Management Certification

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

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

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

126. Creation of Restrictions/ Positive Covenants

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

a) Restriction – Bedroom Numbers

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

b) Restriction/ Positive Covenant – Onsite Stormwater Detention

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

c) Restriction/ Positive Covenant – Water Sensitive Urban Design

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

d) Positive Covenant – Stormwater Pump

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

e) Positive Covenant – Onsite Waste Collection

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

f) Dedication – Local Drainage Link/ Pathway

The dedication of the proposed local drainage link/ pathway must be included on the final plan in accordance with the undertaking submitted relating to dedication overland flow path through the site.

g) Easement –Public Access

A public access easement must be created within site over the pedestrian link the “temporary public access easement” terms included in the standard recitals.

h) Site Flood Emergency Response Plan

The site must be burden with a restricted requiring the approved Site Flood Emergency Response Plan to be maintained within all future owners of the building

127. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

- One copy of the final plan.
- The original administration sheet and Section 88B instrument.
- All certificates and supplementary information required by this consent.
- An AutoCAD copy of final plan (GDA2020/ MGA Zone 56).

128. 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.

129. Privacy Screening

Privacy screening as marked in red on the stamped approved plans referenced in condition No. 1 are to be provided prior to the issue of an Occupation Certificate. All privacy screens shall be maintained for the life of the development.

THE USE OF THE SITE

130. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the occupation of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage areas, which must include provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. All waste storage areas must be screened from view from any adjoining residential property or public place. A caretaker must be appointed to manage waste operations on site including undertaking all instructions issued by Council to enable waste collection. Waste storage areas must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

131. 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.*

132. 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.

133. Dust Control

The emission of dust must be controlled to minimise nuisance to the occupants of the surrounding premises. The emission of dust must be controlled and monitored for on-going effectiveness to minimise nuisance in accordance with the Dust Management Plan (DMP) referred to in Conditions 82 and 96.

ATTACHMENTS

1. Locality Plan
2. Aerial Map
3. LEP 2019 Zoning Map
4. LEP 2019 Height of Buildings Map
5. LEP 2019 Floor Space Ratio (Base) Map
6. LEP 2019 Floor Space Ratio (Incentive) Map
7. Site Plan
8. Proposed Subdivision Plan
9. Floor Plans
10. Elevations
11. Sections
12. Landscape Plans
13. Shadow Diagrams
14. Finishes Schedule
15. Perspectives
16. Clause 4.6 Written Submission
17. Design Review Panel Reports
18. Applicant's response to the Design Review Panel Report
19. Applicant's Legal Advice regarding Potential Site Isolation of 42 Middleton Avenue