

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-301
DA Number	DA 1611/2020/JP/A
LGA	The Hills Shire Council
Proposed Development	Section 4.55(2) Modification to Approved Demolition of Existing Structures and Construction of 13-18 Storey Residential Flat Buildings
Street Address	6-12&12A and 16-20 Garthowen Crescent, Castle Hill
Applicant	D Yeung
Consultant/s	Caladines Town Planning Pty Ltd – Town Planning Giles Tribe - Architect Henson Consulting – Traffic Engineering Dasco Australia Pty Ltd - Project Management
Date of DA lodgement	08 November 2021
Number of Submissions	Twenty (20)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Section 4.55(2) Modification - Contentious Development (more than 10 unique submissions received)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • The Hills LEP 2019 • SEPP (State and Regional Development) 2011 • SEPP 55 – Remediation of Land • SEPP 65 – Design Quality of Residential Apartment Development • SEPP (Infrastructure) 2007 • Apartment Design Guidelines • SEPP Building Sustainability Index: BASIX 2004 • DCP 2012 Part D Section 20 – Castle Hill North Precinct • DCP 2012 Part C Section 3 – Landscaping
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural plans • Applicant's withdrawal of the proposed conversion of visitor parking spaces • Copies of residents' submissions
Clause 4.6 requests	Building height variation which has been addressed in the original DA. No further variation is proposed.
Summary of key submissions	<ul style="list-style-type: none"> • Reiterated previous concerns raised in the original application regarding overdevelopment, building height, visual impact, loss of trees, loss of sunlight, shadow impact, access management, traffic and density. • Submitted Statement of Environmental Effects misinterprets the provisions of clause 7.11(3)(f) for land in Area B as prescribed in LEP 2019. • Object to the proposed conversion of 40 visitor spaces to resident spaces and should be maintained as required. • Proposal is a marketing ploy by the developer in an attempt at making the unsold units more attractive to purchasers. • Existing apartment buildings in the area have ample visitor car parking which is regularly used by extended family members of residents, guests and visitors.

	<ul style="list-style-type: none"> The applicant completely misunderstands the parking control prescribed in the LEP for the site. To approve the reallocation of visitor spaces would set as a precedent to all other proposed similar developments in the Shire in general.
Report prepared by	Claro Patag – Specialist Planner
Report date	24 February 2022

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**

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

Conditions

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

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

EXECUTIVE SUMMARY

The Section 4.55(2) application initially sought to modify Condition 4 to reallocate the approved 40 visitor car parking spaces to resident parking spaces. This part of the modification application was later withdrawn by the applicant in response to concerns raised by Council staff that this component of their application will not be supported because of their misinterpretation of the relevant parking provisions under Clause 7.11(3)(e) of The Hills Local Environmental Plan 2019.

The modification application also seeks to amend the referenced drawings in Condition 1 due to several changes to the internal layout of Basement Levels 1 to 4. The proposed modification works are summarised below:

- Increase the number and clearly identify locations of storage cages
- Clearly identify and nominate location of essential services
- Changes to car parking, bike, motorbike and layout in each basement level
- Change to basement RL's to accommodate required height for transfer slab
- Minor change to size of garbage holding room
- Structural walls and columns updated
- Railings and ramp added to comply with AS1428.1

The modification application also seeks to modify Condition 7 of the original consent which relates to property numbering and cluster mailboxes. There was a minor error/ misdescription between the Council 'marked up' plans and unit numbering set out in the development consent, and the applicant seeks to amend the 'marked up' plans as some numbers have been doubled up.

The application was notified to adjoining and surrounding properties including previous objectors. Twenty submissions were received during the notification period. The issues raised in the submissions were previous concerns raised in the original application which relate to overdevelopment, building height, visual impact, loss of trees, loss of sunlight, shadow impact, access management, traffic and density. Most residents strongly object to the proposed conversion of the visitor spaces to resident spaces and should be maintained as required. The residents claim that it is a marketing ploy by the developer to make the unsold units more attractive to purchasers and that the applicant completely misunderstands the parking control prescribed in the LEP for the site. The concerns raised with respect to the merit of the original approval are not relevant to the proposed modification. The issues raised with respect of the loss of visitor parking have been addressed by the applicant in amending this component of the application.

Having regard to the relevant provisions of Section 4.15 and Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, the proposed modification is considered satisfactory and will result in a development that is substantially the same as that previously approved. No issue is raised with the refinement of the basement car park as proposed.

The Section 4.55(2) modification application is recommended for approval.

BACKGROUND

The original Development Application (1611/2020/JP) for the demolition of all existing structures on the subject site and construction of 13-18 storey residential flat buildings containing 196 units, basement car parking and associated works was lodged with Council on 22 June 2020. On 1 April 2021, the Development Application was approved by the Sydney Central City Planning Panel subject to conditions.

On 9 November 2021, the subject Section 4.55(2) modification application was lodged. It was notified to adjoining and surrounding properties including previous objectors between 12 November 2021 and 3 December 2021. Twenty submissions were received during the notification period.

A letter was sent to the applicant on 26 November 2021 advising that the proposed conversion of the visitor parking spaces to resident spaces will not be supported and requested that this component of the modification application be withdrawn.

On 30 November 2021, an email was received from the applicant's town planning consultant requesting an online meeting with relevant Council staff to discuss the car parking issue outlined in the letter from Council staff dated 26 November 2021.

A response was sent to the town planning consultant by email on 2 December 2021 advising that a meeting is not necessary reiterating the advice outlined in the correspondence dated 26 November 2021. It was advised that the Department of Planning, Industry and Environment included a savings provision under the LEP that specifies that the new parking rates do not apply to a development application made but not finally determined before the commencement of the amendment to LEP 2019 which was on 25 December 2020. As the original Development Application was lodged on 22 June 2020 it was not eligible for the new rates.

A briefing was held with the Panel on 16 December 2021.

Email sent to the applicant on 17 December 2021 forwarding Council's Subdivision Engineer's comments and a request for additional information in relation to proposed ramp and aisle width dimensions.

On 20 December 2021, an email was received from the applicant's town planning consultant advising withdrawal of the proposed conversion of the approved visitor car spaces to resident car spaces from the subject modification application. It was also suggested in the email to let the residents be made aware of this withdrawal and that the applicant will no longer seek legal advice relating to the savings clause in the LEP. The residents' head petitioner was advised on 21 December 2021 accordingly.

Additional engineering information was received from the applicant on 5 January 2022.

A supplementary statement from the applicant's town planning consultant was received on 11 January 2022 in relation to the proposed piling within basement levels 1-4 being moved 450mm towards the northern street boundary as the approved design and location is not structurally adequate to service the development. It was noted that none of the proposed basement piling or structural walls will be visible from the street and all will remain below natural ground level.

On 24 January 2022, an email was sent to the applicant forwarding Council's Subdivision Engineer's comments advising that the submitted additional information was still unsatisfactory. On 25 January 2022, further additional engineering information accompanied by a traffic statement was received from the applicant. On 2 February 2022, the applicant was advised by email that the proposal in its current form is not supported as the proposed ramp and accessible parking still does not comply with the Australian Standards and that the same recurring issues have not been resolved.

Revised basement level plans were submitted by the applicant on 3 February 2022 and have been assessed by Council's Subdivision Engineer as being satisfactory.

DETAILS AND SUBMISSIONS

Owner:	Old Diamond Pty Ltd The Owners Strata Plan No. 40627
Zoning:	R4 High Density Residential
Area:	6,063m ²
Existing Development:	Dwelling houses, dual occupancy and ancillary structures
Section 7.11 Contribution	Subject to VPA – conditioned in the original consent
Exhibition:	Not required
Notice Adj Owners:	14 days
Number Advised:	271 (including previous objectors)
Submissions Received:	20

PROPOSAL

The Section 4.55(2) application initially seeks to modify Condition 4 to reallocate the approved 40 visitor car parking spaces to resident parking spaces. This was later withdrawn by the applicant in response to Council staff's advice that this component of their application will not be supported because of their misinterpretation of the relevant parking provisions under Clause 7.11(3)(e) of The Hills Local Environmental Plan 2019.

The modification application also seeks to amend the referenced drawings in Condition 1 due to several changes to the internal layout of Basement Levels 1 to 4. The proposed modification works are summarised below:

- Increase the number and clearly identify locations of storage cages
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The modification application also seeks to modify Condition 7 of the original consent which relates to property numbering and cluster mailboxes. There was a minor error/ misdescription between the Council 'marked up' plans and unit numbering set out in the development consent, and the applicant seeks to amend the 'marked up' plans as some numbers have been doubled up.

CONCILIATION CONFERENCE

Twenty submissions have been received during the notification period and in accordance with Council's standard practice, a Conciliation Conference should have been held between Council staff, the applicant and objectors, however due to Covid restrictions such conferences are currently suspended.

ISSUES FOR CONSIDERATION

1. Section 4.55(2) of the Environmental Planning and Assessment Act, 1979

Under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, Council may, in response to an application, modify a consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).

Response:

The proposed development as modified would represent substantially the same development for which consent was originally granted as there is no change to the approved land use and the form and nature of the development remains as approved. The setbacks to the street and adjoining property boundaries remain unchanged and the orientation, footprint and building envelope generally remains as originally approved. As a result of refining the design of the basement car park levels in the preparation of the construction certificate drawings, specifically the increase in size of the columns, it has been identified by both the project architect and structural engineer that the northern basement wall piling is not, in its approved design and location structurally adequate to service the development and therefore the piling needs to be moved 450mm (within basement levels 1-4) towards the northern street boundary. None of the proposed basement piling or structural walls will be visible from the street, and they will all remain below natural ground level (refer to Attachment 5).

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent.

Response:

No concurrence from a public authority or approval body is required for this development.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Response:

The modification application has been notified in accordance with the regulations and Council's notification policy.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Response:

Twenty submissions have been received during the notification period and issues raised are addressed in Section 6 below.

Comment:

In *Moto Projects (No. 2) Pty Ltd v North Sydney Council* [1991] 106 LGERA 298, Bignold J said (at 309 [56]): *The requisite factual finding requires a comparison between the development as currently approved and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is essentially or materially the same as the currently approved development. The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where the comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being prepared in their proper contexts.*

The reference of Bignold J to “essentially” and “materially” the same is derived from Stein J in *Vacik Pty Ltd v Penrith City Council* (unreported), Land and Environment Court NSW, 24 February 1992, where his Honour said in reference to Section 102 of the Environmental Planning and Assessment Act 1979 (which preceded Section 4.55) that “*Substantially when used in the Section means essentially or materially or having the same essence*”.

In terms of both a qualitative and quantitative assessment, the proposed modification works are relatively minor in nature and will not materially change the essential features and characteristics of the approved development, or the use, operation or function of the site. The comparison between the development as originally approved and the development to be modified will be “essentially or materially” the same for the following reasons:

- The change to Condition 7 is a minor error or misdescription of unit numbering set out in the marked up plans;
- The use of the land for the purpose of a high rise residential flat development remains the same;
- The siting of the building on the land and building footprint does not change from that approved;
- The internal changes to the basement car parking levels primarily seeks to make each basement more efficient and functional;
- The amount of required resident and visitor parking spaces on site will remain as originally approved;
- None of the changes within the basement levels will be visible from either street frontage; and
- The development’s floor space ratio, building height, setbacks, landscaped areas and streetscape presentation will remain the same as originally approved.

The modification application is considered to be satisfactory having regard to the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 and meets the relevant case law test as the development will remain substantially the same as that originally approved.

2. Determination of Section 4.55(2) Modification Application

For the purposes of section 4.7(2)(h) of the Act, the determination of an application to modify a development consent under section 4.55 of the Act is, except as provided by subclause (2), prescribed as a function that is to be exercised on behalf of a regional panel by a council. In this case the modification application is of a kind specified in the *Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents* published on the NSW Planning Portal on 30 June 2020, as it meets the criteria relating to contentious development, i.e. development that is the subject of 10 or more unique submissions by way of objection. The application has received 20 unique submissions.

Accordingly, the subject modification application is referred to the SCCPP for determination.

3. Compliance with SEPP 65 – Design Quality of Residential Apartment Development

The proposed development as modified is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65), which aims to improve the design quality of residential flat buildings within the State. It is considered that the modifications to the proposed development as modified do not conflict with the design quality principles contained within SEPP 65 and relevant standards outlined in the Apartment Design Guide.

As required under clause 115(3) of the Environmental Planning and Assessment Regulation 2000, the subject modification application is accompanied by a design verification statement dated 21 January 2022 from a qualified designer, Kevin Cheong (Architects Registration No. 9975) of Giles Tribe Architects verifying that:

- he directed the preparation of the drawings for the Section 4.55 application;
- the building described in the Section 4.55 application is consistent with the original design; and
- generally achieves the design quality of the development for which consent was granted.

The proposed modification application satisfies the relevant provisions of SEPP 65 and Environmental Planning and Assessment Regulation 2000 in this regard.

4. Compliance with The Hills Local Environmental Plan 2019

The subject site is zoned R4 High Density Residential and residential flat building development is permissible with consent.

The original Development Application sought a variation to maximum building height of 57m by 860mm which represents a 1.51% variation to the LEP standard as prescribed in Clause 4.3. It was accompanied by a written request to vary the building height standard pursuant to Clause 4.6 of LEP 2019. The non-compliance with the maximum allowed building is located in a small corner portion of the roof area of Building B and it is due to the topography of the land which falls 8.5m from the north-east to the south-west. The written request from the applicant was considered satisfactory by the Panel as the applicant has adequately addressed the relevant contravention of the development standard and that there were sufficient environmental planning grounds to justify the contravention. It also satisfied the Panel that the approved 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.

The proposed modification does not result in a further variation to the building height standard.

The proposed modification does not seek to alter the approved floor space ratio of 2.99:1.

5. Compliance with DCP 2012

The approved development has been assessed against the relevant development controls in DCP 2012 under Part D Section 20 Castle Hill North Precinct and Part B Section 5 Residential Flat Buildings.

The approved development achieved compliance with the relevant requirements of the development controls with the exception of front setbacks (street and upper levels) and landscaped area which have been assessed as satisfactory in the assessment of the original application. The modification application does not seek to alter the approved variations;

however, it is accompanied by a written statement in relation to the basement wall piling as follows:

“As a result of refining the design of the basement car park levels in the preparation of the CC drawings, specifically the increase in size of the columns, it has been identified by both the project architect and structural engineer that the northern basement wall piling is not, in its approved design and location structurally adequate to service the development and therefore the piling needs to be moved 450mm (basement levels 1-4) towards the northern street boundary. Please note that none of the proposed basement piling or structural walls will be visible from the street, all will remain below NGL.

Comment:

The proposed northern basement wall piling will not be visible from the street as it will be fully underground. The modifications to the piling will have no impact on the building above ground in terms of approved building height and communal open space nor reduction in landscaped areas and deep soil provision. There will be no reduction in deep soil provision as the area to be used for the piling was not counted as deep soil as part of the original consent and stamped drawings because this area did not meet the numeric size to be included into the calculations of deep soil.

6. Issues Raised in Submissions

The subject modification application was notified to adjoining and surrounding properties including previous objectors. Twenty (20) submissions were received during the notification period. The issues raised in the submission are addressed in the table below:

ISSUE/OBJECTION	COMMENT	OUTCOME
Notifying residents is a waste of time as concerns raised in the residents' submissions to the original DA were not considered by the Panel relating to but not limited to the following: overdevelopment, building height, visual impact, loss of trees, loss of sunlight, shadow impact, access management, traffic and density.	Residents' submissions were considered in the assessment of the original Development Application. It is a statutory requirement under Section 118(3) of the Environmental Planning and Assessment Regulation 2000 to notify each person who made a submission in relation to the original development application. The proposed modification works relate to internal changes within the basement levels and no changes are proposed in terms of elevations, building height, access and density.	Issue addressed.
The accompanying Statement of Environmental Effects misinterprets the provisions of clause 7.11(3)(f) for land in Area B as prescribed in LEP 2019.	The applicant has acknowledged this issue and as a result they have withdrawn the proposed conversion of the visitor parking spaces to resident spaces.	Issue addressed.
Strongly opposes to the conversion of the visitor spaces to resident spaces as these spaces are required in the original consent and must	No longer relevant as this component has been withdrawn by the applicant.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
be maintained.		
This application is merely a marketing ploy by the developer so they can financially benefit by selling the three bedroom units with multiple car spaces and make it more marketable at the expense of residents and visitors.	No longer relevant as this component has been withdrawn by the applicant.	Issue addressed.
DCP Part D Section 20 requires a minimum of 1 visitor car parking space for every 5 dwellings.	Noted. The applicant has withdrawn this component from the application. The approved visitor parking spaces will remain as originally approved.	Issue addressed.
Visitor parking is absolutely necessary as access for tradespeople, maintenance and inspections of equipment, lifts, etc, cleaners of the facility and individual dwellings, carers, medical staff, family/friends for private gatherings/birthdays/special events/holidays.	No longer relevant as this component has been withdrawn by the applicant.	Issue addressed.
Without allocated off-street visitor parking space means there would be 40 or more cars clogging up an already congested narrow street.	No longer relevant as this component has been withdrawn by the applicant.	Issue addressed.
Existing residential flat buildings in the area have ample visitor car parking which is regularly used by extended family members of residents, guests and visitors.	Noted. This issue is no longer relevant as the proposed conversion of the approved visitor spaces has been withdrawn by the applicant.	Issue addressed.
The suggestion that the LEP no longer requires visitor car parking spaces be provided appears to be a complete misunderstanding of the control. Although the LEP uses the term "car parking spaces in addition to" and not "visitor car parking spaces" the LEP suggests these 40 spaces are available for use for those other than residents. The modification is in conflict with the original approval and	The applicant has acknowledged this issue and as a result they have withdrawn the proposed conversion of the visitor parking spaces to resident spaces.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
the intent of The Hills LEP 2019.		
Approval of this modification to reallocate the visitor spaces would set as a precedent to all other proposed developments either in Garthowen Crescent or in other parts of the Shire in general.	This issue is no longer relevant as the applicant has acknowledged this issue and as a result they have withdrawn the proposed conversion of the visitor parking spaces to resident spaces.	Issue addressed.
Discouraging motor vehicle use and encouraging use of public transport is a laudable objective in general, however it cannot be expected to motivate visitors instantly to change their travelling habits to visit this apartment complex. Removing all visitor parking spaces will only serve to create demand for street parking in excess of what is available.	The applicant has acknowledged this issue and as a result they have withdrawn the proposed conversion of the visitor parking spaces to resident spaces.	Issue addressed.
Deletion of 2 accessible visitor spaces in Basement 03 is inconsistent with Council's Disability Inclusion Action Plan 2017-2021.	The approved visitor spaces will remain as originally approved. The proposed conversion of the visitor parking spaces to resident spaces has been withdrawn by the applicant.	Issue addressed.

SUBDIVISION ENGINEERING COMMENTS

No objection is raised to the proposed modification. No amendments to engineering related conditions imposed in the original consent are required as a result of this modification application.

LANDSCAPING COMMENTS

Council's Landscape Assessment Officer has assessed the modification application. It is noted that the proposed landscape levels to the North West have dropped, which is beneficial within this area. No objection is raised to the proposed modification in this regard. The areas external to the basement footprint will be subject to a separate modification application to ensure that the amended landscape plans as per Condition 49 in the original consent are submitted prior to issue of a construction certificate to ensure all retaining walls and levels are consistent between landscape and architectural plans.

SECTION 7.11/7.12 COMMENTS

Contribution conditions 6 and 37 in the original consent were imposed based on the Planning Agreement applicable to the land, being 15/2019/VPA – 6-12 & 16-20 Garthowen Crescent, Castle Hill.

The modification application does not result in any changes to contribution Conditions 6 and 37.

WASTE MANAGEMENT COMMENTS

Council's Resource Recovery Project Office has assessed the modification application and the following comments are provided:

Condition 19 in the original consent is recommended to be amended to reflect the proposed change of waste infrastructure in garbage room within Building A from linear track to a 3-bin carousel system. Two additional conditions are also recommended prior to issue of occupation certificate, firstly in relation to submission of a waste chute system installation compliance certificate as it was not previously conditioned, and secondly in regard to installation of insect and odour control in the garbage room to assist with ongoing maintenance and hygiene.

LAND & SPATIAL INFORMATION COMMENTS

The proposed modification seeks to rectify some minor errors in Condition 7 of the original consent which relates to property numbering and cluster mailboxes. Council's Land & Spatial Information Team has amended Condition 7 as requested.

CONCLUSION

The Section 4.55(2) modification application has been assessed against the provisions of Sections 4.15 and 4.55(2) of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, The Hills LEP 2019 and The Hills Development Control Plan 2012 and is considered satisfactory.

Twenty submissions were received during the notification period and issues raised are addressed in the report and do not warrant refusal of the application.

The proposal is considered to be substantially the same as that previously approved by the Sydney Central City Planning Panel. The Section 4.55(2) modification is considered satisfactory and recommended for approval.

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.

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 Castle Hill Station Precinct would provide approximately 6,500 additional dwellings by 2036. The Castle Hill North 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 196 dwellings to the emerging precinct. In this regard, the proposal is considered to be consistent with the outcomes planned under The Hills Local Strategic Planning Statement.

RECOMMENDATION

The Section 4.55(2) Modification Application be approved subject to the following conditions.

A). Condition 1 to be **deleted** and **replaced** as follows:

1. Development in Accordance with Submitted Plans

The development being carried out in accordance with the approved plans and details, stamped and returned with Development Consent No. 1611/2020/JP except where amended by other conditions of the original consent, and with the following plans and details approved under DA 1611/2020/JP/A with the exception of all areas external to the basement footprint. Changes to the external areas shall be subject to a separate Section 4.55 modification application as notated on the plans.

REFERENCED PLANS AND DOCUMENTS 1611/2020/JP/A

DRAWING NO	DESCRIPTION	REVISION	DATE
DA-110-005	GA Plans Basement 4	11	03/02/2022
DA-110-006	GA Plans Basement 3	13	03/02/2022
DA-110-007	GA Plans Basement 2	13	03/02/2022
DA-110-08	GA Plans Basement 1	14	03/02/2022
DA-310-010	GA Sections – Section North/South	4	03/02/2022
DA-310-020	GA Sections – Section West/East	4	03/02/2022
DA-310-030	GA Sections – Large Scale Section 01	5	24/01/2022
DA-310-050	GA Sections – Large Scale Section 03	9	24/01/2022
DA-310-060	GA Sections – Large Scale Section 04	4	24/01/2022
DA-310-070	GA Sections – Large Scale Section 05	4	24/01/2022
DA-310-080	GA Sections – Large Scale Section 06	4	24/01/2022
-	Approved Property Numbering (3 sheets)	-	-

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.

B). Condition 7 to be **amended** as follows:

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 is **18 Garthowen Crescent, Castle Hill.***

*The secondary property address is **8 Garthowen Crescent, Castle Hill***

Approved unit numbering is as per plans marked up within consent documentation; and as follows:

Building A

Level	Unit Number	Property Address
Basement	B01-B03	8 Garthowen Cres
Lower Ground	LG01-LG04	8 Garthowen Cres
Ground	G01-G12	18 Garthowen Cres

Building B

Level	Unit Number	Property Address
Ground	G13-G18	8 Garthowen Cres

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

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

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

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

Mail Boxes

One cluster mail box for Units addressed to 18 Garthowen Crescent are to be located in Building A Lobby as shown on plans submitted marked as DA-110-009 Rev 10. An additional mail box for the proprietors of the development is to be provided in this cluster.

A second cluster mail box is to be located within Building B Lobby for units addressed to 8 Garthowen Crescent as per plans submitted as DA-110-008 Rev 12.

Written approval from Australia Post is to be provided to Land Information Section that they will deliver mail to both Lobby Mail boxes.

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.

C). Condition 19 to be **amended** as follows:

19. Construction of Garbage Rooms

The garbage room for Building A and the garbage room for Building B must be designed and constructed in accordance with the following requirements. Building A must provide minimum storage facility for 1 x 3-bin 1100 litre bin carousel system with a compactor for the garbage and 1 x 3-bin 1100 litre bin carousel system for recycling. Building B must provide minimum

storage facility for 1 x 3-bin 1100 litre bin linear track system with a compactor for the garbage and 1 x 3-bin 1100 litre bin linear track system for recycling.

- The garbage rooms 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 garbage rooms 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 garbage rooms must be constructed of brickwork or blockwork.
- The floor of the garbage rooms 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 garbage rooms 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 garbage rooms must have a resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors.
- All doors of the garbage rooms, when fully opened, must be flush with the outside wall(s) and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The garbage rooms must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- The garbage rooms must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the garbage rooms, it is not to conflict with the space designated for the placement of bins.
- The garbage rooms 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 garbage rooms must have appropriate signage (Council approved designs available on the Council website) mounted in a visible location on internal walls and are to be permanently maintained by Owners corporation
- Finishes and colours of the garbage rooms are to complement the design of the development.

Example Bin Measurements (mm)

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

D). The following conditions to be **added** under the heading “**PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE**”

107A. Waste Chute System Installation Compliance Certificate

Before the issue of an Occupation Certificate, 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.

107B. Insect and Odour Control

Before the issue of an occupation certificate, Council's Resource Recovery Assessment Officer must be satisfied with the procurement of an insect control system 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 be installed from a reputable company to prevent the emission of all offensive odours from the premises.

ATTACHMENTS

1. Locality Plan
2. Aerial Map
3. Zoning Map
4. Approved Site Plan
5. Approved and Proposed Basement Level Plans (4 pages)
6. Approved and Proposed Section Drawings

<< Insert ALL attachments below the section break >>