

## COUNCIL ASSESSMENT REPORT

### SYDNEY CENTRAL CITY PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSCC-366 – DA 2059/2022/JP
<b>PROPOSAL</b>	Residential Flat Building Development containing 583 apartments and Community Title Subdivision (Stage 4 of The Orchards Development)
<b>ADDRESS</b>	104 Fairway Drive, Norwest
<b>APPLICANT</b>	G Dowling on behalf of Sekisui House
<b>OWNER</b>	SH Orchards Pty Limited
<b>DA LODGEMENT DATE</b>	16 June 2022
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clauses 2 and 5, Schedule 6 of the SEPP (Planning Systems) 2021
<b>CIV</b>	\$233,100,000.00 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	4.3 Building Height 4.4 Floor Space Ratio 7.10 Residential development yield on certain land
<b>KEY SEPP/LEP</b>	LEP 2019, SEPP 65
<b>TOTAL &amp; UNIQUE SUBMISSIONS</b>	Nine
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	Town Planner: Dowling Urban Architect: Crone Landscape Architect: Site Image Arboricultural: McArdle Engineering: Northrop Surveyor: LTS Lockley Acoustic: Pule White Noise Acoustics Traffic: Varga Traffic Planning Quantity Surveyor: Rider Levett Bucknall Contamination: SLR Global Environmental Solutions and EI Australia Geotechnical: Asset Geotechnical

	Access: Morris Goding BCA: Vic Lilli Natural Ventilation Assessment : SLR Wind Study: SLR
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	Yes
<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	Electronic
<b>PLAN VERSION</b>	NA
<b>PREPARED BY</b>	Robert Buckham – Principal Coordinator
<b>DATE OF REPORT</b>	31 July 2023

## EXECUTIVE SUMMARY

The proposed development proposes six buildings (A to F) ranging in height from 3 to 19 storeys, to be constructed in three stages, comprising:

- 583 apartments in a mix of 1, 2, 3 and 4 bedrooms;
- on-site communal facilities including a multipurpose centre with gym and pool;
- private and communal open spaces with associated landscaping;
- a publicly accessible linear park with pedestrian connections; and
- basement car parking spaces for 818 vehicles, 16 motorcycles and 168 bicycles.
- Subdivision of the Community Title Lot 8 to create Lot 9 for this stage of development, and Lot 10 containing the linear park, communal centre and accessways.

The subject site is identified as Stage 4 of the masterplan application as modified (736/2017/JP). The site is irregular in shape and will have vehicular access from the extension to Spurway Drive. The site has a total area of 21,528m<sup>2</sup>.

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 development standards pursuant to Clause 4.6 of The Hills Local Environmental Plan. The proposal seeks to vary Clause 4.3 Building Height, Clause 4.4 Floor Space Ratio and Clause 7.10 which specifies a mix of apartment typologies and parking requirements for the subject development site should it be developed to its maximum yield of 1300 dwellings. These matters have been reviewed holistically for the entire development site under the masterplan approved by the Regional Planning Panel on 11 April 2018 and subsequently amended on 8 September 2022 in respect to the built form proposed under this development application. Clause 4.6 variations were prepared for each matter and the Panel found that the variations could be supported.

The current proposal is consistent with those variations considered as part of the masterplan and remains satisfactory. Each variation is addressed in detail in this report. It is considered that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 development standards at Clause 4.3, 4.4 and 7.10 be supported as it adequately justifies the contravention of the development standards having regard to the requirements of Clause 4.6(3). Furthermore, having regard to Clause 4.6(4), the development is consistent with the objectives of the standards and the objectives for development within the zone and is therefore in the public interest.

A variation is proposed to the front setback control within the DCP. The DCP requires a primary front setback for residential flat buildings of 10 metres. The subject development is set back 6 metres to the building. A 6 metre setback is not uncommon to the locality with other approved flat buildings, at No. 38 and 40 Solent Circuit on the southern side of Spurway Drive both having setbacks to 6 metres and directly adjacent to this site for the buildings in Stage 1 to 3 in the wider Sekisui site on the northern side of Spurway Drive.

The application was notified for a period of 14 days. Nine submissions were received. The issues raised include overshadowing, construction management, parking, traffic and compliance with planning controls. These matters are addressed in this report and it is considered that they do not warrant refusal of the application or amendments to the application.

The application is recommended for approval subject to conditions.

## **1. THE SITE AND LOCALITY**

The subject development site is part of a larger site owned by Sekisui and is identified as Stage 4 of the approved masterplan application 736/2017/JP. The masterplan encompasses 10 buildings with a total of 1,300 dwellings, associated car parking, civil works, internal roads and landscaping over 5 stages. The site was subject to a site specific Planning Proposal that amended The Hills Local Environmental Plan 2012.

The site is zoned R4 High Density Residential (Refer Attachment D) under Local Environmental Plan 2019 and is subject to Height of Building (HOB) maximum heights of 18m (P2), 27m (T2) and 36m (V1) (refer Attachment E) and floor space ratios (FSR) of 1.5:1 (S1), 2.6:1 (U1) and 3.2:1 (V2) (refer Attachment F).

The site is also within Area B on the LEP Key Sites Map and consequently, the provisions of clause 7.10 'Residential development yield on certain land' apply. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings across the site. However, if development will result in more than 600 dwellings, the development must provide a prescribed mix of apartment typologies and parking.

On the Sekisui site, built form development applications have been approved for the first 3 stages, with stages 1 and 2 completed and stage 3 under construction.

The locality comprises a mix of commercial and residential developments of varied scale. A number of residential developments with heights up to 25 and 26 storeys are under construction in the immediate locality including the site directly to the south known as the Greens.

## **2. THE PROPOSAL AND BACKGROUND**

### **2.1 The Proposal**

The proposed development proposes six buildings (A to F) ranging in height from 3 to 19 storeys, to be constructed in three stages, comprising:

- 583 apartments in a mix of 1, 2, 3 and 4 bedrooms;
- on-site communal facilities including a multipurpose centre with gym and pool;
- private and communal open spaces with associated landscaping;
- a publicly accessible linear park with pedestrian and cycle connections; and
- basement car parking spaces for 818 vehicles, 16 motorcycles and 168 bicycles.

The subject site is identified as Stage 4 of the masterplan application as modified (736/2017/JP). The site has a total area of 21,528m<sup>2</sup>.

The development is to be constructed in stages known as Stage 1 - Buildings A and B (210 Apartments) Stage 2 – Buildings E and F (156 Apartments) and Stage 3 – Buildings C and D (217 Apartments).

The proposal includes 147 x 1 bedroom, 376 x 2 bedroom, 48 x 3 bedroom and 10 x 4 bedroom dwellings.

Vehicle access will be provided from Spurway Drive. The proposed development makes provision for a total of 818 off-street car parking spaces, comprising of 759 resident spaces (including 60 disabled/adaptable spaces) and 59 visitor spaces (including 4 disabled spaces), plus a dedicated car wash bay. In addition, the proposed development makes provision for a total of 168 bicycle spaces across the four-level parking area.

Communal open space will be with 12,137m<sup>2</sup> at ground level and on the roof top. The proposal also contains a swimming pool, gym and multi-purpose rooms.

The development application also proposes the subdivision of the Community Title Lot 8 to create Lot 9 for this stage of development, and Lot 10 containing the linear park, communal centre and accessways for transfer to the Community Association. It also includes a proposed road widening of 228m<sup>2</sup> to Horatio Avenue for dedication to Council free of cost.

### **2.2 Background**

The site was subject to a Planning Proposal to amend the Hills Local Environmental Plan 2012 (10/2013/PLP). Amendment No. 32 for the site was notified on the NSW legislation website (Notification No. 210) on 29 April 2016.

The Hills Local Environmental Plan 2012 was amended as follows:

Increased the maximum building height from 16 metres to heights ranging between 18 metres and 36 metres;

- Applied a maximum floor space ratio ranging from 1.5:1 to 3.2:1;
- Identified the site as “Area B” within the Key Sites Map; and

- Included a new local provision which ensures that future development on the site does not exceed a yield of 1,300 dwellings and that, in order to achieve this yield, development must comply with Council's standards for apartment mix, apartment size and car parking.

Associated amendments to The Hills Development Control Plan 2012 (Part D Section 7 – Balmoral Road Release Area) also came into force on 29 April 2016. The amendments will facilitate the upgrade and inclusion of the existing portion of Spurway Drive (currently private) as a public road to connect to the existing planned local road network within the Balmoral Road Release Area (from Windsor Road to Fairway Drive).

A number of Development Applications have been approved on the site they include:

Development Application 736/2017/JP was approved by the Panel on 11 April 2018 for concept masterplan for the entire development. The masterplan provided indicative details of each of the future buildings. The masterplan also dealt with impact and off-setting of vegetation across the site. The masterplan identified the staging of the development site including the provision of the eastern and western portions of the Spurway Drive extension.

The application approved in concept the redistribution of building height and floor space across the site compared to that identified within the LEP amendment. The masterplan provided indicative details of each of the buildings which will be further detailed within future Development Applications. The purpose of this application was to demonstrate how the site will be developed in its entirety and to provide an assessment framework for future detailed development applications for individual buildings.

The application was accompanied by a request to vary development standards pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). The proposal varied Clause 4.3 Building Height, Clause 4.4 Floor Space Ratio and Clause 7.10 which specifies a mix of apartment typologies and parking requirements for the subject site should it be developed to its maximum yield of 1300 dwellings.

In summary the variation to height was attributed to three reasons. These included the redistribution of built form on the central northern part of the site, height attributed to an alternate built form provided on the western part of the site to improve the amenity of adjoining land, and design matters in terms of the numbers of storeys identified within the planning proposal, increased floor to ceiling heights, site topography and lift overruns.

The floor space ratio on the site did not exceed the provisions of the LEP when the site is considered in totality. The variation to FSR was attributed to a redistribution of built form on the central northern part of the site. The additional built form is provided in an area nominated as 1.5:1 FSR. The proposal provides an FSR of 1.58:1. The built form in this area occupies a lesser building footprint than what could otherwise be provided within a compliant scheme, allowing for the retention of more landscaping including Cumberland Plain Woodland vegetation.

The masterplan also sought a variation to the mix of apartment typologies and car parking. The variations have been assessed and it is considered the proposal provides appropriate amenity for future residents and sufficient parking given the site's proximity to the future Norwest station. The parking provision exceeds the Road and Maritime Service rates for sites within 800m of a railway station. The site is located approximately 650m walking distance from the future Norwest Station.

In relation to the Clause 4.6 Variations, The Panel determined:

*The Panel has considered the applicant's request to vary the development standards contained in The Hills Local Environment Plan 2012 Clause 4.3 relating to height of buildings, Clause 4.4 Floor Space Ratio and Clause 7.11 (now Clause 7.10) Residential Development Yield on Certain Land. The Panel considers compliance with the standards would be unreasonable and unnecessary in the circumstances of this case as the variations provide a better design outcome through provision of additional and improved open space, greater retention of significant trees and provides better building relationships to adjoining properties, and will not result in development inconsistent with this locality. The development as designed remains consistent with the underlying intent of the standard and the objectives of the zone.*

*The Panel is therefore satisfied that the Applicant's clause 4.6 variation requests have adequately addressed the matters required to be demonstrated in clause 4.6 of The Hills LEP 2012 and that the proposed development will be in the public interest because it is consistent with the objectives of the relevant controls and the objectives for development within the R4 zone in which the development is proposed to be carried out.*

For the above reasons, the Panel was satisfied that the variations from the LEP development standards were in the public interest.

A 4.55(1A) modification was approved under delegated authority on 21 January 2020 to alter the approved staging of buildings and road construction across the Sekisui development site. Specifically the modification brought forward the construction of the proposed building D3 subject to this application. It should be noted that the sequence of construction of the Spurway Drive road link and dedication was to occur sooner than anticipated in the concept consent, being Stage 3 rather than Stage 4. A modification (736/2017/JP/C) to the masterplan has been recently received and is under assessment which now seeks to defer the extension of Spurway Drive to coincide with this Stage 4 development rather than Stage 3.

On 8 September 2022, a further modification (736/2017/JP/B) was approved by the Sydney Central City Planning Panel for to re-distribute approved heights to create tower forms while reducing the street wall height onto Spurway Drive . This was a response to the need to provide improved solar access to adjoining existing developments as well as significant changes to the site's southern context resulting from The Greens rezoning opposite Spurway Drive as shown in the diagrams. The Panel considered that;

- *The site is considered suitable for the development (as proposed to be modified).*
- *The proposed modifications result in an outcome that is substantially the same development as originally approved.*
- *The proposed modifications adequately satisfy the relevant state and local planning provisions.*
- *The proposed modifications will have no unacceptable impacts on the built or natural environments.*
- *The variation to height results in a development that is consistent with the relevant objectives, and compliance with the standard are unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report.*
- *The proposal is in the public interest.*

Built form development applications have been approved for the first 3 stages, with stages 1 and 2 completed and stage 3 under construction.

Development Application 1732/2019/HA was approved by the SCCP Panel on 16 April 2020 to construct a 7 Storey Residential Flat Building Development comprising 57 units with basement parking for 101 vehicles and associated Community Title Subdivision.

Development Application 46/2018/JP was approved by the SCCP Panel on 20 December 2018 to construct a 9-13 Storey Residential Flat Building Development comprising three hundred and thirty units (330) with basement parking for 470 vehicles and associated Community Title Subdivision.

Development Application 779/2017/JP was approved by the SCCP Panel on 20 July 2017 to construct two seven-storey residential flat buildings comprising a total of 121 apartments, car parking for 199 vehicles over three levels of basement car park, and subdivision. Some of these spaces are utilised by this development.

Development Application 417/2018/HC was approved under delegated authority on 16 September 2019 for a pedestrian bridge across Strangers Creek.

Subdivision and early works Development Application (DA 634/2017/ZB) was approved by Council's Development Assessment Unit on 29 August 2017, which sought to expedite the delivery of utility servicing and local road construction including Spurway Drive, Lucinda Avenue and Horatio Avenue as identified within the Development Control Plan. The application also assessed the deletion of Rosetta Crescent.

Temporary display suite for the marketing and sales has been constructed fronting Fairway Drive (DA 60/2017/HA). The display suite will be demolished prior to the construction of the final stage of development.

Consents for the demolition of all structures across the site have been approved across four separate DAs (610/2015/LA, 611/2015/LA, 612/2015/LA and 58/2017/HA).

The subject application was briefed to the Panel on 21 July 2022.

### **3. STATUTORY CONSIDERATIONS**

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

### 3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *The Hills Local Environmental Plan 2019;*

A summary of the key matters for consideration arising from these Environmental Planning Policies are outlined in the following table and considered in more detail below.

**Table: Summary of Applicable Environmental Planning Policies**

EPI	Matters for Consideration	Comply (Y/N)
Planning System SEPP	<ul style="list-style-type: none"> <li>• Section 2.19(1) declares the proposal as regionally significant development pursuant to Clause 2 and Clause 5(b) of Schedule 6.</li> </ul>	Y
Resilience and Hazards SEPP	<ul style="list-style-type: none"> <li>• Clause 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.</li> </ul>	Y
Biodiversity and Conservation SEPP	<ul style="list-style-type: none"> <li>• Chapter 2 Vegetation in non-rural areas and Chapter 6 Water Catchments.</li> </ul>	Y
Transport and Infrastructure SEPP	<ul style="list-style-type: none"> <li>• Clause 2.122 – Traffic-generating development.</li> </ul>	Y
LEP	<ul style="list-style-type: none"> <li>• Clause 4.1 – Lot size.</li> <li>• Clause 4.3 – Height of Buildings</li> <li>• Clause 4.4 – Floor Space Ratio</li> <li>• Clause 6.3 - Servicing</li> <li>• Clause 7.2 – Earthworks</li> <li>• Clause 7.7 – Design Excellence</li> <li>• Clause 7.10 - Residential development yield on certain land</li> </ul>	Y N N Y Y Y N

*State Environmental Planning Policy (Planning Systems) 2021*

State Environmental Planning Policy (Planning Systems) 2021 applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to Clause 2.19(1) of the SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 and Clause 5(b) of Schedule 6 of the SEPP as the proposal is development for *general development* with a CIV of more than \$30 million (\$233,100,000.00). Accordingly, the Sydney Central City Planning Panel is the determining authority for the application.

#### State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP) have been considered in the assessment of the development application. Clause 4.6 of RH SEPP requires consent authorities to consider whether the land is contaminated, and 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.

A Stage 2 Site Investigation been undertaken by EI Australia. The investigation found that the potential for low-level and isolated contamination to be present on the site, as a result of past and present land use activities, is considered to be low to moderate.

However, given the extent of the excavations and the nature of landscaping works anticipated with the proposed development, any contamination that may be present on site is likely to be removed offsite or covered by the landscaped material.

The investigation also found that potential asbestos impacted soil (if any) is likely to be excavated as part of the basement excavation, cleared as part of the site clearance work or covered with landscaping material as part of the proposed development. As such, asbestos contamination, if present, is unlikely to pose an unacceptable risk to future site users. A condition is recommended that requires all asbestos material to be removed from the site.

In this regard, it is considered that the site is suitable for the proposed development.

#### SEPP Biodiversity and Conservation

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

Through stormwater mitigation and erosion and sediment measures, the development is unlikely to have detrimental impacts on the health of the environment of the Hawkesbury and Nepean River Catchment.

#### State Environmental Planning Policy (Transport and Infrastructure) 2021

This Policy aims to facilitate the delivery of infrastructure and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development.

In accordance with Clause 2.122 of the SEPP, developments listed in Schedule 3 must be referred Transport for NSW prior to the determining of a development application and consider any matters raised, the accessibility of the site concerned, traffic safety, road congestion or parking implications of the development. An assessment of the traffic, access, parking and road network is provided in the Traffic and Parking Report.

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP requires development to be referred to Transport for NSW where residential accommodation exceeds 300 dwellings. The proposal results in 583 dwellings.

The Development Application was referred to Transport for NSW for review. Transport for NSW raised no objection to the proposal.

The potential for traffic safety and road congestion of the development have been satisfactorily addressed and satisfies Clause 2.122 of SEPP (Transport and Infrastructure) 2021.

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No.1279997M committing to environmental sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

*State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building*

The required Design Verification Statement was prepared by Crone Architects.

*Design Quality Principles*

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 existing and future context and neighbourhood character of the precinct. The proposal seeks to respond to and contribute to the context of Norwest both in its present state as well as the desired future character.

The locality is comprised of a mixture of existing buildings, low to medium and high density, multi-residential and single dwellings, with the future vision of the area zoned to encourage an increased scale of high density residential development adjacent to the site.

*Principle 2: Built form and scale*

The proposal provides a more varied built form and allow for increased solar access to adjacent existing buildings on Spurway Drive and additional views from these apartments to the surrounds. The location of the 19 storey tower at the end of Natura Rise, and adjacent to the 13 and 25 storey towers proposed within The Green's Development, provides a suitable built form and scale at this intersection to Spurway Drive. Lower buildings are provided to Spurway Drive improving the street interface.

*Principle 3: Density*

The subject proposal remains at 1300 dwellings across the development site. The density complies and is appropriate for the site and precinct.

*Principle 4: Sustainability*

The design foreshadows that the proposal will achieve natural ventilation and solar access as required by the Apartment Design Guidelines.

*Principle 5: Landscape*

The plans indicates that all open spaces 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.

#### *Principle 6: Amenity*

Future building design has been developed to provide for the amenity of the occupants as well as the public domain. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy.

#### *Principle 7: Safety*

Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened.

#### *Principle 8: Housing diversity and social interaction*

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development complies with the mix requirements of the LEP.

#### *Principle 9 – Aesthetics*

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

#### *Apartment Design Guide*

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
<b>Siting</b>		
Communal open space	25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Yes, 57% of the development site area (12,137m <sup>2</sup> ). The communal open space area will receive at least 58% direct sunlight for 2 hours at during midwinter.
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 <sup>2</sup> and 15% for sites greater than 1500m <sup>2</sup> .	Yes, 29.7% of the development site area is true deep soil zones as defined within the ADG.
Separation	For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys.	Yes

Visual privacy	Visual privacy is to be provided through use of setbacks, window placements, screening and similar.	<p>Yes</p> <p>Greater than 18 metres provided between buildings and greater than 9 metres to adjoining allotments. The visual privacy of the development has been duly considered with the placement of windows and balconies. Separation distances between habitable / non habitable spaces are considered to be adequate. Screening devices set at oblique angles 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.</p>
Carparking	<p>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</p>	<p>Yes</p> <p>The site is located within 800m of the future Norwest Station. 624.4 Spaces would be required utilising the RMS rate, 818 spaces are provided</p>
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.	Yes. The proposed development will achieve two hours solar access for 70.3% of apartments between 9am and 3.00pm.

	2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	No. 16.6% of apartments receive no direct sunlight, between 9am to 4pm 14.3% of apartments receive no direct sunlight. Refer comments below.
Natural ventilation	<p>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.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Yes. A total of 61% of units will meet the cross ventilation requirements or can be naturally ventilated.</p> <p>Yes The maximum overall depth is 18 metres for a cross through apartment.</p>
Ceiling heights	<p>For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it's area does not exceed 50% of the apartment area. For attic spaces – 1/8m at the edge of the room with a 300 minimum ceiling slope.</p> <p>If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</p>	<p>Yes Floor to ceiling height approx. 2.7 metres for all apartments.</p> <p>NA</p>
Apartment size	<p>1. Apartments are required to have the following internal size:</p> <p>Studio – 35m<sup>2</sup> 1 bedroom – 50m<sup>2</sup> 2 bedroom – 70m<sup>2</sup> 3 bedroom – 90m<sup>2</sup></p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m<sup>2</sup> each.</p>	<p>Yes</p> <p>1 bedroom – 50-80m<sup>2</sup> 2 bedroom – 76-121m<sup>2</sup> 3 bedroom – 110-164m<sup>2</sup> 4 bedroom – 159m<sup>2</sup> to 211m<sup>2</sup></p> <p>Where additional bathrooms are proposed, an additional 5m<sup>2</sup> has been provided.</p> <p>Yes – 193m<sup>2</sup></p>

	<p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p> <p>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.</p>	All habitable rooms have windows greater than 10% of the floor area of the dwelling.
Apartment layout	<p>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</p> <p>In open plan layouts the maximum habitable room depth is 8m from a window.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts</p>	<p>Yes</p> <p>All rooms comply.</p>
Balcony area	<p>The primary balcony is to be:</p> <p>Studio – 4m<sup>2</sup> with no minimum depth  1 bedroom – 8m<sup>2</sup> with a minimum depth of 2m  2 bedroom – 10m<sup>2</sup> with a minimum depth of 2m  3 bedroom – 12m<sup>2</sup> with a minimum depth of 2.4m</p> <p>For units at ground or podium levels, a private open space area of 15m<sup>2</sup> with a minimum depth of 3m is required.</p>	<p>Yes</p> <p>All balcony sizes and depths comply.</p>
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Yes</p> <p>Yes</p>
Storage	<p>Storage is to be provided as follows:</p> <p>Studio – 4m<sup>3</sup>  1 bedroom – 6m<sup>3</sup>  2 bedroom – 8m<sup>3</sup>  3+ bedrooms – 10m<sup>3</sup></p> <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>Yes</p> <p>Each unit contains the minimum storage area.</p>
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.	<p>Yes</p> <p>The apartment mix is satisfactory.</p>

### *Solar and Daylight Access*

Objective 4A-1 of the Apartment Design Guide is; “To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space”. The design criteria includes that a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm mid-winter. There are 16.6% of apartments that receive no direct sunlight, between 9am to 4pm 14.3% of apartments receive no direct sunlight.

The applicant has provided the following justification;

“A limited number of apartments have an orientation to the south due to the primary massing strategy and orientation of the site. Careful planning allows for all other units on the site to get 2 hours solar access. These units however receive solar access from September to March.”

It is considered that given the orientation of the site, and its relationship with the adjoining build, that the limited number of units that do not receive solar access for 2 hours in mid-winter is reasonable in this instance.

#### The Hills Local Environmental Plan 2019

The land is zoned R4 High Density Residential under Local Environmental Plan 2019. The proposal remains a residential flat building which is permissible in the zone.

#### Zone Objectives

The site is zoned R4 High Density Residential under The Hills LEP 2019. The objectives of the zone are:

#### R4 High Density Residential Objectives

- *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 remain consistent with the stated objectives of the zone, in that the proposal will provide for a land use to meet the needs of the surrounding residents and is also considered to provide an alternative housing option for future residents.

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

#### Development Standards

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

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height	S2 - 18m T2 – 27m V1 – 36m	42.9m (Building E) 63.8m (Building A) 56.8m (Building C)	No addressed below.
4.4 Floor Space Ratio	The site (21,302m <sup>2</sup> ) is subject to floor space ratio (FSR) development standards of 1.5:1, 2.6:1	Proposed Gross Floor Area 61,407m <sup>2</sup>	No addressed below.

	and 3.2:1 in separate categories applying to the land and is permitted a maximum Gross Floor Area of 53,624m <sup>2</sup> which equates to 2.88:1.		
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	Variations proposed to height are addressed below.	Yes
7.10 Residential development yield on certain land	Where development exceeds 600 dwellings certain the development must provide a specific mix, unit sizes and parking.	The masterplan is predicated on 1300 dwellings. Variations are proposed to unit sizes and carparking	No addressed below.

### Variation to Height

LEP 2019 limits the height of the development site to 18m, 27m and 36 metres. The proposal has a maximum height of 63.8 metres. The proposal includes a maximum variation of 36.8 metres or 136% within the 27m height control area. The variation is consistent with that outlined in the modification to the masterplan (140%).

The applicant has submitted a variation request (see Attachment L) and is summarised as providing a better planning and design outcome for the following reasons:

- improve mid-winter shadowing for the neighbouring 'Haven' residential apartments and surrounding domains which would otherwise have a low level of solar access ADG compliance and diminished amenity in general;
- improve Stage 4 apartment and communal open space amenity by facilitating better building separation and solar access through modified envelopes to be reflected in the Stage 4 development application;
- enhance the visual amenity of the Spurway Drive streetscape and locality in general through modulating building forms and heights by lowering the street wall height from 12 storeys to 7 storeys with stepping and relocating mass to tower forms of 18 and 19 storeys.
- more thoughtfully respond to the changed future planning context of 'The Greens' rezoning by utilising a modest tower topology more compatible with envisaged adjoining built forms and providing for a more coherent cluster of building forms within the wider precinct.

The variation to building height has been proposed to provide a built form outcome that responds to the current site opportunities and constraints whilst retaining the floor space and dwelling yield approved. The development as approved facilitates higher densities close to the Norwest station and centre and the amended built form seeks to improve the bulk and scale and associated impacts that are in place with the current masterplan by responding to a changing local character.

Specifically, the proposal responds to adjoining development sites such as 'The Greens' – No. 40 Solent Circuit, which provide controls for buildings up to 26 storeys in height (height control of RL 176.00m). When the masterplan was originally approved, this site (No. 40 Solent Circuit), had a height control that would allow approximately 12 storeys (RL 116.00m). Development in Maitland Place, in close proximity to the site, also has the benefit of an

approval for a 25 storey development (height control RL 169.00) and is similar distance from Norwest Town Centre and Norwest Metro Station (approximately 400-500m). Both sites have recently started construction. These recent development sites in the immediate locality are consistent with the development outcomes proposed under this application. The plans submitted with the subject modification detail a maximum building height of RL 149.600m – top of plant and RL 145.600m – top of building which are lower than the examples outlined above. In combination with the amended built form and specifically the elements of the built form which have been reduced such as that fronting Spurway Drive, being seven storeys in height (RL 105.300m), the subject proposal is considered appropriate in context to the existing adjoining properties and other surrounding developments in the locality.

The impacts of the increase in height are offset by improved solar access and bulk and scale. The amendments result in greater separation and open space which is provided adjacent to the boundary with adjoining buildings in excess of that required under the Apartment Design Guideline and DCP.

The applicant has also provided a solar analysis to quantify the amended impact of the development on the adjoining development at No. 2 Natura Rise and No. 38 Solent Circuit. Although it is acknowledged that the north facing units currently enjoy uninterrupted solar access throughout the day, the impacts relating to solar access will improve when compared to the approved masterplan by virtue of the changes proposed, particularly to units on the mid to lower floors.

The objectives of the height standard are as follows;

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

The applicant has responded to both objectives. Specially in response to both objectives the following responses were provided;

The revised variations are consistent with the modified masterplan and better respond to significant changes in planned built form context from adjoining rezonings, which now includes towers rather than town houses, while the streetscape is better treated with a lower street wall height and greater access to winter sun light.

Reduced shadowing on neighbouring development and planned open space areas will result from a lower street wall created by remassing to two tower forms while improving visual impact from the perception of bulk.

It is agreed that the proposal, particularly the increase in building height and tower-like built form responds to the recent altered context of the locality. These amendments provide opportunities to adjust the built form to better facilitate the approved density and floor space. They result in a more balanced built form that is compatible with that of adjoining development and the overall streetscape and minimises the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas, thereby satisfying the objectives of the height standard. In view of the above, the variation to building height is considered satisfactory and can be supported in this instance.

It is therefore recommended that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 height of building development standard at Clause 4.3 be supported as it adequately

justifies the contravention of the development standard having regard to the requirements of Clause 4.6(3). It is considered that the variation can be supported as compliance with the standard is unnecessary in this instance and the proposal results in a better planning outcome as it provides for a better building relationship and better solar access to adjoining properties. The increased height also facilitates increased floor to ceiling heights to increase the amenity of future residents.

Furthermore, having regard to Clause 4.6(4), the development is consistent with the objectives of the standard and the objectives for development within the zone and is therefore in the public interest.

#### Variation to Floor Space Ratio

The LEP limits the FSR of the development site to three ratios being 1.5:1, 2.6:1 and 3.2:1. This would equate to an allowable floor space of 53,624m<sup>2</sup> for this site. This is a net figure excluding roads. A floor space of 61,407m<sup>2</sup> is proposed. This is marginally below the GFA of 62,785 m<sup>2</sup> anticipated by the concept development consent. The masterplan site prior to any development catered for a total gross floor area of 138,000m<sup>2</sup> across all 5 stages which remains 'on-track' with one further stage remaining.

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

Across the site floor space ratio is not exceeded however the masterplan approved variations to FSR which are attributed to a redistribution built form on the site.

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

- The development is consistent with the objectives of the development standard as provided in Clause 4.4(1) of THLEP 2012 as discussed above.
- The scale and mass of the buildings is compatible with the established built form within the immediate context of the site.
- Floor space ratio across the site is not exceeded.
- The redistribution of FSR has allowed tree and vegetation retention to be maximised.

The objectives of the height standard are as follows;

- (a) to ensure development is compatible with the bulk, scale and character of existing and future surrounding development,*
- (b) to provide for a built form that is compatible with the role of town and major centres.*

The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints. The development facilitates higher densities close to the Norwest station and centre. The floor space ratio variation on this part of the site does not result in any further detrimental impacts on adjoining developments. Significantly it is not proposed to exceed the total number of dwelling permitted across the whole site.

The alternate built form across the site complies with the total floor space permitted on the site and has allowed as part of the masterplan application vegetation including Cumberland Plain Woodland on the site being retained.

It is therefore recommended that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 floor space ratio development standard at Clause 4.4 be supported as it adequately

justifies the contravention of the development standard having regard to the requirements of Clause 4.6(3). It is considered that the variation can be supported as compliance with the standard is unnecessary and unreasonable in this instance and the proposal results in a better planning outcome as it provides for a and alternate built form that results in better solar access to adjoining properties.

Furthermore, having regard to Clause 4.6(4), the development is consistent with the objectives of the standard and the objectives for development within the zone and is therefore in the public interest.

Variation to Clause 7.10 - Residential development yield on certain land

Clause 7.10 of the THLEP 2012 includes requirements specific to the subject site. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings. The clause requires that where more than 600 dwellings are proposed, the development must provide a specific mix, unit sizes and parking. The proposal is the fourth stage of development on the site. In addition to the approved stages (508 units), the proposed development (538 units) exceeds 600 dwellings (1,046 units). The clause in its entirety states:

*“(1) The objectives of this clause are as follows:*

- (a) to ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets,*
- (b) to ensure that development for residential flat buildings does not place an unreasonable burden on the provision of services, facilities and infrastructure in the area to which this clause applies,*
- (c) to provide opportunities for suitable housing density that is compatible with existing development and the future character of the surrounding area,*
- (d) to promote development that accommodates the needs of larger households, being a likely future residential use.*

*(2) This clause applies to land identified as “Area B” on the Key Sites Map.*

*(3) The consent authority may consent to the erection of residential flat buildings on the land containing a maximum of 1,300 dwellings.*

*(4) If development under this clause will result in no more than 600 dwellings in residential flat buildings, development consent may be granted for the development only if the height of each residential flat building does not exceed 16 metres.*

*(5) If development under this clause will result in more than 600 dwellings in residential flat buildings, development consent may be granted for the development only if:*

- (a) no more than 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are studio or 1 bedroom dwellings, or both, and*
- (b) at least 10% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are 3 or more bedroom dwellings, and*
- (c) the development comprises the following:*
  - (i) Type 1 apartments—up to 30% of the total number of dwellings (to the nearest whole number of dwellings), and*
  - (ii) Type 2 apartments—up to 30% of the total number of dwellings (to the nearest whole number of dwellings), and*

- (iii) Type 3 apartments, and
- (d) the following minimum number of car parking spaces are provided in the development:
  - (i) for each 1 bedroom dwelling—1 car parking space, and
  - (ii) for each 2 or more bedroom dwelling—2 car parking spaces, and
  - (iii) for every 5 dwellings—2 car parking spaces, in addition to the car parking spaces required for the individual dwelling.

(6) In this clause:

**Type 1 apartment means:**

- (a) a studio or 1 bedroom apartment with an internal floor area of at least 50m<sup>2</sup> but less than 65m<sup>2</sup>, or
- (b) a 2 bedroom apartment with an internal floor area of at least 70m<sup>2</sup> but less than 90m<sup>2</sup>, or
- (c) a 3 or more bedroom apartment with an internal floor area of at least 95m<sup>2</sup> but less than 120m<sup>2</sup>.

**Type 2 apartment means:**

- (a) a studio or 1 bedroom apartment with an internal floor area of at least 65m<sup>2</sup> but less than 75m<sup>2</sup>, or
- (b) a 2 bedroom apartment with an internal floor area of at least 90m<sup>2</sup> but less than 110m<sup>2</sup>, or
- (c) a 3 or more bedroom apartment with an internal floor area of at least 120m<sup>2</sup> but less than 135m<sup>2</sup>.

**Type 3 apartment means:**

- (a) a studio or 1 bedroom apartment with a minimum internal floor area of 75m<sup>2</sup>, or
- (b) a 2 bedroom apartment with a minimum internal floor area of 110m<sup>2</sup>, or
- (c) a 3 or more bedroom apartment with a minimum internal floor area of 135m<sup>2</sup>.

**internal floor area** does not include the floor area of any balcony.”

The applicant proposes to vary the unit sizes and parking requirements of the Clause by way of a Clause 4.6 Variation. This is addressed below.

As identified above, Clause 7.10 of the THLEP 2012 includes requirements specific to the subject site. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings across the site, however if development will result in more than 600 dwellings, the development must provide a specific mix, unit sizes and parking. The Applicant addressed this matter as part of the approved masterplan. This application remains consistent with the variation approved under the masterplan however has been addressed in detail as part of this application.

In summary the following tables detail the applicable planning controls:

Apartment Mix	LEP Development Standard	Proposal	Compliance
One Bedroom	25% (Maximum)	25%	Yes
Three/Four Bedroom	10% (Minimum)	10%	Yes

Apartment Typology	LEP Development Standard	Proposal	Compliance
Type 1 Apartments	<30%	<b>31%</b>	No

Type 2 Apartments	<30%	<b>31%</b>	No
Type 3 Apartments	N/A	38%	N/A

Parking Type	LEP Development Standard	Proposed Rate	RMS Requirements
1 Bedroom	1 car space	1 car space	0.6
2 Bedroom	2 car spaces	<b>1.25 car spaces</b>	0.9
3 & 4 Bedroom	2 car space	2 car spaces	1.40
Visitor	2 spaces per 5 units	<b>1 space per 10 units</b>	1 space per 5 units

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

#### Apartment Size

The proposed development will result in greater than 30% (31%) of apartments being classified as Type 1 and Type 2 under the sizes specified in Clause 7.10(5).

The applicant considers that the proposed apartment sizes, which are generally much larger than ADG requirements are appropriate and outline that residents will also have access to a range of high quality facilities which will be delivered in future stages of the masterplan, including a fitness centre, outdoor swimming pool, indoor cinema, multi-purpose room and extensive open space areas. They feel the extent of facilities provided will set a new standard for the amenity of developments in the surrounding area and will promote social interactions and lifestyle choices for future residents.

The objectives of the Clause to provide a mix of dwelling types, providing housing choice for different demographics, living needs and household budgets, as well as to promote development that accommodates the needs of larger households, are maintained. The extent of variation to the apartment sizes (between 2 - 8m<sup>2</sup>) is minimal and considered reasonable given the facilities and open space which will be provided.

#### Car Parking

The development provides a total of 818 car parking spaces within the basement carpark. Based on strict compliance with the car parking rates specified under Clause 7.10, the proposal would require 1,132 spaces.

The car parking provided is well in excess of the 625 spaces specified by the RMS' *Guide to Traffic Generating Development* for developments within 800 metres of a railway station. The subject site is within 650m walking distance to Norwest Station.

The proposal specifically identifies a reduction in parking for 2 bedroom apartments to a rate of 1 to 1.25 spaces. The Applicant has identified that under this strategy, smaller 2 bedroom units would receive 1 parking space while larger units would receive 2 spaces.

To support the reduction in parking for 2 bedroom apartments the applicant has proposed the use of car share vehicles from the outset of the development. Four vehicles will be provided.

The application also includes the reduction in visitor parking to 1 per 5 apartments resulting in 59 visitor spaces being proposed.

The variation to the car parking development standard is consistent with the masterplan approval and the earlier built form approval for the Stage 1 application 779/2017/JP. The

variation is considered reasonable given the proposed provision is far in excess of the RMS requirements and given the car-share scheme proposed.

It is therefore recommended that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 development standard at Clause 7.10 be supported as it adequately justifies the contravention of the development standard having regard to the requirements of Clause 4.6(3). It is considered that the variation can be supported as compliance with the standard is unnecessary and unreasonable in this instance and the proposal results in a better planning outcome as it provides for apartment typologies that meet demographics and encourage less car use due to a reduced parking rate

Furthermore, having regard to Clause 4.6(4), the development is consistent with the objectives of the standard and the objectives for development within the zone and is therefore in the public interest.

#### 7.7 Design Excellence

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

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) *whether the development detrimentally impacts on view corridors,*
- (d) *whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,*
- (e) *the requirements of any development control plan to the extent that it is relevant to the proposed development,*
- (f) *how the development addresses the following matters:*
  - (i) *the suitability of the land for development,*
  - (ii) *existing and proposed uses and use mix,*
  - (iii) *heritage issues and streetscape constraints,*
  - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
  - (v) *bulk, massing and modulation of buildings,*
  - (vi) *street frontage heights,*
  - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
  - (viii) *the achievement of the principles of ecologically sustainable development,*
  - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
  - (x) *the impact on, and any proposed improvements to, the public domain,*
  - (xi) *the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*

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

The design excellence of the proposal was considered at a Design Excellence Panel meetings held on 14 September 2022 and 7 December 2022. The comments made to the application included:

*The Panel is concerned that the Design development has not optimised the potential previously presented in the proposed modifications to the Masterplan Development Application that was previously presented to the Panel. While it is acknowledged that the modification to the Masterplan has since been approved by the Sydney Central City Planning Panel, it is unfortunate that the landscaped 'gateways' and 'fingers of green' shown in the 2021 Site Opportunities Plan have also not been fully realised.*

*A one storey step (3.1m) from the ground floor level to the adjacent ground level as described in the applicant response is not considered to be a good design outcome. The Panel would expect the building design and layout to respond to the topography of the site. Residents along Spurway Drive in particular should be able to exit at ground level without having to navigate up a full level via stairs.*

*Increased solar access for the residents in existing developments along the southern side of Spurway Drive being demonstrated.*

*When the Pre-DA concept was considered in November 2021, the Panel had acknowledged the merits of increased tower heights to allow for lower podium heights. However, the modification application lodged by the applicant in February 2022 implemented the additional heights for tower elements, without the corresponding reduction in podium heights to improve the amenity of the central court. The intention of the Panel was to investigate how a rebalancing of height could improve urban design and residential amenity outcomes and reduce the bulk of the podium levels. Unfortunately, this outcome did not eventuate in the approved master plan concept (as modified).*

*The Applicant provided helpful contextual information in relation to adjacent existing and future developments, as a rationale for the architectural approach to this site. The Panel accepts this proposition in principle, however in comparison to the pre- DA plans the Panel reviewed in November 2021, the modification application considered and approved by the SCCPP and this built form application demonstrate more bulk. This kind of development is more akin to that of an inner urban high-density development (with continuous high podiums and minimal tower setbacks) resulting in an urban form that is inconsistent with the established vision, urban design controls and landscape character for the Hills Shire.*

In relation to comments above the following comments are provided in response to the matters raised above by the panel;

*Preliminary building massing diagrams provided clarity as to the proposed landscape potential. Greater separation of buildings at the gateways would require higher towers, or street wall buildings so was given less priority. Notwithstanding, additional planting has been introduced to support the landscape effect of the three courtyard entrances.*

*It is accepted that street access to a small number of apartments on the pronounced sloping part of Spurway Drive is less than ideal but it now allows for animation of the street and helps articulate the exposed basement which is complemented by improved landscaping treatments*

*as shown in the resubmitted plans. It is also noted this this location is a limited occurrence and the remaining interfaces of the four building facades are well integrated with the adjoining public domains.*

*The improvements to mid-winter solar access to adjoining Haven apartments have been adequately demonstrated in the Concept Plan Modification which is replicated in the CI4.6 request available to the Panel.*

*Priority was given to significantly reducing the Spurway Drive 12-13 storey street wall height to improve solar access to adjoining developments and public domains as previously emphasised by the Panel. Additional 'podium' reductions for the central courtyard would require taller towers but which was not permitted by Council. The Panel has acknowledged the positive effect of the reduced building heights but has not demonstrated how 'podium' heights could be further reduced without taller towers. As accepted by Council and the Planning Panel, the re-massing arising from of the Concept Plan modification has led to significantly improved urban design and residential amenity outcomes which are reflected in the submitted DA.*

*This statement is without foundation in that there is no more physical bulk than permitted by the LEP and approved Concept Plan. These were previously assessed and accepted by the Panel in the approval of the Rezoning Planning Proposal (by others) and the more recent Concept Plan which it considered to be "well-resolved and highly competent scheme that complies with the controls".*

The Design Excellence Panel concluded;

*The Panel acknowledges that a modified concept masterplan for the site has been approved by the SCCPP and this built form application is now being considered in this context. The Panel also acknowledges the work to date by the Applicant. However, the Panel's conclusion remains consistent with advice from previous meetings. The Panel does not consider that in its current form, the Development Application demonstrates design excellence. The Panel notes that its role is advisory only and the Applicant may elect to proceed with the DA assessment in its current form.*

It is noted that the Design Excellence Panel previously supported the proposal in principle, subject to demonstration of significant public benefit and improved residential amenity and considered a number of positive changes have occurred as a result of the revised massing and looks forward to further development of the proposal. Despite some of the views of the Design Excellence Panel it is considered that the subject development application remains consistent with the masterplan originally put to the Panel and supported. Given the demonstration of Sekisui through the two completed developments on their site, it is considered that the development outcomes they have provided demonstrate design excellence in architectural design, materials, landscape and detailing. The applicant has addressed and demonstrated compliance with the matters outlined in Clause 7.7 and in particular the bulk, massing and modulation of buildings in this proposal is supported.

Based on the comments provided in response by the Applicant, it is considered that the proposal exhibits design excellence and satisfies Clause 7.7 of the LEP.

### **3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments which have been the subject of public consultation under the Environmental Planning and Assessment Act 1979 that are relevant to the proposal.

### 3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

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 D Section 7 – Balmoral Road Release Area

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

DEVELOPMENT CONTROL	THDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 5 Residential Flat Buildings - Clause 3.3(2)(a)	Front Setback 10m	Setback to Spurway Drive 6m to facade	No

#### Front Setback

The DCP requires a front setback for residential flat buildings of 10 metres. The subject development is set back 6 metres to the building façade.

The relevant objectives of this clause of the DCP are:

- *To provide setbacks that complement the setting and contributes to the streetscape and character of the street while allowing flexibility in siting of buildings;*
- *To ensure that the space in front of the building is sufficient to permit landscaping that will complement the building form and enhance the landscape character of the street.*
- *Side and rear setbacks are to be proportioned to the slope of the site having regard to the height and relationship of the buildings on adjoining properties.*
- *The setbacks of proposed buildings are to minimise any adverse impacts such as overshadowing and privacy on adjacent and adjoining properties.*
- *To ensure placement of buildings takes into account the retention and protection of existing trees.*

The masterplan consent associated with this development application sought to establish a 6m setback along Spurway Drive. This was not supported under the masterplan at that time. The panel determined that all future built form applications east of Stranger's Creek shall address the Development Control Plan and justify any setback encroachments. The development site is located on the future Spurway Drive extension. The locality will comprise a number of residential flat buildings on both the northern and southern sides of Spurway Drive.

A 6 metre setback is not uncommon to the locality with three approved flat buildings, at No. 38 and 40 Solent Circuit on the southern side of Spurway Drive both having setbacks to 6 metres and directly adjacent to this site at Nos 9-13 Spurway Drive within the Sekisui Development site.

In this regard, it is considered that the site is appropriate in this instance and the variation to the front setback control is supported.

### **3.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

### **3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations**

Clause 61 of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application.

These provisions have been considered and addressed in the draft conditions (where necessary).

### **3.6 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.7 Section 4.15(1)(c) - Suitability of the site**

The Site has been zoned for a high density urban development. The proposed development is consistent with the Masterplan approval and Council's previous approvals and is suitable development of the site consistent with the zone objectives.

The proposal will provide for essential housing consistent with the intended outcomes for the area, responds to the site characteristics and is considered to be a suitable development for the proposed lot.

### **3.8 Section 4.15(1)(d) - Public Submissions**

The submissions are considered in Section 4 of this report.

### **3.9 Section 4.15(1)(e) - Public interest**

The development provides a suitable density of housing products within an area that has access to public recreation facilities, a town centre and public transport. Noting the limited high density housing being delivered in the local area, on balance the proposal is consistent to the public interest.

### **3.10 Section 4.24 Concept Approval**

The DA remains consistent with Masterplan 736/2017/JP (as modified), as it provides for the development of the land by virtue of a recent modification 736/2017/JP/B to facilitate this application.

#### 4. Community Consultation

The proposal was notified in accordance with the DCP. A total of nine unique submissions, were received. The issues raised in these submissions are considered in the Table below.

**Table: Community Submissions**

ISSUE/OBJECTION	COMMENT
I significantly oppose any proposed increase in height of the. Increasing building height to 19 levels, adjacent to the existing 7 level Imperial apartments (No. 11 and 13 Spurway Drive) will significantly reduce the sunlight to the Imperial Building and cast a significant shadow across that building in the afternoon.	A solar analysis was provided by the applicant. Neither the original proposal nor the modified proposal cause any shadow impact on the adjoining development to the east (No. 11 and 13 Spurway Drive) in mid-winter at 3pm, or prior which is the relevant criteria for assessment.
The residential density of the proposed buildings is significantly greater than any existing apartment buildings in the immediate vicinity. Combined with the proposed Mulpha development, this proposed change will very significantly increase the population density along the entire length of Spurway Drive.	The density of the proposed development is not proposed to increase on the site as part of this application. The Sekisui development has a cap of 1300 dwellings which is being maintained.
Spurway Drive already is effectively reduced to a single lane street during daylight hours due to the number of vehicles parked on both sides along the entire length of the drive and along half its length each evening/night. It is very difficult to safely pass vehicles travelling in the opposite direction without one vehicle having to slow down, carefully move closer to the parked vehicles or come to a halt while the other vehicle passes.	As identified above, the density of the development is not intended to change. Traffic issues and parking restrictions will be reviewed by Council's Traffic section with individual development applications or as general local traffic safety issues arise.
The proposed taller building in the south west corner would result in further loss of privacy and additional shadowing.	Generally, the increase in height has been offset with greater separation and a reduced overshadowing impact, some buildings have also been lowered. The merits of the application are addressed in this report.
The traffic along Fairway Drive in both directions is constant during the peak hours making it difficult to enter or exit the 'Moda' building (No. 100 Fairway Drive)	The subject modification application does not alter the approved dwelling numbers of 1,300 dwellings. The existing infrastructure is considered appropriate for the

underground carpark. With another major development including 1,300 dwellings will significantly add to this current congestion and is simply too much for Fairway Drive to safely handle. I am not against development that is consistent with the existing infrastructure, but this proposal is massively excessive and should not be considered by Council for approval in its present proposal.	development on the site and other surrounding apartment developments.
The increase in building height proposed and the new arrangement of buildings on 104 Fairway Drive would, if approved, lead to the following decrease of outlook and views available to future residents of 40 Solent Circuit, relative to the approved scheme.	The proposal may have some impact on views for higher level units in adjacent developments, but will also improve the view of some lower units. In any event, views are distant district views and partially obscured.
The Panel should revisit the reduction in parking rates increasing parking requirements more in line with the LEP.	The variations to the LEP parking rates are addressed in this report. The proposal still provides significantly more parking spaces than required by the RMS. Given the proximity to the metro train line, 818 spaces are considered reasonable.
The removal of the turning circle at the 13 Spurway Drive (The Imperial) entry is a significant safety concern. Council already advised me that the turning circle was waste collection trucks to safely enter The Imperial complex, turn around and reverse into our waste collection loading area/dock. Additionally, any increased traffic in that entry is a significant hazard and safety concern.	It was initially proposed to delete the turning area adjacent to No. 13 Spurway Drive. The proposal was subsequently amended and no longer includes these works.
I wish to point out the unethical and deceptive practice Sekisui has used in identifying the location of the development. Having received the Hills Shire Council's 'Notice of Proposed Development' for Lot DP 271187, 104 Fairway Drive Norwest".	Council staff notified the subject proposal based on the legal description of the property. The description included a reference to Stage 4 of the Orchards Development Site. All owners adjacent to the development were notified. Upon viewing plans via Council's DA Tracking system it would be clear to residents where the proposal was located.
Excavation noise and air pollution from the resulting dust from the sites. We have to keep our windows and doors closed all day from 7am-5pm because of the excavation for Stage 3.	A number of conditions are recommended to control dust from the site and construction activities. Refer Condition Nos. 9, 10, 45, 50, 55, 57, 69, 79 and 80.

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## 5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

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 (Planning Systems) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, The Hills Local Environmental Plan 2019 and The Hills Development Control Plan 2012 and is considered satisfactory.

It is considered that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 development standards at Clause 4.3, 4.4 and 7.10 be supported as it adequately justifies the contravention of the development standards having regard to the requirements of Clause 4.6(3). It is considered that the variations can be supported as compliance with the standards are unreasonable or unnecessary in these instances and the proposal results in better environmental planning outcomes as outlined in this report. Furthermore, having regard to Clause 4.6(4), the development is consistent with the objectives of the standards and the objectives for development within the zone and is therefore in the public interest.

Approval is recommended subject to conditions, refer Attachment A.

## 6. RECOMMENDATION

That the Development Application DA No 2059/2022/JP for a Residential Flat Building Development containing 583 Units (Stage 4) – 104 Fairway Drive, Norwest be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

It is recommended that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 development standards at Clause 4.3, 4.4 and 7.10 be supported as it adequately justifies the contravention of the development standards having regard to the requirements of Clause 4.6(3). It is considered that the variations can be supported as compliance with the standards are unreasonable or unnecessary in these instances and the proposal results in better environmental planning outcomes as outlined in this report. Furthermore, having regard to Clause 4.6(4), the development is consistent with the objectives of the standards and the objectives for development within the zone and is therefore in the public interest.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Locality Plan
- Attachment C: Aerial Map
- Attachment D: Zoning Map

- Attachment E: Height Map
- Attachment F: FSR Map
- Attachment G: Site Plan
- Attachment H: Typical Unit Floor Plan (Level 5)
- Attachment I: Elevations
- Attachment J: Sections
- Attachment K: Subdivision Plan
- Attachment L: Clause 4.6 Request

## ATTACHMENT A – CONDITIONS

### GENERAL MATTERS

#### **1. Development in Accordance with Submitted Plans**

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

#### **REFERENCED PLANS AND DOCUMENTS**

PROJECT NO.	DESCRIPTION	SHEET	REVISION	DATE
CA3993	Cover Sheet	00001	D	29/06/2023
CA3993	Site Plan	10001	B	31/01/2023
CA3993	Basement 02	11508	B	31/01/2023
CA3993	Basement 01	11509	B	31/01/2023
CA3993	Level 00	11510	B	31/01/2023
CA3993	Level 01	11511	B	31/01/2023
CA3993	Level 02	11512	D	18/05/2023
CA3993	Level 03	11513	B	31/01/2023
CA3993	Level 04	11514	B	31/01/2023
CA3993	Level 05	11515	B	31/01/2023
CA3993	Level 06	11516	B	31/01/2023
CA3993	Level 07	11517	B	31/01/2023
CA3993	Level 08	11518	B	31/01/2023
CA3993	Level 09	11519	B	31/01/2023
CA3993	Level 10	11520	B	31/01/2023
CA3993	Level 11	11521	B	31/01/2023
CA3993	Level 12	11522	B	31/01/2023
CA3993	Level 13	11523	B	31/01/2023
CA3993	Level 14	11524	B	31/01/2023
CA3993	Level 15	11525	B	31/01/2023
CA3993	Level 16	11526	B	31/01/2023
CA3993	Level 17	11527	B	31/01/2023
CA3993	Level 18	11528	B	31/01/2023
CA3993	Level 19	11529	B	31/01/2023
CA3993	Level 20	11530	B	31/01/2023
CA3993	Level 21	11531	B	31/01/2023
CA3993	Roof	11532	B	31/01/2023
CA3993	GA Elevations Sheet 1	21501	B	31/01/2023
CA3993	GA Elevations Sheet 2	21502	B	31/01/2023
CA3993	Sections A and B	31501	C	18/05/2023
CA3993	Sections C and D	31502	C	18/05/2023

SS21-4840	Landscape Package	0000 - 9006	-	25/05/2023
DA-A-10001, DA-A-11510 - DA-A-11531	Numbering Plans (23 Pages – for numbering purposes only)	-	B	31/01/2023

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. Tree Removal**

Approval is granted for the removal of one hundred and twenty-five (125) trees numbered 100, 109, 110, 111, 112, 112a, 112b, 113, 114, 115, 117, 119, 120, 122, 123, 124, 125, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 136a, 137, 138, 139, 140, 141, 141a, 169, 170, 171, 172, 173, 174, 174a, 175, 176, 176a, 176b, 177, 178, 179, 179a, 200, 204, 239, 240, 241, 242, 243, 244a, 246a, 246b, 247, 248, 248a, 248b, 248c, 249, 250, 251, 252, 252a, 252b, 253, 254, 255, 255a, 256, 257, 258, 259, 262, 264, 265, 265a, 265b, 265c, 266, 267, 276, 276a, 278a, 278b, 278c, 279, 280, 283, 285a, 289, 289a, 290, 291a, 291b, 293, 293a, 294, 294a, 295, 297, 299a, 301a, 301b, 301c, 301d, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 311a, 314, 315 and 316 as identified on the Existing Tree Plan prepared by Site Image dated Revision E 25/05/23 and the Tree Removal and Retention Plan in the Arboricultural Impact Assessment prepared by McArdle dated 03/07/23.

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

## **4. 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<sup>2</sup>.

The following minimum depth of soil is to be achieved for all planter boxes and planting over slabs:

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

Areas indicated on approved landscape plans as being “Existing Softscape to be Retained” are to be maintained as a regeneration area for Cumberland Plain Woodland vegetation community species in perpetuity. Weeds are to be removed and managed in accordance with the Weed Management Plan pursuant to this consent. These areas are not to be mowed or slashed and are to be maintained as a bushland-style area. Educational signage regarding the intent of the bushland areas to be retained, the vegetation community, or individual species may be added to support the retention of these areas.

## **5. Construction Certificate**

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

## **6. Building Work to be in Accordance with BCA**

All building work must be carried out in accordance with the provisions of the Building Code of Australia as referenced by Section 69 of the Environmental Planning and Assessment Regulation 2021.

## **7. 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.

## **8. Retention of Trees and Vegetation**

All trees not specifically identified on the Existing Tree Plan prepared by Site Image dated Revision E 25/05/23 for removal are to be retained with remedial work to be carried out in accordance with the

Arboricultural Impact Assessment prepared by McArdle dated 03/07/23 unless superseded by the following requirements:

- Pier holes for the elevated walkway within the Tree Protection Zones of any trees for retention are to be excavated by hand under AQF Level 5 arborist supervision using NDD methods.
- The excavation for stormwater pits and pipes within the Tree Protection Zones of any trees for retention are to be excavated by hand under AQF Level 5 arborist supervision using NDD methods.
- Tree and Vegetation protection fencing is to be located to protect the Tree Protection Zones and the existing trees to be retained, and areas hatched (dashed) on the Softworks Plans (Pages 3014, 3015, 3016, 3017, 3018, 3019, and 3022) as being areas of existing understorey to be retained.
- No mulch is to be placed within the tree protection zones of trees on the site, due to the retention of native understorey.
- Native vegetation within the northwestern and northeastern setbacks is to be retained and maintained in perpetuity as a regeneration area for Cumberland Plain Woodland vegetation community species.
- No crane pads, site offices, site entry points, vehicle parking, lunch areas or equivalent are permitted within the Tree protection Zones of Trees, or areas of understorey to be retained and protected within the northwestern and northeastern setbacks.

#### **9. 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.

#### **10. 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 at any time is permitted to be waiting in any of the streets adjacent to the development site.

#### **11. Subdivision Works Approval**

Before any works excluding excavation and piling are carried out a Subdivision Works Certificate must be obtained and a Principal Certifier appointed. The plans and accompanying information submitted with the Subdivision Works 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 Certifier for subdivision works.

#### **12. Road Opening Permit**

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

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

#### **13. Approved Amended Plan**

The subdivision must be carried out in accordance with the approved plan of subdivision prepared by LTS/MATTHEW GRAHAM SMITH, Surveyor's Reference: 41917 026DP, Sheets 1 to 7 inclusive, dated 14/07/2023 with the following amendments:

- a) Stormwater easement shall be created over proposed PT lot 10. A stormwater easement shall be created over the stormwater pipe that drain/benefit existing lot 1 within DP271187 over proposed PT lot 10. This is in addition to the proposed (D3) EASEMENT FOR DRAINAGE 20 WIDE AND VARIABLE WIDTH
- b) Stormwater easement shall be created over proposed PT lot 10. A stormwater easement shall be created over any stormwater pipes that drain/benefit proposed lot PT9 over proposed PT lot 10. This is in addition to the proposed (D3) EASEMENT FOR DRAINAGE 20 WIDE AND VARIABLE WIDTH

#### **14. 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.

#### **15. 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.

#### **16. 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.

#### **17. 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.

#### **18. 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 contractor is known and the driveway is going to be constructed.

#### **19. 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.

## **20. 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.

## **21. Stacked/ Tandem Parking Spaces**

The development includes number of stacked parking spaces. These spaces are to be allocated/ used for resident parking only (not visitor parking) and each set of two stacked/ tandem parking spaces must be allocated to the same unit without exception.

## **22. 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) Driveway/ Kerb Inlet Pit Conversion**

The new driveway conflicts with the existing on-grade kerb inlet pit. This kerb inlet pit must be replaced with a grated/ butterfly lid pit integrated into the new driveway.

Refer to Council's Standard Drawing SD.5A available from Council's website for more detail showing this arrangement.

All these works must be carried out by a civil contractor with the appropriate civil liability insurances for works in the footpath/ public area.

Detailed design and construction approval for these works must be obtained from Council before a Construction Certificate can be issued for the building works.

### **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.

Only RCP or RFC stormwater pipe are permitted within re rod verge.

## **23. Property Numbering and Cluster Mail Boxes**

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

The overall property address for this development is: **15 Spurway Drive, Norwest**

The individual property addresses for each building within this development are:

**Building A:** 15 Spurway Drive  
**Building B:** 17 Spurway Drive  
**Building C:** 6 Lucinda Avenue  
**Building D:** 4 Lucinda Avenue  
**Building E:** 2 Horatio Avenue  
**Building F:** 2 Horatio Avenue

Approved unit numbering is as per plans submitted marked as DWG No: DA-A-10001, DA-A-11510 - DA-A-11531 , Rev: B, Dated 31.01.2023 and marked up as 'Numbering Plans' by Council's Land Information Team within consent documentation; and as follows:

Level	Building A	Building B	Building C	Building D	Building E	Building F
Level 1		<b>101-104</b>	<b>105-114</b>	<b>115-120</b>	<b>121-122</b>	<b>123-132</b>
Level 2		<b>201-204</b>	<b>205-214</b>	<b>215-221</b>	<b>222-225</b>	
Level 3		<b>301-310</b>	<b>311-320</b>	<b>321-327</b>	<b>328-333</b>	<b>334-343</b>
Level 4		<b>401-410</b>	<b>411-420</b>	<b>421-427</b>	<b>428-434</b>	<b>435-445</b>
Level 5	<b>501-508</b>	<b>509-518</b>	<b>519-526</b>	<b>527-533</b>	<b>534-540</b>	<b>541-551</b>
Level 6	<b>601-608</b>	<b>609-618</b>	<b>619-626</b>	<b>627-633</b>	<b>634-640</b>	<b>641-651</b>
Level 7	<b>701-708</b>	<b>709-718</b>	<b>719-726</b>	<b>727-733</b>	<b>734-740</b>	<b>741-749</b>
Level 8	<b>801-808</b>	<b>809-817</b>	<b>818-825</b>	<b>826-832</b>	<b>833-839</b>	<b>840-848</b>
Level 9	<b>901-908</b>	<b>909-917</b>	<b>918-925</b>	<b>926-932</b>	<b>933-939</b>	<b>940-945</b>
Level 10	<b>1001-1008</b>	<b>1009-1010</b>	<b>1011-1018</b>	<b>1019-1025</b>	<b>1026-1032</b>	
Level 11	<b>1101-1108</b>		<b>1109-1116</b>	<b>1117-1118</b>	<b>1119-1125</b>	
Level 12	<b>1201-1208</b>		<b>1209-1216</b>		<b>1217-1220</b>	
Level 13	<b>1301-1308</b>		<b>1309-1316</b>		<b>1317-1320</b>	
Level 14	<b>1401-1408</b>		<b>1409-1416</b>		<b>1417-1419</b>	
Level 15	<b>1501-1508</b>		<b>1509-1516</b>			
Level 16	<b>1601-1608</b>		<b>1609-1616</b>			
Level 17	<b>1701-1708</b>		<b>1709-1713</b>			
Level 18	<b>1801-1808</b>		<b>1809-1813</b>			
Level 19	<b>1901-1905</b>					
Level 20	<b>2001-2005</b>					
Level 21	<b>2101-2105</b>					
Level 22	<b>2201-2205</b>					

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.

#### Mailboxes

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

Parking for Postal officer motorcycle/walk buggy is to be provided in a safe location that is viewable from foyer mailboxes to ensure the security of mail located on the vehicle. An intercom or doorbell is to be provided for each unit for the delivery of parcels.

Locations as provided on plans DWG No: DA-A-10001, DA-A-11510 - DA-A-11531 , Rev: B, Dated 31.01.2023 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](mailto:Gregory.dimmock@auspost.com.au) or phone 02 9674 4027. Australia Post approval is required to be provided to Council.

Cluster mail boxes are to be located as shown on plans submitted marked as DWG No: DA-A-11510 & DA-A-11512 , Rev: B, Dated 31.01.2023 and marked up as 'Numbering Plan' by Council's Land Information Team within consent documentation. Cluster mailboxes are to be located within the site on the public footpath boundary within easy reach from a public road for the postal delivery officer.

The number of mail boxes to be provided is to be equal to the number of units plus one (1) for the proprietors of the development and be as per Australia Post size requirements. **The proprietors additional mail box is to be located within the cluster located at the main entrance to Buildings A & B.**

#### 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](mailto: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.

#### **24. Management of Construction and/or Demolition Waste**

Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place.

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

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

#### **25. 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.

#### **26. 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.

#### **27. 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.

#### **28. Construction of Central Bin Collection Room**

The central bin collection room must be designed and constructed in accordance with the following requirements. The room must provide minimum storage facility for 40 x 1100 litre sized bins and 12 x 240 litre sized bins.

- The central bin collection room must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins as specified above.
- The layout of the central bin collection room must ensure that each bin is easily accessible and manoeuvrable in and out of the room with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the central bin collection room must be constructed of brickwork.
- The floor of the central bin collection room 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 central bin collection room 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 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.
- The central bin collection room must have a resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door must be separate to the waste servicing door. If a loading dock is proposed in the development the resident access door must be located to ensure that residents do not have access to the loading dock to gain access to the central bin collection room.
- All doors of the central bin collection room, 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 central bin collection room 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 central bin collection room must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the central bin collection room, it is not to conflict with the space designated for the placement of bins.
- The central bin collection room 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 central bin collection room 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 central bin collection room are to complement the design of the development.

### **Example Bin Measurements (mm)**

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

### **29. Construction of Waste Chute Termination Rooms**

The waste chute termination rooms must be designed and constructed in accordance with the following requirements. Each room must provide minimum storage facility for 1 x 2-bin 1100L linear track system for garbage with compaction unit and 1 x 2-bin 1100L linear track system for recycling (no compaction unit) with the exception of Building F (Chute Discharge Rooms F1 and F2) which are to provide 1 X 1100L bin (General Waste), 1 x 1100L MGB (Recycling) and 2 x 1100L MGBs (Service Bins) in each both Chute Discharge Room F1 and F2.

- The waste chute termination rooms must be of adequate size to comfortably store and manoeuvre the required waste infrastructure as specified above.
- The layout of the waste chute termination rooms must ensure that each bin is easily accessible and manoeuvrable in and out of the rooms with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste chute termination rooms must be constructed of brickwork.
- The floor of the waste chute termination rooms must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps.
- The waste chute termination rooms must have a waste servicing door, with a minimum clear floor width of 1.5m.
- All doors of the waste chute termination 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 waste chute termination 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 waste chute termination rooms must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area(s), it is not to conflict with the space designated for the placement of bins.
- The waste chute termination 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 waste chute termination rooms 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 chute termination rooms are to complement the design of the development.

### **Example Bin Measurements (mm)**

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

### **30. 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 for the standard 12.5m long Heavy Rigid Vehicle (minimum 4.5m clear vertical clearance). The following requirements must also be satisfied.

- a) 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.
- b) 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.

- c) 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.
- d) The requirement for reversing on site must be limited to a single reverse entry into the designated waste service bay (typical three point turn).
- e) 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).
- f) 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”.
- g) 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.

### **31. 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.

### **32. Provision of Waste Chute System**

The development must incorporate dual waste chutes (garbage and recycling) in each building core. 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 sized bins housed on 2-bin linear conveyor with compactor (2:1 compaction ratio) and recyclables must discharge into 1100 litre sized bins housed on 2-bin linear conveyor (no compaction) with the exception of Building F (Chute Discharge Rooms F1 and F2) which are to discharge into a 1100 litre sized bin in each waste room. The waste chute system must be maintained in accordance with manufactory standards.

### **33. 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.

### **34. Provision of an In-shaft Goods Personnel Hoist**

The development must incorporate an In-shaft goods personnel hoist to facilitate the transportation of bins across basement levels. It is required that the in-shaft goods hoist has a minimum platform of 3m x 2.4m (approx. 3m x 3m shaft).

### **35. Provision of Insect and Odour Control**

An insect control system provided in the central bin collection room and waste chute termination rooms. The equipment installed must be an ultra violet fly trap with a UV lamp of at least 20W or higher or similar. The fly trap should be an electric-grid style and mounted to an internal wall or attached to the ceiling. In addition, an adequate air deodoriser must be installed to help prevent offensive odours.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **36. Design Verification**

Prior to the release of the Construction Certificate design verification is required from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in SEPP65.

### **37. Notice of Requirements**

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

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

### **38. Protection of Internal Noise Levels**

An acoustic statement is required to be submitted to Council's Manager - Environment and Health prior to the issue of a Construction Certificate excluding excavation and piling works, 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 DA Acoustic Assessment prepared by Pulse White Noise Acoustics, with reference number 220057, and dated 18 May 2022, have been included in the construction plans of the development.

### **39. Erosion & Sediment Control Plan**

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

- Allotment boundaries
- Location of the adjoining roads
- Contours
- Existing vegetation
- Existing site drainage
- Critical natural areas
- Location of stockpiles
- Erosion control practices
- Sediment control practices
- 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).

### **40. Section 7.11 Contribution**

The following monetary contributions must be paid to Council when residential building works for that given Stage are commenced which excludes any excavation and piling works 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:-

#### **Stage 4A (Buildings A and B)**

<b>Stage 4A</b>	<b>Purpose: 1 bedroom unit</b>	<b>Purpose: 2 bedroom unit</b>	<b>Purpose: 3 bedroom unit</b>	<b>Purpose: 4+ bedroom unit</b>	<b>Purpose: Credit</b>
Open Space - Land	\$ 13,322.37	\$ 18,979.82	\$ 23,633.52	\$ 31,480.95	\$ 30,568.46
Open Space - Capital	\$ 4,222.23	\$ 6,015.25	\$ 7,490.14	\$ 9,977.21	\$ 9,688.01
Transport Facilities - Capital	\$ 4,624.73	\$ 6,588.65	\$ 8,204.15	\$ 10,928.30	\$ 10,611.54
Community Facilities - Land	\$ 132.63	\$ 188.96	\$ 235.29	\$ 313.41	\$ 304.33
Administration	\$ 12.15	\$ 17.31	\$ 21.55	\$ 28.72	\$ 27.88
<b>Total</b>	<b>\$ 22,314.12</b>	<b>\$ 31,789.98</b>	<b>\$ 39,584.65</b>	<b>\$ 52,728.58</b>	<b>\$ 51,200.22</b>

<b>No. of 1 Bedroom units: 51</b>	<b>No. of 2 Bedroom units: 140</b>	<b>No. of 3 Bedroom units: 15</b>	<b>No. of 4+ Bedroom units: 4</b>	<b>Sum of Units</b>	<b>No. of Credits: 1</b>	<b>Total \$7.11</b>
\$ 679,440.95	\$ 2,657,174.27	\$ 354,502.84	\$ 125,923.80	\$ 3,817,041.85	\$ 30,568.46	\$ 3,786,473.39
\$ 215,333.87	\$ 842,134.38	\$ 112,352.06	\$ 39,908.84	\$ 1,209,729.16	\$ 9,688.01	\$ 1,200,041.14
\$ 235,861.28	\$ 922,411.65	\$ 123,062.20	\$ 43,713.18	\$ 1,325,048.31	\$ 10,611.54	\$ 1,314,436.78
\$ 6,764.38	\$ 26,453.91	\$ 3,529.31	\$ 1,253.65	\$ 38,001.25	\$ 304.33	\$ 37,696.93
\$ 619.72	\$ 2,423.48	\$ 323.30	\$ 114.86	\$ 3,481.35	\$ 27.88	\$ 3,453.48
<b>\$ 1,138,020.19</b>	<b>\$ 4,450,597.70</b>	<b>\$ 593,769.71</b>	<b>\$ 210,914.33</b>	<b>\$ 6,393,301.92</b>	<b>\$ 51,200.22</b>	<b>\$ 6,342,101.71</b>

#### **Stage 4B (Buildings E and F)**

<b>Stage 4B</b>	<b>Purpose: 1 bedroom unit</b>	<b>Purpose: 2 bedroom unit</b>	<b>Purpose: 3 bedroom unit</b>	<b>Purpose: 4+ bedroom unit</b>
Open Space - Land	\$ 13,322.37	\$ 18,979.82	\$ 23,633.52	\$ 31,480.95
Open Space - Capital	\$ 4,222.23	\$ 6,015.25	\$ 7,490.14	\$ 9,977.21
Transport Facilities - Capital	\$ 4,624.73	\$ 6,588.65	\$ 8,204.15	\$ 10,928.30
Community Facilities - Land	\$ 132.63	\$ 188.96	\$ 235.29	\$ 313.41
Administration	\$ 12.15	\$ 17.31	\$ 21.55	\$ 28.72
<b>Total</b>	<b>\$ 22,314.12</b>	<b>\$ 31,789.98</b>	<b>\$ 39,584.65</b>	<b>\$ 52,728.58</b>

<b>No. of 1 Bedroom units: 37</b>	<b>No. of 2 Bedroom units: 97</b>	<b>No. of 3 Bedroom units: 16</b>	<b>No. of 4+ Bedroom units: 6</b>	<b>Total S7.11</b>
\$ 492,927.74	\$ 1,841,042.17	\$ 378,136.36	\$ 188,885.69	<b>\$ 2,900,991.97</b>
\$ 156,222.61	\$ 583,478.82	\$ 119,842.20	\$ 59,863.27	<b>\$ 919,406.90</b>
\$ 171,115.05	\$ 639,099.50	\$ 131,266.34	\$ 65,569.77	<b>\$ 1,007,050.66</b>
\$ 4,907.49	\$ 18,328.78	\$ 3,764.60	\$ 1,880.47	<b>\$ 28,881.34</b>
\$ 449.60	\$ 1,679.12	\$ 344.85	\$ 172.29	<b>\$ 2,645.87</b>
<b>\$ 825,622.49</b>	<b>\$ 3,083,628.40</b>	<b>\$ 633,354.35</b>	<b>\$ 316,371.49</b>	<b>\$ 4,858,976.74</b>

#### Stage 4C (Buildings C and D)

<b>Stage 4C</b>	<b>Purpose: 1 bedroom unit</b>	<b>Purpose: 2 bedroom unit</b>	<b>Purpose: 3 bedroom unit</b>	<b>Purpose: 4+ bedroom unit</b>
Open Space - Land	\$ 13,322.37	\$ 18,979.82	\$ 23,633.52	\$ 31,480.95
Open Space - Capital	\$ 4,222.23	\$ 6,015.25	\$ 7,490.14	\$ 9,977.21
Transport Facilities - Capital	\$ 4,624.73	\$ 6,588.65	\$ 8,204.15	\$ 10,928.30
Community Facilities - Land	\$ 132.63	\$ 188.96	\$ 235.29	\$ 313.41
Administration	\$ 12.15	\$ 17.31	\$ 21.55	\$ 28.72
<b>Total</b>	<b>\$ 22,314.12</b>	<b>\$ 31,789.98</b>	<b>\$ 39,584.65</b>	<b>\$ 52,728.58</b>

<b>No. of 1 Bedroom units: 59</b>	<b>No. of 2 Bedroom units: 140</b>	<b>No. of 3 Bedroom units: 16</b>	<b>No. of 4+ Bedroom units: 2</b>	<b>Total S7.11</b>
\$ 786,019.92	\$ 2,657,174.27	\$ 378,136.36	\$ 62,961.90	<b>\$ 3,884,292.44</b>
\$ 249,111.73	\$ 842,134.38	\$ 119,842.20	\$ 19,954.42	<b>\$ 1,231,042.73</b>
\$ 272,859.13	\$ 922,411.65	\$ 131,266.34	\$ 21,856.59	<b>\$ 1,348,393.72</b>
\$ 7,825.46	\$ 26,453.91	\$ 3,764.60	\$ 626.82	<b>\$ 38,670.80</b>
\$ 716.93	\$ 2,423.48	\$ 344.85	\$ 57.43	<b>\$ 3,542.69</b>
<b>\$ 1,316,533.16</b>	<b>\$ 4,450,597.70</b>	<b>\$ 633,354.35</b>	<b>\$ 105,457.16</b>	<b>\$ 6,505,942.38</b>

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

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

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

This condition has been imposed in accordance with Contributions Plan No 12.

Council's Contributions Plans can be viewed at [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au) or a copy may be inspected or purchased at Council's Administration Centre.

#### **41. Western Sydney Growth Areas – Payment of Special Infrastructure Contribution**

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

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

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

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

#### **42. Irrigation**

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

#### **43. 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.

#### **44. 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.

A SWMP is required for this development.

#### **45. Construction Management Plan (Staged Applications)**

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.

#### **46. 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.

#### **47. 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.

#### **48. 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 \$319,000 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 (280m) multiplied by the width of the road (9.5m).

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

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

#### **49. 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 Northrop, Job No. 161031, Drawing No. vary, All Revision 5, all dated 25/05/2023 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) 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.

##### **b) 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.

##### **c) Service Conduits**

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

##### **d) Earthworks/ Site Regrading**

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by Northrop, Job No. 161031, Drawing DAC73.03. vary, All Revision 5, all dated 25/05/2023. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed. Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent.

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

##### **e) Inter-allotment Stormwater Drainage**

Piped inter-allotment stormwater drainage catering for the entire area of each lot must be provided. Each lot must be uniformly graded to its lowest point where a grated surface inlet pit must be provided. All collected stormwater is to be piped to an approved constructed public drainage system.

**f) Water Sensitive Urban Design Elements**

Water sensitive urban design elements, consisting of Ocean Guard, Bioretention and vegetated swales, 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.

**g) Swales**

Swales shall be designed to cater for the 1% AEP from the contributing catchments. The 1% AEP including the water depth within the swale shall be shown on the plans. The boardwalk shall be located 300mm above the water level within the swale. Pedestrian fence shall be provided for the proposed boardwalk.

**h) Stormwater Easements**

Stormwater easement shall be created over any stormwater pipe that cross a separate existing/proposed lots. The width of the private easement shall comply with Council's Design Guidelines Subdivisions/ Developments. The easements with shall be shown on the stormwater/civil plans.

**i) Driveway/ Kerb Inlet Pit Conversion**

The new driveway conflicts with the existing on-grade kerb inlet pit. This kerb inlet pit must be replaced with a grated/ butterfly lid pit integrated into the new driveway.

Refer to Council's Standard Drawing SD.5A available from Council's website for more detail showing this arrangement.

All these works must be carried out by a civil contractor with the appropriate civil liability insurances for works in the footpath/ public area.

Detailed design and construction approval for these works must be obtained from Council before a Construction Certificate can be issued for the building works.

**j) Site Stormwater Drainage**

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

Only RCP or RFC stormwater pipe are permitted within re rod verge.

**50. Construction Management Plan**

Prior to the issuing of a Construction Certificate a Construction Management Plan must be submitted to Council's Manager – Subdivision and Development Certification for approval. The Construction Management Plan must specifically address each of the following matters:

- Construction traffic (internal).
- Traffic control (external). This needs to consider road closures and delivery routes with respect to the surrounding road network as separately conditioned.

- Public asset protection.
- Dust management as separately conditioned.
- Sediment and erosion control as separately conditioned.
- Stockpiles.
- Noise; outside of standard work hours for float deliveries will need to have written Transport for NSW approval and Council and affected neighbours must be notified in writing.
- Working hours; including plant warming up and/ or noise above conversation levels before the nominated starting time.
- Tree/ vegetation protection.
- Fauna protection, recovery and relocation (including fauna habitat)

#### **51. Groundwater Requirements and Management**

Prior to the issue of the construction certificate by the registered Certifier, the Applicant is to undertake the following to the satisfaction of DPE Water and the Natural Resources Access Regulator:

1. demonstrate adequate groundwater entitlements can be obtained for the project's operational water take
2. ensure sufficient water entitlement is held in a water access licence/s (WAL) to account for the maximum predicted take for each water source prior to take occurring
3. develop a Ground Water Management Plan for the construction phase
4. develop a dewatering reporting schedule covering duration of construction
5. develop a proposed operational phase (after building completion) monitoring and reporting schedule

design compliance certificate shall be prepared by suitably accredited qualified Geotechnical Engineer certifying that the requirements above have been satisfied. These requirements shall be reflected on the Construction Certificate and supporting documentation prior to the issue of the Construction certificate by the Registered Certifier.

#### **52. Internal Pavement Structural Design Certification**

Prior to a Construction Certificate being issued, a Certified Practising 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.

### **PRIOR TO WORK COMMENCING ON THE SITE**

#### **53. Management of Building Sites**

The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number.

#### **54. 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.

#### **55. 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).

#### **56. Details and Signage - Principal Contractor and Principal Certifier**

##### **Details**

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

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

##### **Signage**

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

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

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

#### **57. 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.

#### **58. Erosion & Sediment Control Plan Kept on Site**

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.

#### **59. Tree Protection Fencing**

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. In order of precedence the location of fencing shall be a) As per Tree Protection Plan as per Arborist report for project or b) Tree Protection Zone (TPZ) as calculated under AS4970 (2009) Protection of trees on development sites c) A minimum of 3m radius from trunk.

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.

#### **60. 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.

#### **61. Trenching and Excavation within Tree Protection Zone**

Any trenching and excavation for installation of drainage, sewerage, irrigation or any other services, and/or for construction of any ancillary structures shall not occur within the Tree Protection Zone (TPZ) of any tree(s) identified for retention unless under supervision and certification of a suitably qualified AQF Level 5 Project Arborist.

Certification of supervision by a Project Arborist must be provided to the Certifying Authority (Council) within 14 days of completion of trenching works.

The installation of the stormwater drainage system and/or the construction of any ancillary structures within the TPZ of tree(s) to be retained shall be carried out by adopting sensitive construction methods under the supervision of a Project Arborist.

Demolition or earth works within the Tree Protection Zone of tree(s) identified for retention shall be carried out so as to avoid damage to the tree roots. Manual excavation shall be carried out under the supervision of the Project Arborist.

Where roots within the Tree Protection Zone are exposed by excavation, temporary root protection should be installed to prevent them drying out. This may include jute mesh or hessian sheeting as multiple layers over exposed roots and excavated soil profile, extending to the full depth of the root zone. Root protection sheeting should be pegged in place and kept moist during the period that the root zone is exposed.

Root pruning should be avoided, however where necessary, all cuts shall be clean cuts made with sharp tools such as secateurs, pruners, handsaws, chainsaws or specialised root pruning equipment. Where possible, the roots to be pruned should be located and exposed using minimally destructive techniques such as hand-digging, compressed air or water-jetting, or non-destructive techniques.

#### **62. 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.

#### **63. 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.

#### **64. 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.

#### **65. 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.

#### **66. Property Condition Report – Private Assets**

A property condition report must be prepared and submitted by a structural engineer recording the condition of any dwelling or ancillary structures on adjoining lots/sites and within the likely zone of influence from any excavation, dewatering or construction induced vibration.

#### **67. Erection of Signage – Supervision of Subdivision Work**

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

- The name, address and telephone number of the Principal Certifier (Council);

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

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

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 Certifier for subdivision works.

#### **68. 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.

#### **69. 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.

#### **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/or Demolition Waste Management Plan Required**

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

### **DURING CONSTRUCTION**

#### **72. Aboriginal Archaeological Sites or Relics**

If, during activities involving earthworks and soil disturbance, any evidence of an Aboriginal archaeological site or relic is found, all works on the site are to cease and the Office of Environment and Heritage must be notified immediately.

#### **73. European Sites or Relics**

If, during the earthworks, any evidence of a European archaeological site or relic is found, all works on the site are to cease and the Office of Environment and Heritage be contacted immediately. All relics are to be retained in situ unless otherwise directed by the Office of Environment and Heritage.

#### **74. 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.

#### **75. 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.

#### **76. Compliance with BASIX Certificate**

Under Section 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No. 1279997M is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

#### **77. Critical Stage Inspections and Inspections Nominated by the Principal Certifier**

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

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

not carried out. Inspections can only be carried out by the Principal Certifier unless agreed to by the Principal Certifier beforehand and subject to that person being a registered certifier.

#### **78. 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.

#### **79. Dust Control**

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

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

#### **80. 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)*.

#### **81. 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.

#### **82. 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.

### **PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE**

#### **83. Section 73 Certificate**

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

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

#### **84. Provision of Electricity Services**

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

#### **85. Provision of Telecommunications Services**

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

#### **86. 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.

#### **87. Acoustic Compliance Report**

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled DA Acoustic Assessment prepared by Pulse White Noise Acoustics, with reference number 220057, and dated 18 May 2022. Certification is to be provided.

#### **88. 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 and the weed management plan.

#### **89. Weed Management Plan**

A site-specific weed management plan is to be prepared by a suitable qualified Bush Regenerator to inform the ongoing maintenance of the areas of site identified on the approved landscape plan as "Existing Softscape to be Retained". The plan is to include strategies for weed identification and control, as well as strategies to facilitate natural regeneration.

Native vegetation within this area is to be retained and maintained in perpetuity as a regeneration area for Cumberland Plain Woodland vegetation community species in accordance with this plan.

The plan is to be submitted to the satisfaction of Council's Manager - Environment and Health Prior to the Issue of Occupation Certificate.

#### **90. Completion of Subdivision Works/ Satisfactory Final Inspection**

A Subdivision Certificate cannot be issued prior to the completion of all subdivision works covered by this consent. A satisfactory final inspection by Council's Construction Engineer is required.

#### **91. 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.

#### **92. 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.

#### **93. Property Condition Report – Private Assets**

Before a Subdivision Certificate is issued, an updated dilapidation report must be prepared and submitted to Council. The updated report must identify any damage to adjoining properties and the means of rectification for the approval of Council.

#### **94. Final Plan and Section 88B Instrument**

The final plan and Section 88B Instrument must provide for the following. Council's standard recitals must be used (where applicable to each stage).

##### **a) Dedication – Road Widening**

The dedication of the proposed road widening must be included on the final plan in accordance with the undertaking submitted relating to dedication HORATIO AVE.

##### **b) Easement – Private Stormwater Drainage**

Inter-allotment drainage easements must be created to ensure each and every lot is provided with a legal point of discharge. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

##### **c) Easement – Overhanging/ Encroaching Structure**

Where an encroaching or overhanging structure has been approved across a proposed boundary, an easement must be created over the affected part of the burdened lot.

##### **d) Restriction – Bedroom Numbers**

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

**e) 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.

**f) 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.

**g) 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.

**h) Easement – Public Access**

A public access easement must be created within proposed lot PT10 over the proposed ((H3) Easement For Public Access 20 Wide And Variable Width Limited In Stratum) using the “public access easement” terms included in the standard recitals.

**95. 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.

**96. 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.

**97. Stormwater Management Certification (Water Sensitive Urban Design Elements)**

The stormwater management system including the Water Sensitive Urban Design Elements 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;
- A certificate of hydraulic compliance from a hydraulic engineer verifying that the constructed stormwater management system including the Water Sensitive Urban Design Elements will function hydraulically;
- A certificate of structural adequacy from a structural engineer verifying that the structures associated with the constructed stormwater management system including the Water Sensitive Urban Design Elements 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.

**98. 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).

**99. Certification stormwater drainage**

Prior to the issue of any Occupation Certificate, a submission of written certification from a suitably qualified civil engineer stating that all stormwater drainage and related works within the subject site have been constructed in accordance with the approved Construction Certificate plans, the conditions

included within this consent, the requirements of AS/NZS 3500.3:2018, and Council's Design Guidelines Subdivision/Developments dated September 2011.

#### **100. Completion of Lucinda Ave**

Lucinda Ave shall be constructed and dedicated as a public road prior to the issue of the Occupation Certificate of stage 1.

#### **101. Completion of the widening of Horatio Ave**

The widening of Horatio Ave shall be constructed and dedicated as a public road prior to the issue of occupation certificate of stage 2.

#### **102. Groundwater Requirements and Management**

Prior to the issue of the Occupation Certificate, the consent holder must submit a compliance certificate prepared by suitably accredited qualified Geotechnical Engineer certifying that the Groundwater and Management condition within this consent has been satisfied. The compliance certificate shall also certify that the DPE Water and the Natural Resources Access Regulator requirements have been satisfied.

These requirements shall be reflected on the Occupation Certificate and supporting documentation prior to the issue of the Occupation certificate by the Registered Certifier.

#### **103. 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 a 12.5m long waste collection vehicle when fully laden (i.e. 28 tonnes gross vehicle mass).

#### **104. Final Inspection of Waste Storage Area(s)**

Prior to any Occupation Certificate being issued, a final inspection of the waste storage area(s) 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.

#### **105. 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](http://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.

#### **106. 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.

#### **107. 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.

#### **108. In-shaft Goods Personnel Hoist 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 in-shaft goods personnel hoist installed complies with AS1418.8. It is required that the in-shaft goods hoist has:

- a minimum platform of 3m x 2.4m (approx. 3m x 3m shaft),
- a capacity of at least 2000kg,
- electrically operated roller doors with full width door opening interlocked to the safe operation of the hoist,
- programmed automatically to lift or lower on a single button control,
- design registered to carry personnel with SafeWork NSW and
- An operation speed of at least 9m per minute.

## **THE USE OF THE SITE**

### **109. Offensive Noise**

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provisions of the *Protection of the Environment Operation Act 1997*.

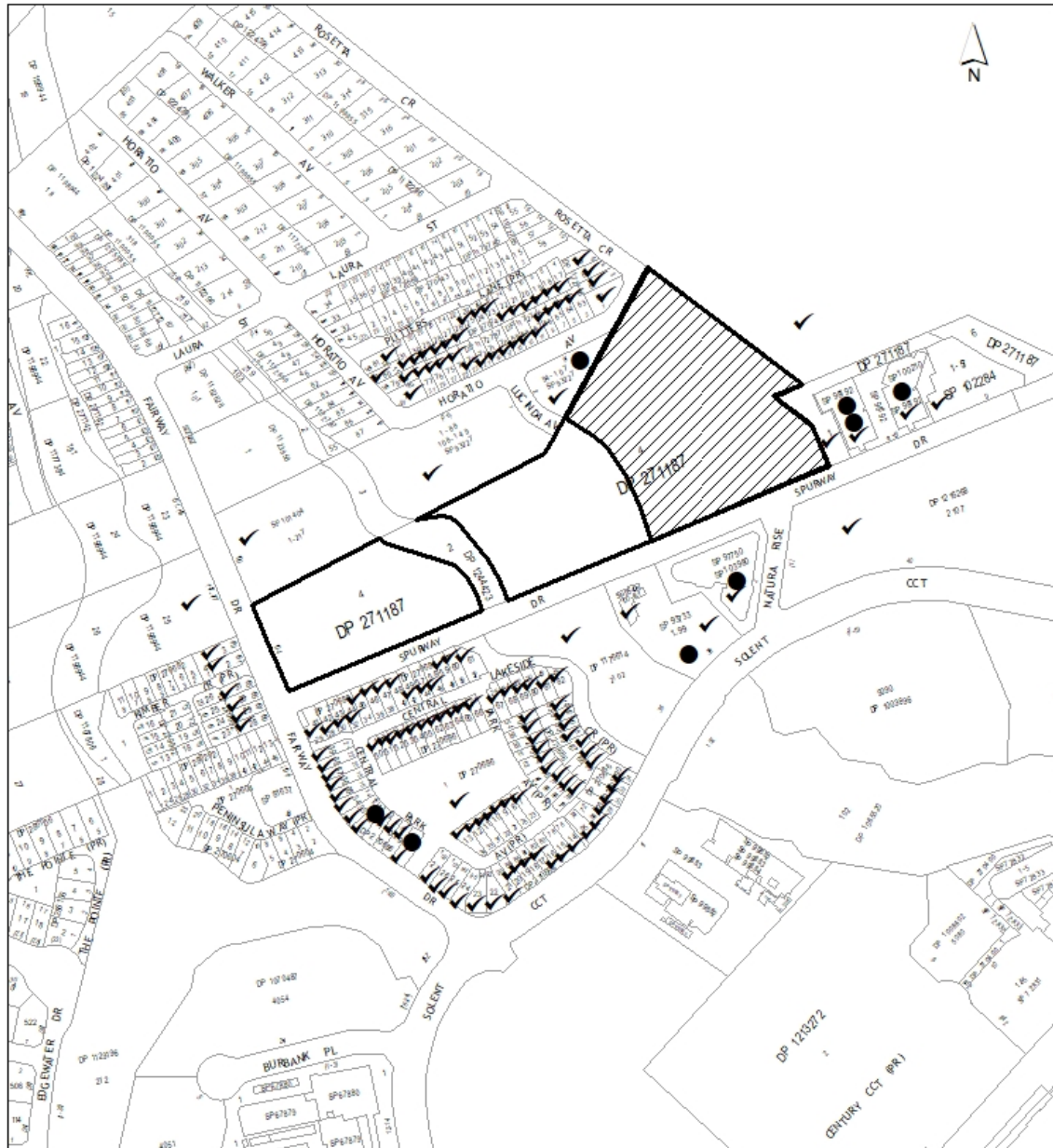
### **110. Lighting**

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*.

### **111. Waste and Recycling Management**

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

## ATTACHMENT B – LOCALITY PLAN



- |                                     |                     |                                  |   |
|-------------------------------------|---------------------|----------------------------------|---|
| <input type="checkbox"/>            | SUBJECT SITE        | <input checked="" type="radio"/> | SUBMISSION RECEIVED                               |
| <input checked="" type="checkbox"/> | SITE - PROPOSED LOT | <input type="radio"/>            | ONE SUBMISSION RECEIVED OFF THE SCOPE OF THIS MAP |
| <input checked="" type="checkbox"/> | PROPERTIES NOTIFIED |                                  |   |

**THE HILLS**  
Sydney's Garden Shire


**THE HILLS SHIRE COUNCIL**

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

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

## ATTACHMENT C – AERIAL MAP



 SUBJECT SITE

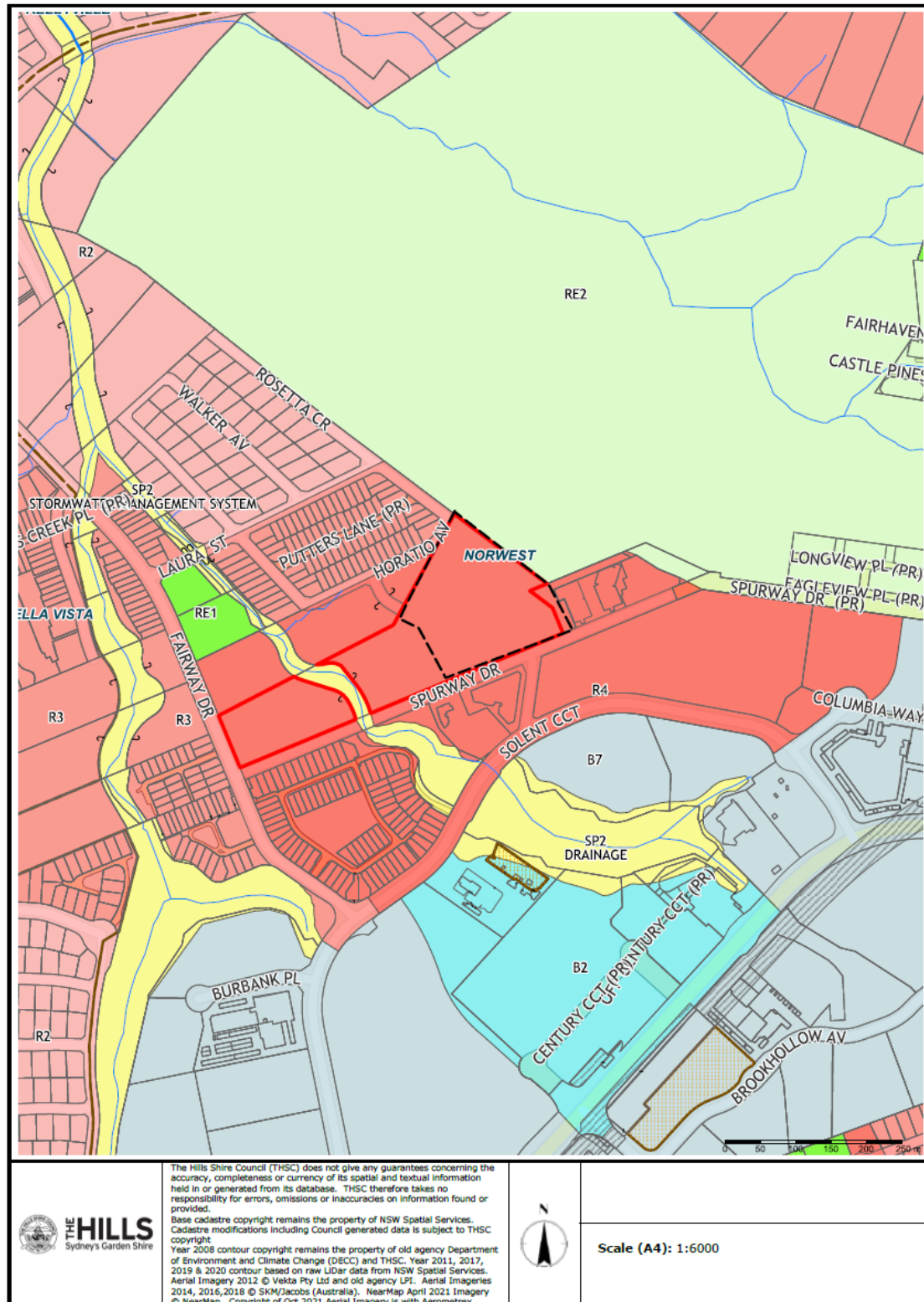
**THE HILLS**  
Sydney's Garden Shire

### THE HILLS SHIRE COUNCIL

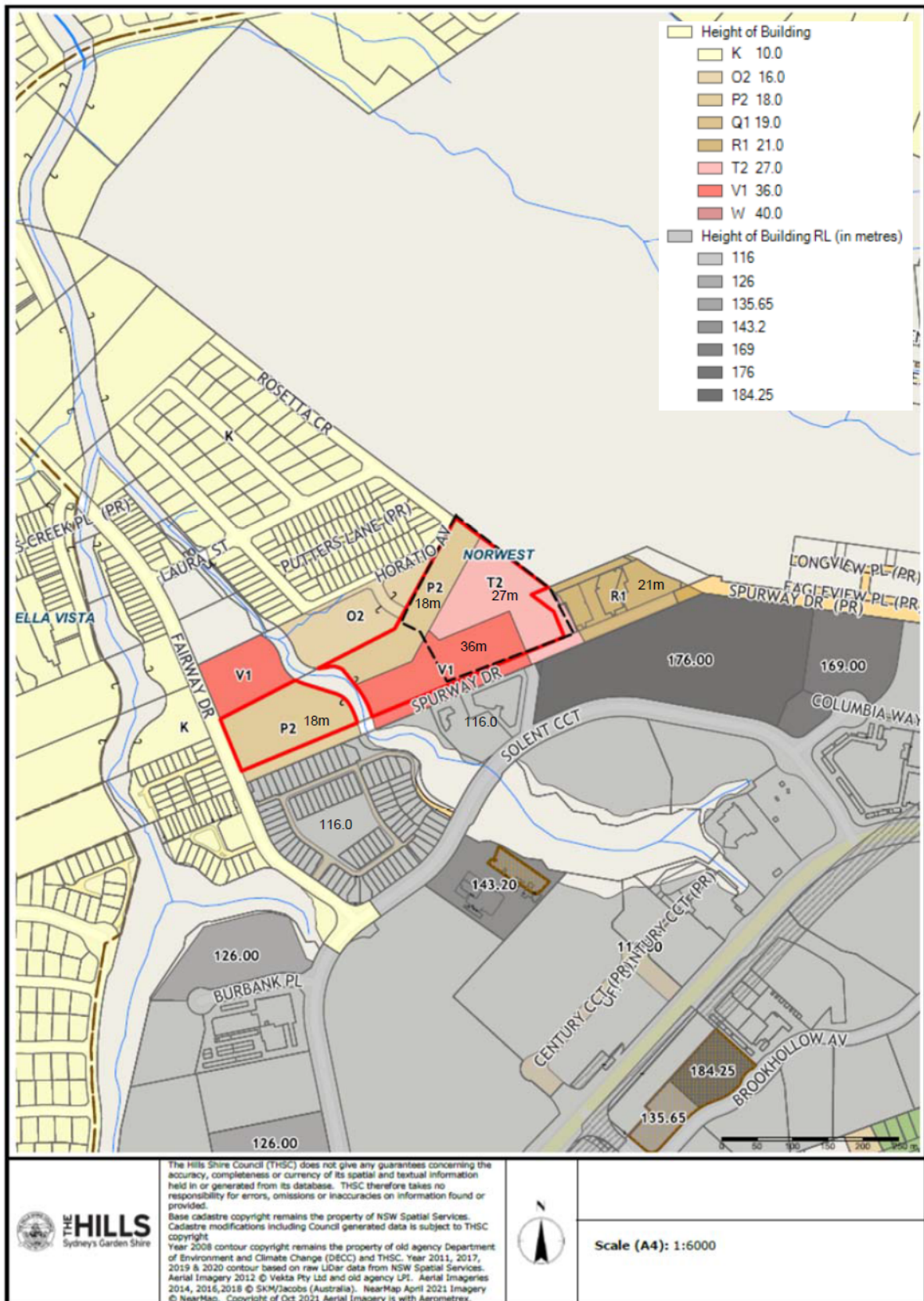
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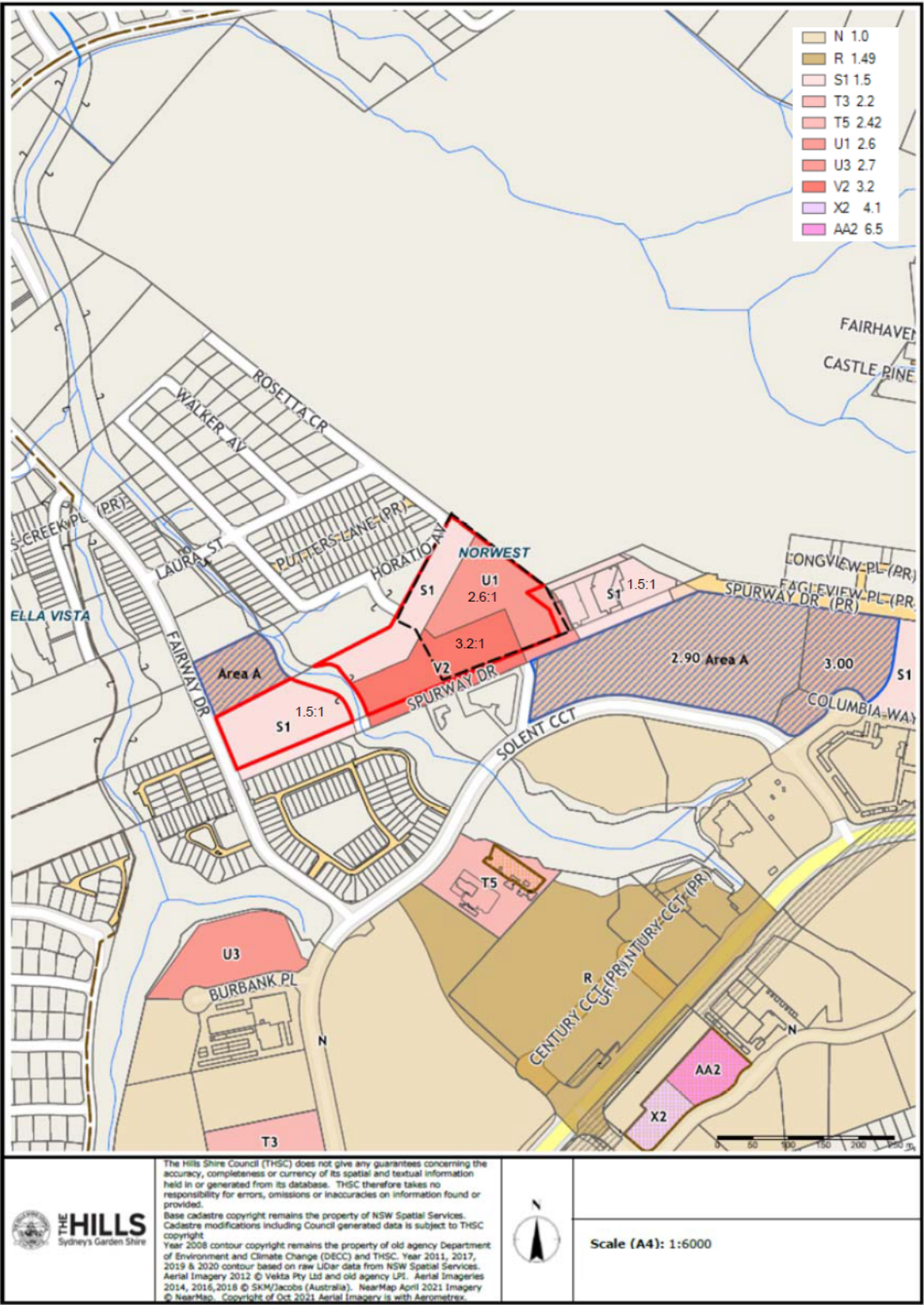
## ATTACHMENT D – ZONING MAP



## ATTACHMENT E - HEIGHT MAP



ATTACHMENT F - FSR MAP



ATTACHMENT G – SITE PLAN

CRONE

ARCHITECTS

TEOTO

Crone Architects Pty Ltd

15/15 Spurway Drive, Norwell 5153

Phone: 08 8363 1000

Mobile: 08 8363 1001

Web: www.cronearchitects.com.au

Client: Sekisui House Australia Pty Ltd

SEKISUI HOUSE

15/15 Spurway Drive, Norwell 5153

Phone: 08 8363 1000

Mobile: 08 8363 1001

Web: www.sekisuihouse.com.au

Client: Sekisui House Australia Pty Ltd

15/15 Spurway Drive, Norwell 5153

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PROJECT INFORMATION

Project Name: Sekisui House - The Orchards

Address: 15/15 Spurway Drive, Norwell 5153

Client: Sekisui House Australia Pty Ltd

Site Area: 1000 sqm

Site Code: DA-A-10001

LEGEND

SITE BOUNDARY

SETBACK LINE

ADJACENT BUILDING

NOTES

1. The site is located within the Norwell Local Government Area.

2. The site is zoned R150 (Residential Single Storey).

3. The site is bounded by Spurway Drive to the north and east, and Lucinda Avenue to the south and west.

4. The site is adjacent to the Castle Hill Country Club to the west.

5. The site is adjacent to the Norwell Superway Drive to the north.

6. The site is adjacent to the Norwell Superway Drive to the east.

7. The site is adjacent to the Norwell Superway Drive to the south.

8. The site is adjacent to the Norwell Superway Drive to the west.

9. The site is adjacent to the Norwell Superway Drive to the north-east.

10. The site is adjacent to the Norwell Superway Drive to the south-east.

11. The site is adjacent to the Norwell Superway Drive to the north-west.

12. The site is adjacent to the Norwell Superway Drive to the south-west.

13. The site is adjacent to the Norwell Superway Drive to the north-east.

14. The site is adjacent to the Norwell Superway Drive to the south-east.

15. The site is adjacent to the Norwell Superway Drive to the north-west.

16. The site is adjacent to the Norwell Superway Drive to the south-west.

17. The site is adjacent to the Norwell Superway Drive to the north-east.

18. The site is adjacent to the Norwell Superway Drive to the south-east.

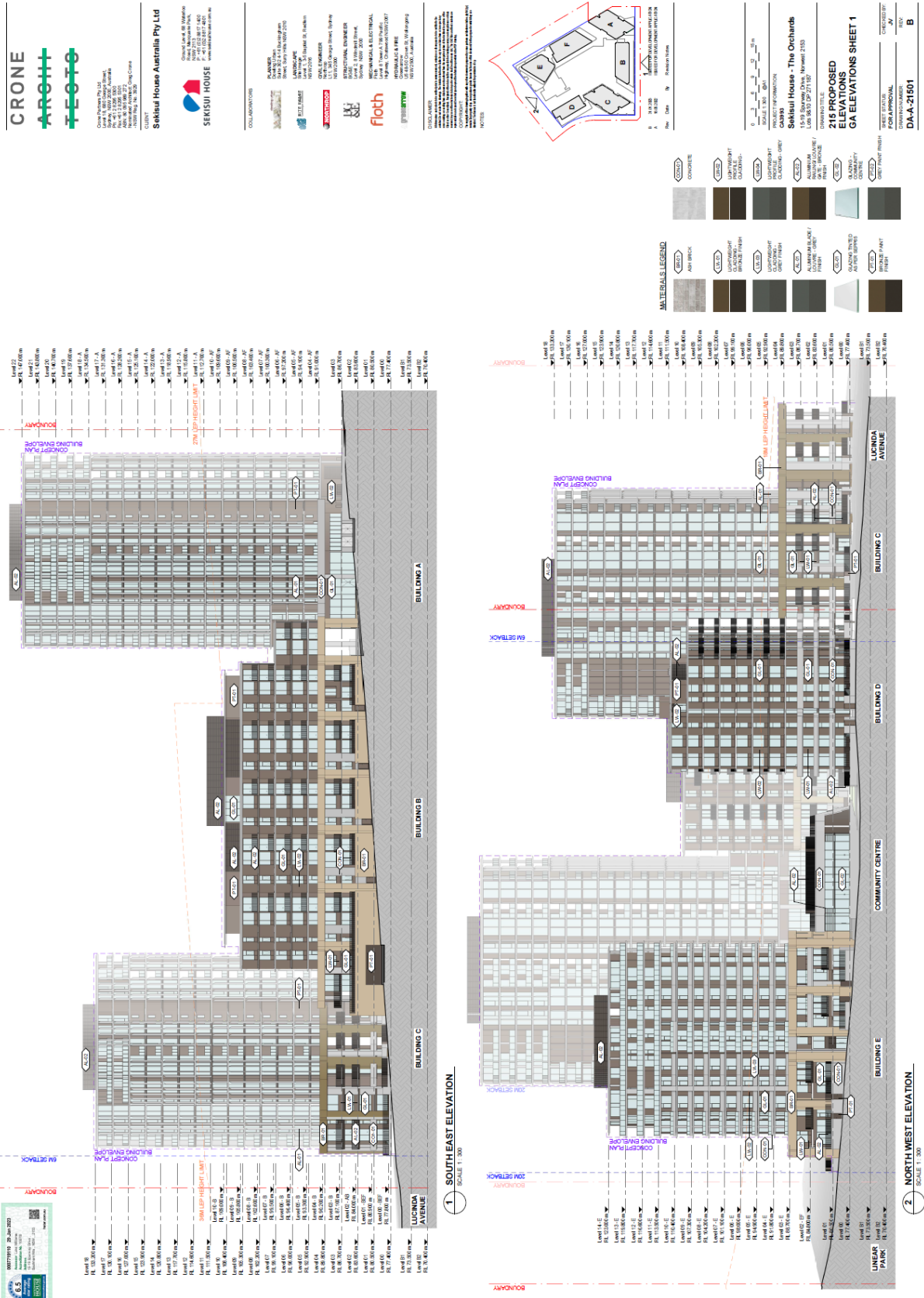
19. The site is adjacent to the Norwell Superway Drive to the north-west.

20. The site is adjacent to the Norwell Superway Drive to the south-west.

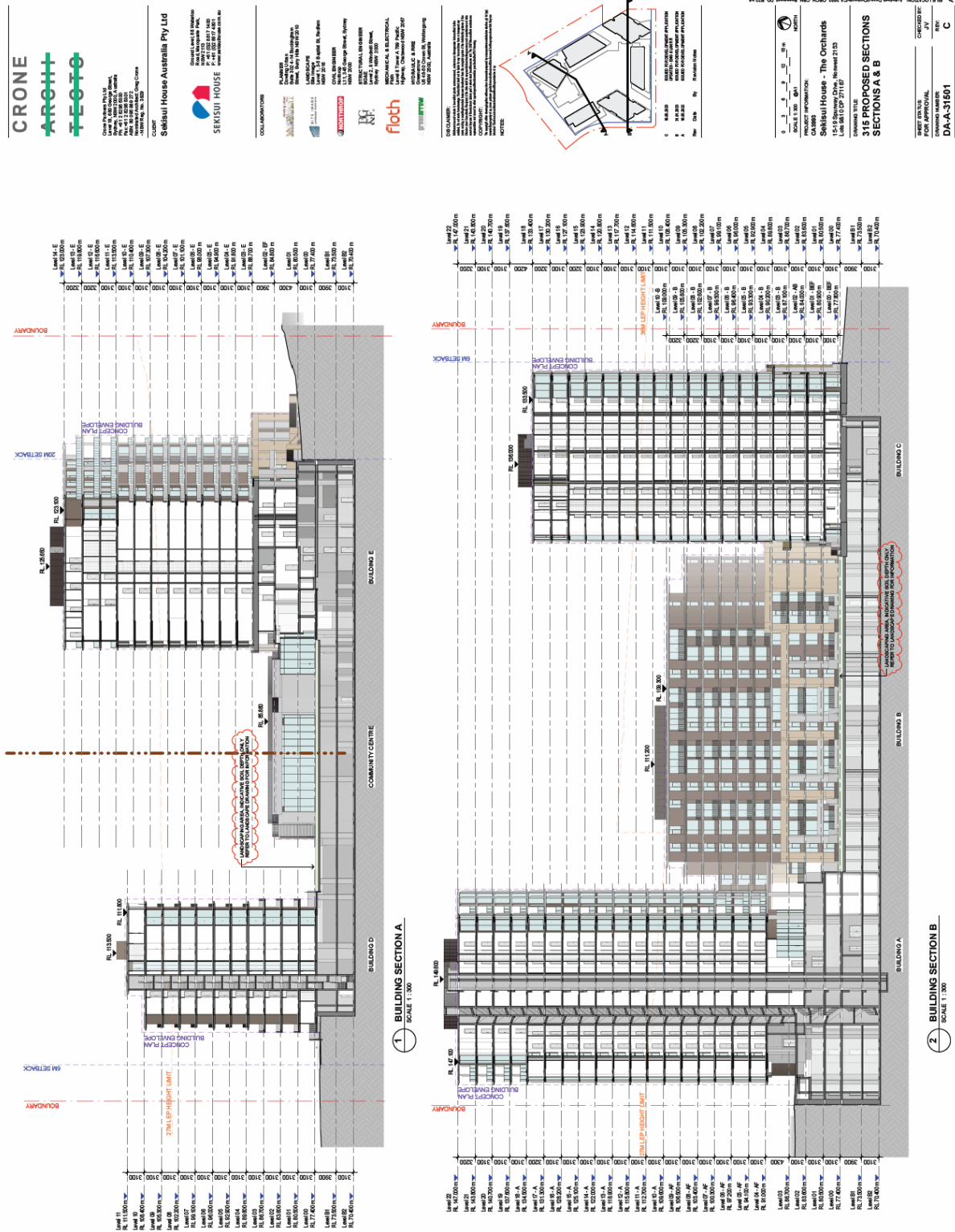
The site plan illustrates the layout of the 'SUBJECT SITE' (1000 sqm) bounded by Spurway Drive to the north and east, and Lucinda Avenue to the south and west. The site contains six buildings: BUILDING A (1000 sqm), BUILDING B (1000 sqm), BUILDING C (1000 sqm), BUILDING D (1000 sqm), BUILDING E (1000 sqm), and BUILDING F (1000 sqm). The plan also shows setbacks and adjacent buildings, including the Castle Hill Country Club to the west, and various apartment buildings (NO 2 LUCINDA AVE, NO 104 FAIRWAY DRIVE, NO 38 SOLENT CIRCUIT, NO 40 SOLENT CIRCUIT, NO 101 SUPERWAY DRIVE, NO 102 SUPERWAY DRIVE) to the north and east. A legend defines the site boundary, setback line, and adjacent buildings. Notes provide additional context and details about the site and its surroundings.

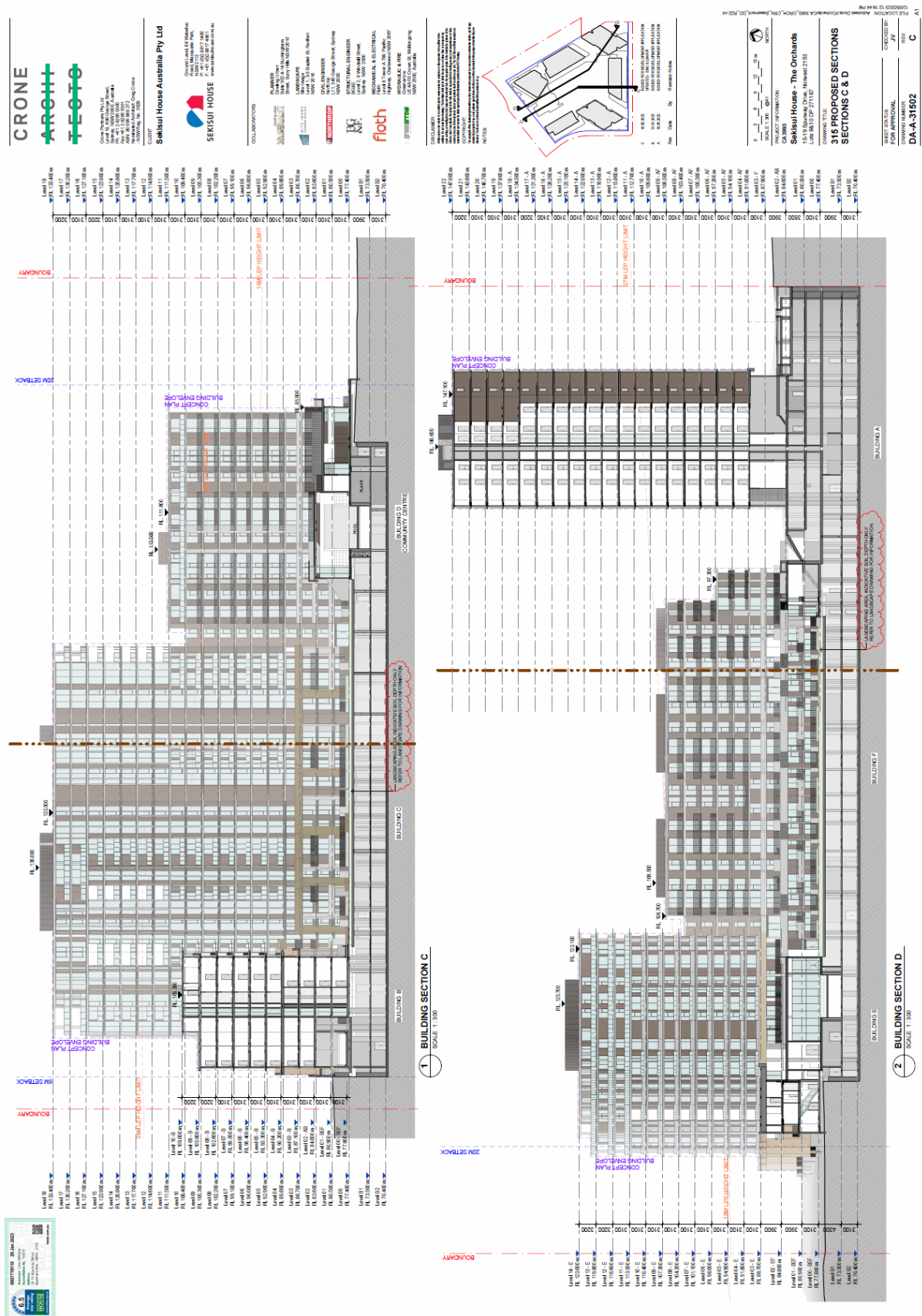
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Version: 12, Version Date: 31/07/2023

Document Set ID: 20407331  
Version: 12, Version Date: 31/07/2023









## ATTACHMENT K – PLAN OF SUBDIVISION

PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet 2 of 7 sheet(s)

**BASEMENT 2 & BELOW**

**THIS IS A DRAFT PLAN ONLY AND IS  
SUBJECT TO FINAL SURVEY**

☐ LOT 9 RESIDENTIAL LOT  
☐ LOT 10 COMMUNITY LOT  
☐ LOT 11 FUTURE ROAD WIDENING  
(STAGE 4B)

INDEX	
CONTENTS	SHEET
LOCATION PLAN	1
BASEMENT 2 & BELOW	2
EASEMENT 1	3
LEVEL 1	4
LEVEL 2	5
LEVEL 3	6
LEVEL 4 & ABOVE	7

**EXISTING EASEMENTS**  
(D) EASEMENT FOR DRAINAGE (DPZT1187 DOC 1)

**PROPOSED WHOLE OF LOT EASEMENTS**  
• EASEMENT FOR CUMULATIVE WHOLE OF LOTS)  
• EASEMENT FOR SERVICES (WHOLE OF LOTS)  
• EASEMENT FOR EMERGENCY EGRESS (WHOLE OF LOTS)  
• EASEMENT FOR CONSTRUCTION ACCESS (WHOLE OF LOTS)

**PROPOSED EASEMENT**  
(D3) EASEMENT FOR DRAINAGE 20' WIDE AND VARIABLE WIDTH LIMITED IN STRATUM  
(E) EASEMENT FOR PADMOUNT SUBSTATION (TO BE CREATED ON SEPARATE PLAN)

**GENERAL NOTE:**  
THE PURPOSE OF THIS PLAN IS TO INDICATE THE CONCEPTUAL PROPOSED LOCATION FOR A SPURWAY SUBDIVISION OF THE ENTIRE LOT 9 AND LOT 10. THE PROPOSED SPURWAY SHALL BE SUBJECT TO FINAL SURVEY OF THE ELEMENTS OF THE BUILDING.  
2. IN GENERAL, THE VERTICAL BOUNDARIES WILL BE PASSING THROUGH THE CENTRE OF THE COMMON WALL DIVIDING THE DIFFERENT LIVES AND THE HORIZONTAL BOUNDARIES WILL BE PASSING THROUGH THE CENTRE OF THE ROOF SLAB BETWEEN EACH RELATIVE LEVEL UNLESS STATED OTHERWISE. WHERE THE PARTITION BETWEEN DIFFERENT LIVES IS ALTERED BY PLANS APPROVED AFTER THIS DATE, THEN THE FRIEDED SUBDIVISION LINES WILL FOLLOW THOSE NEW PARTITION POSITIONS.  
3. GLOBAL EASEMENTS FOR ACCESS, SERVICES, EGRESS, ETC ARE TO BE CREATED AS REQUIRED.  
EASEMENTS TO BE CREATED AS NECESSARY ON FINAL PLAN.

**SPURWAY**

**DRIVE**

**SURVEYOR**  
Name: MATTHEW GRAHAM SMITH  
Date of Survey: DRAFT ONLY  
Surveyor's Reference: 4191720202

PLAN OF SUBDIVISION OF PROPOSED LOT 8 IN  
DPZT 271187

LGA: THE HILLS SHIRE  
Locality: NORTHWEST  
Reduction Ratio 1: 600  
Lengths are in metres

Registered  
**LTS**  
LAND TITLE SERVICES

**DP DRAFT**  
ISSUE FOR REVIEW: 14-07-2023

THIS PLAN HAS BEEN PREPARED FROM ARCHITECTURAL  
PLANS BY GEMME ARCHITECTS, PROJECT No. CA\_3993  
REF. DA-15-8, REFUSION B, DA-TED 3-10-2023



The Orchards Stage 4 Residential  
Spurway Drive, Norwest  
Revised Clause 4.6 Request

Prepared on behalf of Sekisui House  
February 2023

dowling urban



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### COVER

*Proposed development when viewed looking east within northern linear park.*

This Clause 4.6 Request has been prepared by:

Greg Dowling, BAS (Env Pl) M Urb Des (Syd) MPIA, Dowling Urban Pty Ltd.

# 1 Introduction

This report has been prepared to supplement the Statement of Environmental Effects (SEE) for the proposed residential development in Stage 4 of The Orchards at 47 Spurway Drive, Baulkham Hills to specifically request variations to development standards under Clause 4.6 of The Hills Local Environmental Plan 2019 (THLEP 2019).

In particular, this report assesses the cumulative potential impacts from all relevant stages of development that may arise from the proposed variations in this application and the overall masterplan. It also makes references to accepted case law guidance.

Referenced attachments to this report include an Design Report from Crone Architects, Parking Report (GTA), Transport Advice (Cattell and Cooper), and Parking and Car Share: Analysis and Recommendations (Phillip Boyle and Associates).

For completeness, this assessment includes consideration of the proposed departure to the building setback to Spurway Drive, within Section 3.3, Part C Section 7 – Residential Flat Building of The Hills DCP 2012 to the extent of the effects of building heights on neighbouring properties.

Details of the development proposal are contained within the SEE.

## 1.1 STAGE 4 OVERVIEW

The application represents the fourth stage of the approved Concept Plan known as The Orchards which is the subject of a staged development applications for 1,300 dwellings, with a mix of 1, 2, 3 and 4 bedroom apartments with associated car parking, new streets, communal amenities, publicly accessible parks and landscaping.

The proposed Stage 4 development comprises 3 to 19 storey buildings A to F to be constructed in three stages, with 60,877m<sup>2</sup> of gross floor area utilised for 583 apartments in a mix of 1, 2, 3 and 4 bedrooms.

It contains basement car parking spaces for 818 vehicles accessed from Spurway Drive and Lucinda Avenue with on-site loading and waste collection, as well as communal facilities to be shared with other stages, landscaped private and communal open spaces, a publicly accessible new linear park with a pedestrian / cycle connection.

## 1.2 CONCEPT PLAN

The Orchards Concept Plan was granted staged development consent on 11 April 2018 (736/2017/JP) and provides the framework, building heights, parking rates and

apartment types for the coordinated development of 1,300 dwellings and the construction of subsequent phases of development with staged applications.

The masterplan prepared for the site informing the Concept Plan was arrived after consultations that derived the design strategies for the site, streets, setbacks, building heights and amenity. These were adopted to optimise a better planning and design outcome for the site and form the basis of this clause 4.6 variation request.

The consent authority, The Sydney Central City Planning Panel concluded as follows.

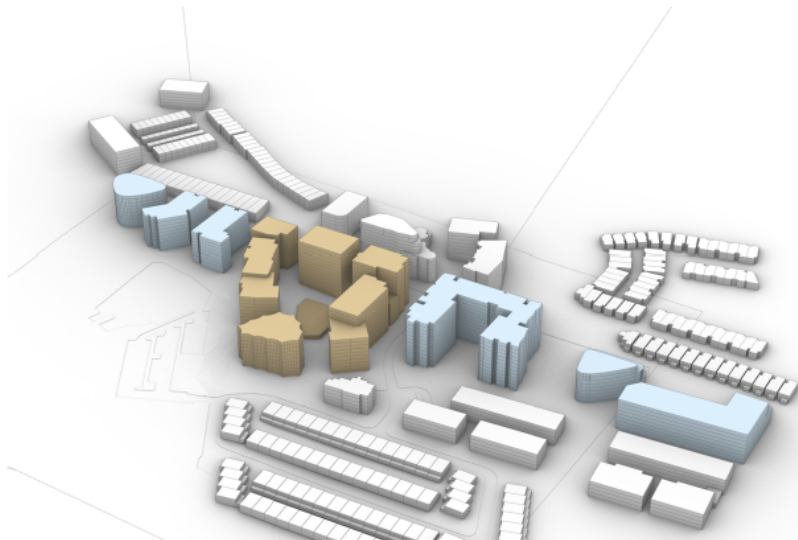
*The Panel has considered the applicant's request to vary the development standards contained in The Hills Local Environment Plan 2012 Clause 4.3 relating to height of buildings, Clause 4.4 Floor Space Ratio and Clause 7.11 Residential Development Yield on Certain Land. The Panel considers compliance with the standards would be unreasonable and unnecessary in the circumstances of this case as the variations provide a better design outcome through provision of additional and improved open space, greater retention of significant trees and provides better building relationships to adjoining properties, and will not result in development inconsistent with this locality. The development as designed remains consistent with the underlying intent of the standard and the objectives of the zone.*

*The Panel is therefore satisfied that the Applicant's clause 4.6 variation requests have adequately addressed the matters required to be demonstrated in clause 4.6 of the The Hills LEP 2012 and that the proposed development will be in the public interest because it is consistent with the objectives of the relevant controls and the objectives for development within the R4 zone in which the development is proposed to be carried out. For the above reasons, the Panel is satisfied that the variations from the LEP development standards are in the public interest.*

The assessment of development applications for Stage 1 to 3 provided feedback from planning and design panels as well as community members, that suggested additional variations to those approved for the masterplan would be worthy of investigating for the Stage 4 development application.

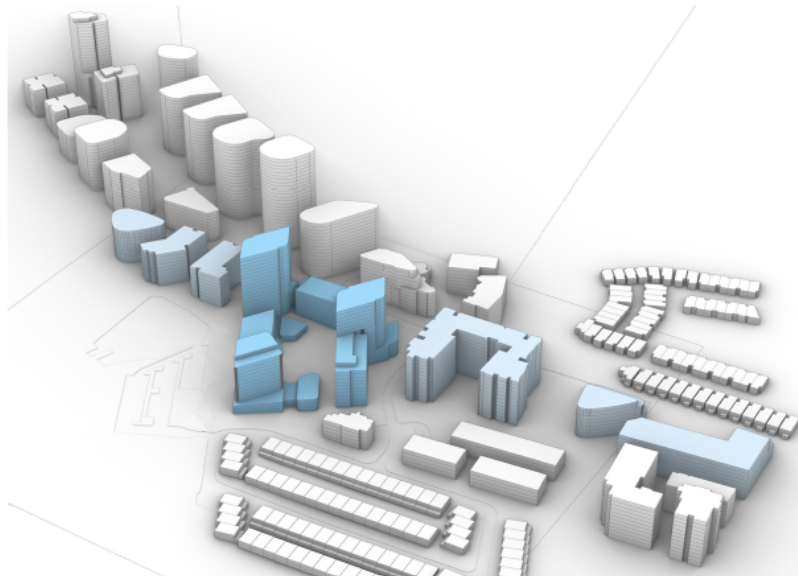
A modification was consequently sought for a re-distribution of approved heights to create tower forms while reducing the street wall height onto Spurway Drive. This is in response to the need to provide improved solar access to adjoining existing developments as well as significant changes to the site's southern context resulting from The Greens rezoning opposite Spurway Drive as shown in the following diagrams.

It also allows the achievements of other planning and design objectives including permeability and views through sites, improved building separation to achieve higher levels of apartment amenity and a more varied built form to Spurway Drive .



*Above: The Orchards Concept Plan in context at the time of approval with Stage 4 shown beige*

*Below: The modified Concept Plan in revised future planned context with Stage 4 shown dark blue*



### 1.3 STAGE 3 DEVELOPMENT CONSENT PARKING STANDARDS

During the consideration the Stage 3 development application (DA 46/2018/JP), the Sydney Central City Planning Panel sought and received a request to further vary the LEP parking standards as *“the Panel believes there is capacity to further reduce private vehicular use and that this would be an appropriate outcome given proximity*

*to Norwest Metro station which is likely to be operational prior to occupation of these buildings.”*

As a consequence, the Panel upheld an amended clause 4.6 request to adopt a lower parking rate for 2 bedroom apartments and a visitor parking rate of 1 space per 10 residential dwellings that is reflected in this request.

#### **1.4 SPURWAY DRIVE SETBACK**

Since the potential effects of the variation to building height are related to the building setback to Spurway Drive, this report also addresses this development control within Section 3.3, Part C Section 7 – Residential Flat Building of The Hills DCP 2012.

Under the Concept development consent, setbacks to Spurway Drive are subject to assessment for each stage of development. The masterplan proposed a 6m setback to Spurway Drive, in lieu of the 10m DCP standard, in the context of a setback strategy for the site which states as follows.

*In line with the DCP objectives, the proposed setbacks have been developed to:*

- *Complement the setting and contribute to the streetscape and character of the street by providing for greater separation of the proposed building envelopes adjacent to existing low rise development to the north and south;*
- *Allow flexibility in siting of buildings;*
- *Preserve the existing natural features of the site.*

*The proposed variation to setbacks have been carefully considered.*

- *The 20m setback to the north boundary allows for retention of an additional 93 existing trees.*
- *The wider road dedication (from 15.5m to 16.5m) provided for Spurway Drive remains consistent with Council's strategy*
- *The reduced street setback to Spurway Drive will still provide building separation distances in excess of the required minimum from the boundaries.*
- *The proposed setback of 6m to the Spurway Drive extension allows landscaping that will complement the building form and enhance the character of the street through the provision of a landscaped bio-retention zone that runs the length of the proposed road extension.*

In particular, the increased setback to the north (from 6m to 20m) will provide a new publicly accessible linear park with a range of spaces to promote active and passive uses. It will also provide greater separation from existing low rise residential to the north and retain existing significant trees.

The reduced setback to Spurway Drive (from 10m to 6-8m) is reflective of a more urban context within the catchment of the new Metro station and higher density precinct, and is appropriate for the function of the street.

The adopted setback will have minimal impact to the solar access of adjacent existing and future residential apartments as a result from the re-massing allowed by the modified heights, and retain a significant streetscape character with suitable landscaping. It should also be noted that the effect of the adopted setback is mitigated by the widening of the street as originally prescribed in the DCP from 15.5m to 16.5m .

It is therefore considered that the proposed 6m setback to Spurway Drive will meet the DCP's objectives of the under 3.3. Setbacks:

- (i) To provide an open streetscape with substantial areas for landscaping and screen planting.*
- (ii) To minimise overshadowing of adjoining properties.*
- (iii) To protect privacy and amenity of any adjoining land uses in accordance with Council's ESD objective 7.*
- (iv) To ensure developments are compatible with the character of surrounding housing areas in respect of the quantity and quality of open space.*

## 1.5 LEGAL FRAMEWORK

This request has been prepared under Clause 4.6 of THLEP 2019 to justify the departures from development standards for height of building and floor space ratio within clauses 4.3 and 4.4 respectively as well as the apartment size and parking development standards within clause 7.11.

This request aims to meets the objectives of clause 4.6(1) of RLEP 2014, being

- (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,*

and demonstrate for the purpose of clause 4.6 (4) and (3):

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

Case law (such as *Winten V North Sydney Council*, *Wehbe V Pittwater Council* (2007) NSW LEC 827, *Four2five V Ashfield Council* etc ) provides guidance when considering an exception to development standards as follows:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?

- Is non-compliance with the standard consistent with the aims of CI 4.6?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Are there sufficient environmental planning grounds (specific to the site and particular to the circumstances of the proposed development) to justify contravening the development standard?
- Is the request well founded whereby Preston J (*Wehbe V Pittwater Council*) provided five potential ways in which this may be established as follows
  1. *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
  2. *Is the underlying objective or purpose of the standard not relevant to the development;*
  3. *Would the underlying objective or purpose be defeated or thwarted were compliance required;*
  4. *The standard has been virtually abandoned or destroyed by the consent authority's own actions in granting consents departing from the standard*
  5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary.*

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

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

## 2 Proposed Variation

### 2.1 OVERVIEW

The development of Stage 4 represents an opportunity to respond to feedback to date from the Design Excellence Panel, Sydney City Central Planning Panel, community members and apartment purchasers as well as the recent substantive changes to the future planned context of the site as follows.

- The Haven development opposite the site on Spurway Drive is vulnerable to reduced solar access well below ADG criteria arising from overshadowing by complying LEP massing.
- The risk of the originally approved Stage 4 massing creating an excessive street wall building height along Spurway Drive providing an overly urban environment.
- Suggestions of opportunities to utilise re-massing to create tower forms to moderate bulk in more sensitive locations of the site.
- Importance of creating well landscaped and more permeable streetscapes especially through the treatment of the street setback.
- Significant changes to future built form context arising from the nearby Maitland Place and The Greens rezonings opposite where building forms have changed from townhouses to tower forms.
- The continued requirement to make minor adjustments to the prescribed apartment type sizes to ensure they remain suitable to local demographic and purchaser housing needs.

As explained in greater detail below, these factors gave rise to a modification of the Concept Plan development consent building heights to allow re-massing. Together with the variations approved in the original Concept consent, the proposed Stage 4 development seeks to vary the prescribed development standards within THLEP 2019 relating to:

- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio; and
- Clause 7.11 - Residential development yield on certain land.

The following describes the specific development standards that are contravened by the development proposal.

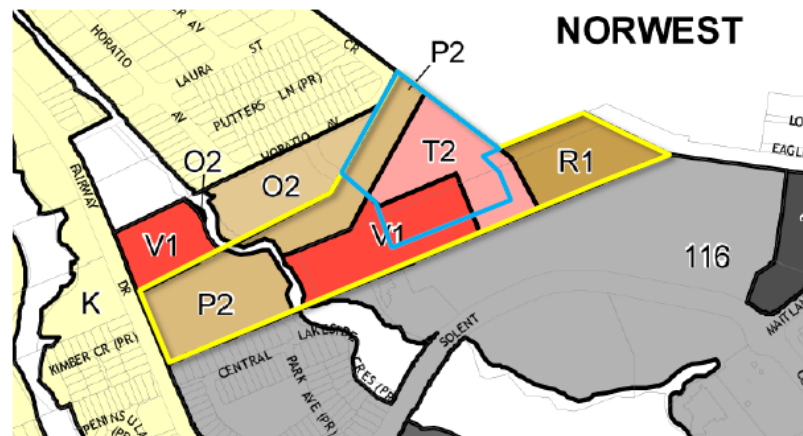
## 2.2 HEIGHT OF BUILDING VARIATION

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

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

The site is subject to height of buildings development standards of 18, 27 and 36 metres under clause 4.3 (categories S1, T2 and V1 on the LEP HOB Map).

The proposed heights generally exceed the height limit as shown on Plans AR-21501 and AR-21502 as a result of the original masterplan design strategies which included the creation of a publicly accessible linear open space the north portion of the site as well as to respond to the changed context and opportunities to improve, apartment amenity, perceived massing and solar access to the public domain and development to the south as outlined in the s4.55 Modification to the concept development consent.



Extract of THLEP HOB Map with Concept Plan & Stage 4 outline in yellow & blue

The original concept development consent included the adjustments to building heights across the whole site result from allowances for changes in topography, lift overruns and the floor-to-ceiling heights required under the ADG as well as responding to site conditions including for the retention of vegetation and the creation of public access ways and a linear park through re-massing the permitted floor area.

In granting the concept development consent, variations to the building heights prescribed under THELP 2102 were also approved as a result of a well-reasoned massing and design strategies to improve planning and design outcomes of improved shadowing impacts; and better building relationships to adjoining properties and the planned future context as it existed then.

As stated above, Stage 4 of the concept development represents an opportunity to respond to recent significant changes to the surrounding future context as well as feedback from the community, Design Excellence Panel, Sydney City Central Planning Panel and apartments purchasers to the masterplan and staged development applications approved to date.

The factors prompting reconsideration of the building heights and consequential massing for Stage 4 are as follows.

- The Haven development opposite on Spurway Drive is vulnerable to its solar access becoming well below ADG criteria from overshadowing from development of Stage 4 that complies with LEP height and DCP setback controls. The design of the Haven did not properly take into account the shadowing to be generated from Stage 4 development under the LEP controls.

Council's Design Excellence Panel noted on 22 January 2018 commenting:

*"The Panel is concerned however that solar access to north facing units of an approved development on the adjacent site will be reduced as a result of non-compliant street setback and recommend that the applicant review how this can be addressed."*

Shadowing analysis provided with the SEE demonstrate that the proposed massing will result in less mid-winter shadowing than that which would have occurred with a scheme compliant with LEP height and DCP setback controls.

- The originally approved Stage 4 massing could contribute to an excessive street wall building height along Spurway Drive, potentially providing an overly urban environment.

*"The [Design Excellence] Panel made a general comment in relation to the nexus between height and density. Residential FSRs of 2.5:1 and higher are generally best resolved with more flexibility in relation to height, particularly if the overall urban design vision is for buildings set within a generous landscape setting. The current height controls mean that built form will inevitably be compacted to achieve the target density..."*

- The importance of creating well landscaped and more permeable streetscapes especially through the treatment of the street setback and the separation between building forms.
- Discussion by the Council Design Excellence Panel, the then Sydney Central City Planning Panel, and community members of opportunities to utilise tower forms to moderate bulk in more sensitive locations of the site including Spurway Drive.
- Significant changes to the future built form context arising from the nearby Maitland Place rezoning and in particular the exhibited "The Greens" planning

proposal opposite, where building typologies are being appropriately changed from two storey townhouses and low rise buildings to residential towers.

The change in context south of the site below shows endorsed and approved proposals for increased density from townhouse typologies to tower forms and include the creation of an open space area on Spurway Drive south east of the Stage 4 site.



Original Concept Development Consent showing building heights for "The Greens" and Maitland Place developments as per The Hills DCP Part D, Section 8, Figure 3

The approved height of building variations as stated in the Concept Plan Planning Report to the Sydney Central City Planning Panel (736/2017/JP 11 Apr 2018) ranged in the order of 20% to 140% across the site as follows. (Stage 4 comprises concept buildings C1, C2 and C3)

Building	Height Standard	Approved Heights
Building A.1	18 m	29.8 m
Building A.2	18 m	Removed
Building A.3	18 m	30.7 m
Building B.1	36 m & 18 m	43.4 m
Building C.1	36 m & 18 m	43.3 m
Building C.2	27 m	32.5 m
Building C.3	27 m & 18 m	33.9 m
Building D.1	21 m	26.1 m
Building D.2	21 m	27.5 m
Building D.3	21 m	28.1 m

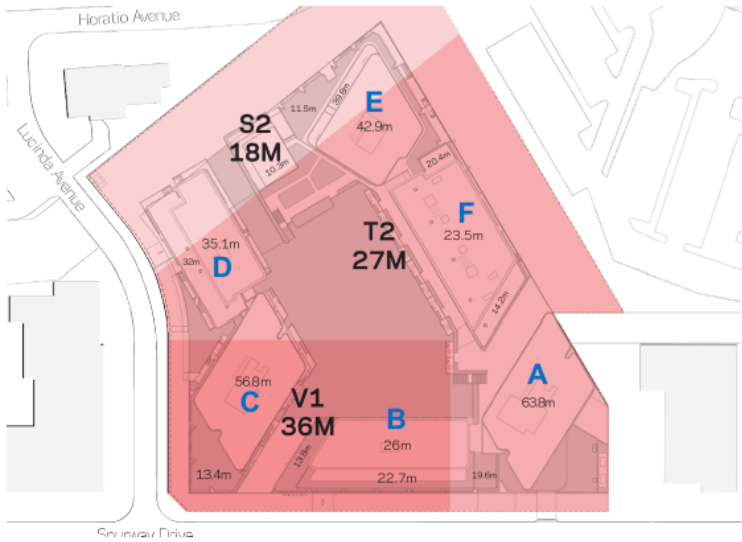
The proposed modification consists of the re-distribution of Stage 4 building heights to form two towers on Spurway Drive up to 19 storeys and lowering the Spurway

Drive built street wall from 12 to 7/8 storeys, embellished with adjusted and reduced heights elsewhere to improve internal apartment amenity.



Above: Proposed increases and decreases to approved building heights in storeys. (Crone)

The anticipated resultant building heights is shown in the following diagram. These form the basis of the proposed variation to building heights under clause 4.6 as shown on the submitted replacement Concept Plans.



Plan showing spot heights of building and LEP height limits (Source Crone)

The variations to building height above existing ground level applying to Stage 4 are shown on the submitted plans and summarised in the following table and compared with those originally approved. Note that the originally approved building heights included a 4m allowance for lift overrun and allowed for terrain adjustments which still apply.

Approved and Proposed Stage 4 Height of Building variations comparison

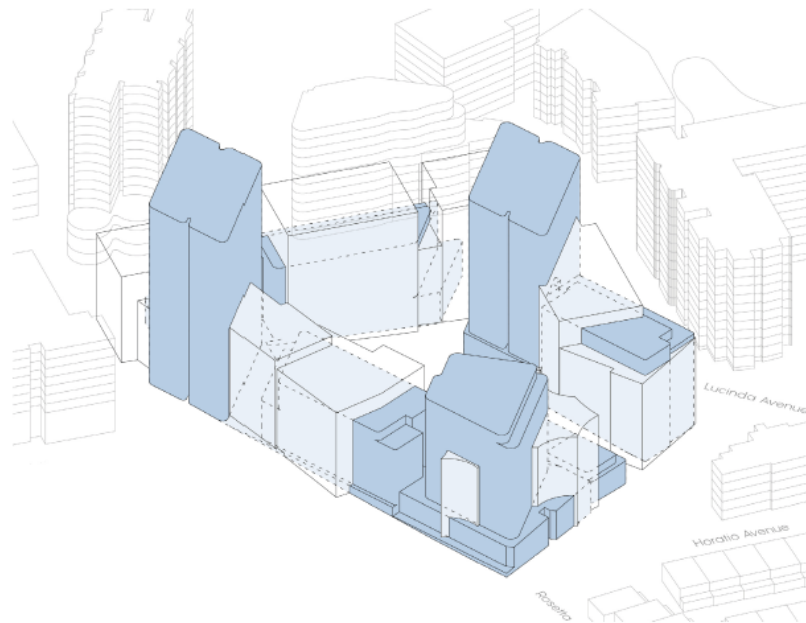
Building	Zone / standard	Original Height	Proposed Height
Building B, C & D (CP C1)	S2 – 18m	43.3 m	35.1 m
	T2 – 27m	43.3 m	26, 35.1 & 56.8 m
	V1 – 36m	43.3 m	26 & 56.8 m
Building A & F (CP C2)	T2 – 27m	32.5	23.5 – 63.8m
Building E (CP C3)	S2 – 18 m	33.9	10.3 – 42.9m
	T2 – 27m		



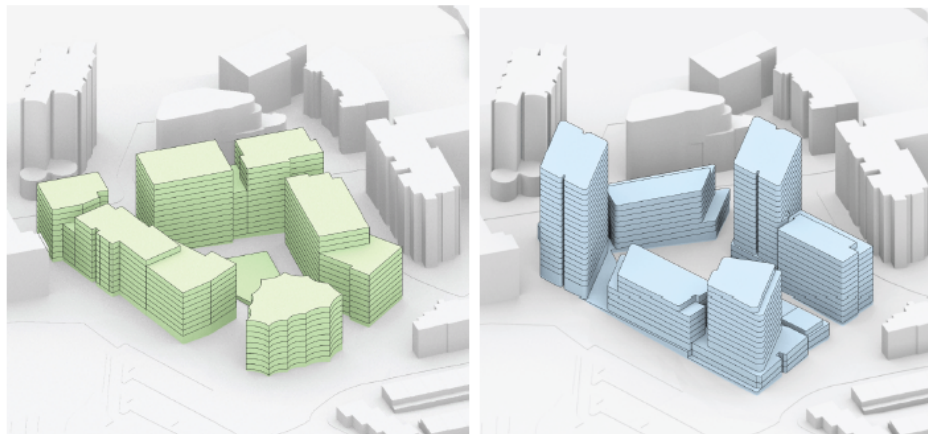
Extract of Spurway Drive elevation showing building height relationships. (Crone)

A Design Report prepared by Crone (appended to this report) provides the design rationale and principles for the adjusted building heights as well as analysis of street views, urban integration and building separation, and shared solar amenity to the public domain and adjoining Haven façade.

The improved effect of the building height adjustments is represented in the general massing diagram below which superimposes envelopes formed from the approved and adjusted building heights and a direct comparison is provided further below.



*Above & below: Diagrams showing comparisons of the building envelopes from the approved and proposed buildings heights (L and R below respectively). Source Crone.*



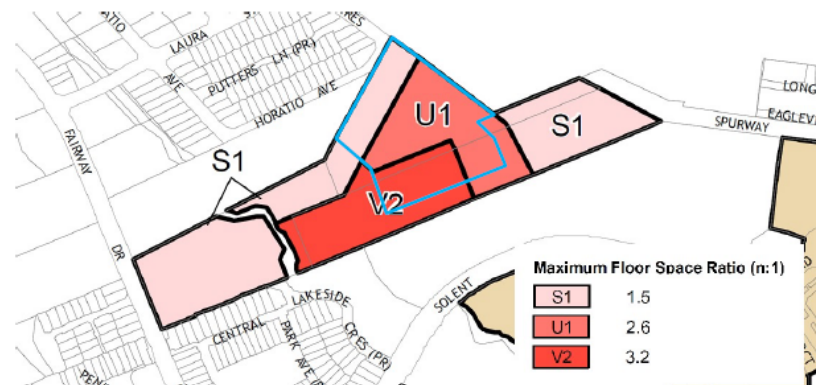
The proposed re-massing resulting from the variation to building heights and consequent redistribution of FSR is demonstrated in the diagrams above showing the positive effect on site permeability, adjoining solar access and internal amenity.

## 2.3 FLOOR SPACE RATIO VARIATION

The Floor Space Ratio development standard is contained in Clause 4.4(2) of The Hills LEP 2019 which states:

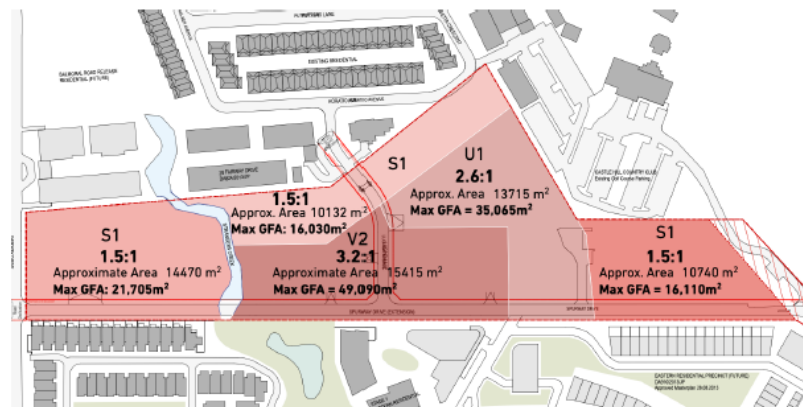
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The site is subject to floor space ratio (FSR) development standards of 1.5:1, 2.6:1 and 3.2:1 in separate categories applying to the land. (S1, U1 and V2 on the LEP FSR Map)



Extract from Floor Space Ratio Map Source: THLEP 2019

Based on the areas of the site within each of the three FSR categories, the permissible gross floor area (GFA) across the site that has been subdivided for Stage 4 of the development, is 53,624 m<sup>2</sup>. However, this is derived from a 'net FSR' as it does not take account of the land set aside for streets which would increase the GFA permitted under the 'gross FSR' as demonstrated in the extracts below.



Extract of Concept Plan MP-000-009 FSR Analysis (Turner)

FSR calculation - Allowable FSR & GFA		FSR calculation - Proposed GFA	
S1 (FSR 1.5 : 1)		A1 Proposed GFA area	12,852 m <sup>2</sup>
Approximate Site Area	35,342 m <sup>2</sup>	A2 Proposed GFA area	3,784 m <sup>2</sup>
Max. Allowable GFA	53,845 m <sup>2</sup>	A3 Proposed GFA area	4,817 m <sup>2</sup>
U1 (FSR 2.6 : 1)		B1a Proposed GFA area	20,223 m <sup>2</sup>
Approximate Site Area	13,715 m <sup>2</sup>	B1b Proposed GFA area	12,449 m <sup>2</sup>
Max. Allowable GFA	35,065 m <sup>2</sup>	C1 Proposed GFA area	34,911 m <sup>2</sup>
V2 (FSR 3.2 : 1)		C2 Proposed GFA area	18,404 m <sup>2</sup>
Approximate Site Area	15,415 m <sup>2</sup>	C3 Proposed GFA area	8,092 m <sup>2</sup>
Max. Allowable GFA	49,090 m <sup>2</sup>	C4 Proposed GFA area	1,378 m <sup>2</sup>
		D1 Proposed GFA area	7,090 m <sup>2</sup>
		D2 Proposed GFA area	7,162 m <sup>2</sup>
		D3 Proposed GFA area	6,838 m <sup>2</sup>
<b>Total Max. Allowable GFA</b>	<b>138,000m<sup>2</sup></b>	<b>Total Proposed GFA</b>	<b>138,000m<sup>2</sup></b>

*Extract of Concept Plan MP-000-009 FSR Analysis (Turner)*

The Concept Plan distributed the permitted GFA 138,000 m<sup>2</sup> across the stages to best respond to the site's context and to achieve a number of public benefits including the linear park and widened Strangers Creek Reserve.

The proposal has a GFA of 61,407 m<sup>2</sup> which is as anticipated in the Concept Plan approval GFA for this stage (referred to as buildings C1 to C4 in the plan MP-000-009 extract above). Based on a net DA development site area of 21,302m<sup>2</sup> (which excludes Spurway Drive, Lucinda Ave extension and the Horatio Avenue widening) the proposed GFA results in a net FSR of 2.88:1.

## 2.4 RESIDENTIAL DEVELOPMENT YIELD ON CERTAIN LAND

Clause 7.11 of the THLEP 2019 includes requirements specific to the subject site. The clause enables the consent authority to grant consent to the erection of residential flat buildings with a maximum of 1,300 dwellings across the site. However, if development will result in more than 600 dwellings, the development must provide a prescribed mix of apartment typologies and parking.

The standards contravened under clause 7.11 consist of the range of apartment type sizes under 5(c) and the rate of car parking provision under 5(d) of the clause.

### 2.4.1 Apartment Sizes

As anticipated in the concept development consent, there are variations to apartment type sizes within some prescribed ranges. In particular, the Type 2, 2 bedroom and Type 3, 1 and 2 bedrooms apartments have minimum size ranges 10m<sup>2</sup>, 3m<sup>2</sup> and 14m<sup>2</sup> respectively less than the range specified for these categories under clause 7.11 of the LEP.

These apartment ranges have average areas of 85m<sup>2</sup>, 77m<sup>2</sup> and 114m<sup>2</sup> which are respectively -3m<sup>2</sup>, +2m<sup>2</sup> and +12m<sup>2</sup> above and below the averages anticipated in the approved Concept Plan while all other types have average sizes consistent with or greater than the Concept Plan. Note also that one of the eleven Type 2, 3

bedroom apartments is 1m2 below the minimum for that type but it is of no consequence.

While minor variations are sought to three type category sizes, not all apartments within those types are outside their ranges while the amount of Type 1, 2 and 3 apartments remain consistent with the LEP ratio requirements with Type 1 and 2 apartments only exceeding the maximum of 30% by 1%.

*Table comparing LEP and Stage 4 apartment sizes*

Apartment type	LEP m2	Concept guidance	Stage 4 av. m2	Units	Totals	%
Type 1 – 1 Bed	50-65	55	60	34		
Type 1 – 2 Bed	70-90	79	80	139		
Type 1 – 3+ Bed	95-120	110	111	10		
<i>Sub Total</i>					183	31%
Type 2 – 1 Bed	65-75	65	69	4		
Type 2 – 2 Bed	90-110	88	85	167		
Type 2 – 3+ Bed	120-135	120	120	11		
<i>Sub Total</i>					182	31%
Type 3 – 1 Bed	75 +	75	75	109		
Type 3 – 2 Bed	110 +	102	110	70		
Type 3 – 3 Bed	135 +	130	152	27		
Type 3 – 4 Bed	135 +	185	188	12		
<i>Sub Total</i>					218	
<b>Total</b>				583	583	

It should be noted that the variations do not lead to an increase in dwelling yield but allow floor space to be reallocated within type categories to better match local housing needs. A wide variety of apartments types is maintained while all remain well above the ADG minimums and are more than satisfactory in terms of utility and amenity.

## 2.4.2 Parking

Under clause 7.11 of the THLEP 2019, development must also provide a prescribed range of car parking as follows.

- for each 1 bedroom dwelling—1 car parking space, and
- for each 2 or more bedroom dwelling—2 car parking spaces, and
- for every 5 dwellings—2 car parking spaces, in addition to the car parking spaces required for the individual dwelling.

The car parking details are set out in the SEE and the Traffic Report and, as anticipated in the Concept and the then Stage 2 (now 3) DA determination, there is a variation to the LEP parking requirements to reflect the site's access to future high

levels of transport choice and mass transit services whereby the following rates have been adopted:

- for each 1 bedroom dwelling—1 car parking space, and
- for each 2 bedroom dwelling—1.25 car parking spaces, and
- for each 3 or more bedroom dwelling—2 car parking spaces, and
- for every 10 dwellings—1 car parking space, in addition to the car parking spaces required for the individual dwelling.

The original rates of parking adopted for the Concept Plan development consent resulted from a clause 4.6 variation request that was informed by a study *“Parking and Car Share: Analysis and Recommendations”* prepared by Phillip Boyle and Associates. (Refer to Appendices.)

The study made a number of recommendations to reduce car dependency including reducing the prescribed parking rates from 2 parking spaces for 2 bedroom apartments to an average of 1.5, and a halving of the visitor parking rate from a very high 2 spaces per 5 apartments to 1 space.

At the prompting of the Planning Panel in the determination for Stage 2, GTA undertook an assessment of the rates taking into account car ownership, vehicle based mode share and travel mode behaviour in a Parking Report which is supported by a Transport Advice prepared by Cattell Cooper. (Refer to Appendices)

The assessment acknowledges existing high car ownership, requirements for car ownership because of ongoing limitations in accessibility, the need for transition over time, and potential underutilization of visitor parking and misuse by residents.

The Report concludes that the proposed parking rates for residents are suited to likely demand which include personal social and economic needs as well as commuting purposes and recommended:

- a further moderation of parking for two bedroom apartments to an average of 1.35 spaces; and
- reducing visitor parking to 1 space per 10 apartments in line with current provision in localities with similar public transport accessibility that will emerge at Norwest.

The Sydney Central City Planning Panel upheld these recommendations and which has been further adjusted to 1.25 spaces for 2 bedrooms to take account of the moderately reduced demand for this apartment type after the opening of the Metro.

The Traffic Report notes that the proposed development makes provision for a total of 818 off-street car parking spaces, comprising of 759 resident spaces and 59 visitor spaces (including a shared car wash bay), thereby satisfying the previously approved variations to the statutory minimum car parking requirements.

### 3 Clause 4.6 Assessment

#### 3.1 ARE THE PLANNING CONTROLS DEVELOPMENT STANDARDS?

The planning controls in Clauses 4.3, 4.4 and 7.11 relating to maximum building height, floor space ratio, minimum apartments sizes and parking are development standards under the definition within the *Environmental Planning and Assessment Act 1979* as follows (*EP&A Act, Part 1 Section 4. Definitions*)

*development standards* means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, ....

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point ...
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work, ....
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,.....

#### 3.2 ASSESSMENT AGAINST THE PURPOSE/OBJECT OF THE STANDARD

##### 3.2.1 Height of Building

The design strategies within the originally approved Concept Plan reasoned substantial variations to the height standard which in turn allowed for:

- better distribution, site coverage and massing of floor area in order to create a larger setback on the northern boundary for linear open space accessible by the public; and
- improved shadowing, and privacy impacts on adjoining properties and open space areas, as well as overall visual amenity, given the then planned future context of the site.

The objectives of the Height of Building standards under clause 4.3 of THLEP 2102 are considered to be satisfied by the adjusted height variations as follows.

#### Clause 4.3 Height of Building Objectives

Objective	Response
<i>(a) to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,</i>	The revised variations better responds to significant changes in planned built form context from adjoining rezonings, which now includes towers rather than town houses, while the streetscape is better treated with a lower street wall height and greater access to winter sun.
<i>(b) to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.</i>	Reduced shadowing on neighbouring development and planned open space areas will result from a lower street wall created by re-massing to two tower forms while improving visual impact from the perception of bulk.

The site is also the subject of variable floor space ratios which have been distributed over the site under the respective approved site design strategies. The revised heights will not alter the distribution of floor space across the five stages of development.

Notwithstanding, the objectives of the floor space ratio standards under clause 4.4 of THLEP 2102 are considered to remain satisfied from changes arising from the adjustments to the height variations as follows.

#### Clause 4.4 Floor Space Ratio Objectives

Objective	Response
<i>(a) to ensure development is compatible with the bulk, scale and character of existing and future surrounding development,</i>	The revised bulk and scale derived from the adjusted height variations will ensure better compatibility with the scale and character of existing and future surrounding development especially adjacent on Spurway Drive.
<i>(b) to provide for a built form that is compatible with the role of town and major centres.</i>	Overall site FSR remains compliant with the LEP standards and compatible with role of the Norwest Centre.

Clause 7.10 of THLEP 2012 under which development of the site for 1,300 dwellings is permitted also has a relevant objective as follows.

#### Relevant Clause 7.10 'Residential development yield on certain land' Objective

Objective	Response
<i>(c) to provide opportunities for suitable housing density that is compatible with existing development and the future</i>	The proposed adjustment to the approved height variations will result in development that is a more compatible with the future character of the surrounding area in terms of solar access to

<i>character of the surrounding area,</i>	apartments as well as a more coherent composition of building forms especially when viewed from the public domain.
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Accordingly, the objectives of the height standard are better served by minimising “*the impact of overshadowing, visual impact, and loss of privacy*” especially on the ‘Haven’ residential apartments, and open space areas, while ensuring “*the height of buildings is compatible with that of*” ‘The Greens’ development and the overall streetscapes and wider public domain.

The objectives of the zone, as well as for FSR and clause 7.11 as they are effected by the height of buildings, are also better served mainly by maintaining responsiveness and compatibility with changes to the planned future context from subsequent rezonings on adjoining properties while minimising impacts and optimising public benefits from development.

Further, as demonstrated by the reasoning for the original approved height variations, adherence to the standards would defeat or thwart the purpose and objectives the zone and standards.

### 3.2.2 Floor Space Ratio

The objectives of the floor space ratio development standard under clause 4.4 are:

- (a) *to establish a maximum floor space ratio to enable appropriate development density to be achieved, and*
- (b) *to ensure that development intensity reflects its locality.*

The objectives of the floor space ratio controls are clearly met by the proposed development as it implements the Concept Plan that complies in total with the THLEP 2019 FSR standard which provides for 1300 dwellings as anticipated in the LEP.

The exception to the FSR standard for Stage 4 simply represents the FSR applied to a net site area for the stage which excludes dedicated streets, as well as the altered distribution of floor space across the site in accordance with the masterplan design strategies in order to achieve improved planning and design outcomes.

Therefore, the development proposal will not lead to the contravention of the development density anticipated by the THLEP 2019 when considered for the whole Concept Plan site which in turn, reflects the locality’s proximity to a wide range of jobs, services, recreational and mass transport opportunities.

Accordingly, the objectives of the FSR standard will be achieved by maintaining the overall floor space permitted for the masterplan site which represents “an appropriate development density” with an “intensity that reflects its locality”.

### 3.2.3 Residential development yield

The objectives of the residential development yield development standards under clause 7.11 are:

- (a) to ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets,*
- (b) to ensure that development for residential flat buildings does not place an unreasonable burden on the provision of services, facilities and infrastructure in the area to which this clause applies,*
- (c) to provide opportunities for suitable housing density that is compatible with existing development and the future character of the surrounding area,*
- (d) to promote development that accommodates the needs of larger households, being a likely future residential use.*

Objectives (b) and (c) of these provisions are satisfied in that the 1300 dwellings maximum is not being breached, thereby ensuring that the density remains compatible with existing development and future character of the surrounding area as well as available services, facilities and infrastructure.

The mix of dwelling sizes remains substantially as prescribed with only minor variance to some apartment sizes thereby ensuring suitable housing choice for different demographics, living needs and household budgets as well as for larger households as set out in objectives (a) and (d).

The variance to parking standards are also compatible with objective (b) in particular as a suitable variety of housing choice is being provided while appropriately responding to the area's significantly improved public transport infrastructure by discouraging excessive car ownership and visitation in an area of future high public transport accessibility.

### 3.3 IS COMPLIANCE CONSISTENT WITH THE REQUIREMENTS OF CL 4.6?

The aims of Clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

When the development is tested against the underlying objectives of the standards, compliance would not be inconsistent with the aims of the clause because the proposed FSR and height is a reflection of a considered masterplan design strategies for the entire development parcel as well as responding to the characteristics of the site and recently changing future planned context to Stage 4.

Further, the variances to the residential development yield provisions are minor in nature and still implement the nature and purpose of the provisions while the varied

parking rates are in response to the proximity to new significant community investment in public transport with the introduction of a Metro station at Norwest.

The proposed development is therefore a case where flexibility in the application of the development standards is justified in order to implement the objectives and intent of THLEP 2019 and remain consistent with the Concept Plan adopted for the larger development parcel.

The proposed exceptions to the development standards will result in a better planning and design outcome as follows.

- Additional and improved open space available to the public, greater retention of significant trees, improved shadowing impacts and better building relationships while implementing intended development outcomes using well-reasoned massing and design strategies.
- Less mid-winter shadowing for the neighbouring 'Haven' residential apartments and surrounding domains which would otherwise have a low level of solar access ADG compliance and diminished amenity in general;
- Improved Stage 4 apartment and communal open space amenity by facilitating better building separation and solar access through modified envelopes to be reflected in the Stage 4 development application;
- Enhanced visual amenity of the Spurway Drive streetscape, and locality in general, through modulating building forms and heights by lowering the street wall height from 12 storeys to 7/8 storeys with stepping and relocating mass to tower forms of 18 and 19 storeys;
- More thoughtfully respond to the changed future planning context of 'The Greens' rezoning by utilising a modest tower topology more compatible with envisaged adjoining built forms and providing for a more coherent cluster of building forms within the wider precinct.
- The refinement of the prescribed apartment typology sizes to better meet demographic dwelling demand and local purchaser needs to ensure variety of suitable housing choice.
- Improved travel demand management through reduced parking provision to encourage less car use and better utilisation of the community investment in metro rail infrastructure and associated transport improvements but which still meets the ownership needs of residents.
- Parking provision that adequately meets the social needs of residents in a transforming locality while better implementing metropolitan planning strategies aimed at improving transport management and sustainability.
- Enhancement of the local and district public domains and transport networks through the reduction of contribution to road congestion and better

environments for pedestrians and associated activities including public transport use.

### **3.4 IS COMPLIANCE UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES?**

Strict compliance with the relevant provisions of THLEP 2019 is considered unreasonable and unnecessary in the circumstances of the case as it would impede the considered implementation of the LEP and the objectives of the standards which would otherwise be generally thwarted.

Compliance would also impede the achieving of a better planning and design outcomes for the site as represented by the masterplan strategies as well as responding to a changed future planned context to maintain compatibility with surrounding areas, local needs for suitable housing, and metropolitan planning objectives in managing travel demand.

Further, strict compliance with the HOB, FSR and cl.11 standards would tend to defeat the stated objectives of those standards while unnecessarily and unreasonably diminishing the planning and design outcomes outlined in Section 3.3 above and justified in Section 3.5 following.

### **3.5 ARE THERE SUFFICIENT GROUNDS TO JUSTIFY CONTRAVENTION?**

#### **3.5.1 Building Height**

As discussed above, the adjusted contraventions of the building height standard for Stage 4 responds to the issues identified by the Design Excellence Panel as well as the analysis in the Design Report prepared by Crone architects.

Firstly, it is understood from Council's assessment report that the Haven development achieved only 64% solar access compliance when approved.

The Design Report at page 34 summarises an analysis of shadowing and demonstrates a significant improvement to the solar performance of the Haven development while the changes to mid-winter shadowing to the other nearby facades of Lumia and Watermark are more than compensated.

The Design Report analysis also demonstrates an 8% improvement to mid-winter solar access to the public domain and which excludes planned future open space areas in The Greens development south of Spurway Drive which would also benefit.

Secondly, the adjustment of building height variations allows the lowering of the building street wall to Spurway Drive building by transferring mass to two modest towers, thereby contributing to greater modulation of forms as well as improved compatibility to the bulk and height of existing and future planned building that adjoin the site immediately to its south.



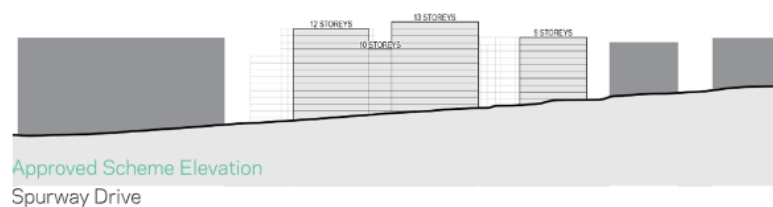
Approved Master Plan  
Cumulative Public Solar Access - 10am, 11am, 12pm, 1pm, 2pm

SOLAR ACCESS



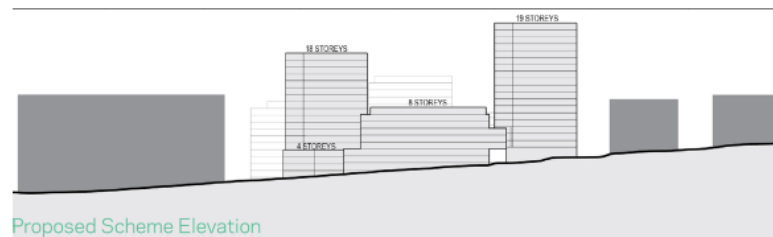
Proposed Master Plan  
Cumulative Public Solar Access - 10am, 11am, 12pm, 1pm, 2pm

*Extract from the public domain solar study in the Design Report prepared by Crone..*



Approved Scheme Elevation

Spurway Drive



Proposed Scheme Elevation

Spurway Drive

*Study of approved and proposed modified street wall heights, Crone*

In terms of visual impact, it is considered that the lowering of the street wall height and relocation of floor space to towers will result in a welcomed variation of building forms along Spurway Drive from stages 1 to 5 and help moderate the perception of scale from the public domain when viewed from the street as well as locally.

It is noted that greater modulation of building heights will also allow greater view sharing with surrounding buildings with a high number of apartments being able to gain distance views across the site.

It is further considered that the introduction of a modest tower typology into Stage 4 in close association with the rezoning to the south of the site, will lead to a more coherent precinct in terms of the pattern of building forms and scales.

An adjusted height variation is also sought to the north of the site on Horatio Avenue to enable the further distribution of floor space and massing to allow for improved physical and visual porosity of the development and increased mid-winter solar penetration into the central common areas of Stage 4.

The visual effect from this aspect is moderated by the canopy heights of the significant trees being preserved within the adjoining linear park and further mitigated by being set back from a two storey 'townhouse' podium at the park frontages

Accordingly, given the improved mid-winter solar access internally and to neighbouring properties, improved visual outlook from the public domain on Spurway Drive and locality, achieving higher ADG compliance for apartments and greater compatibility of building forms with the future planned context, it is considered that there are sufficient grounds to adjust the approved contraventions of the height standard in the circumstance.

### **3.5.2 FSR**

The contravention of the FSR standard as applied to the Stage 4 site is a result of applying a net site area which excludes streets as well as the considered distribution of building mass under the approved masterplan to achieve a better planning and design outcome for the entire parcel. These benefits are demonstrated in the design strategies for the approved Concept Plan coupled with the proposed re-massing on Spurway Drive to improve solar access to neighbouring property as well as improved visual impacts.

Since the overall gross floor area of the masterplan area will not be breached, and accordingly, no more development or anticipated adverse impacts will occur than anticipated by THLEP2019, there is clearly sufficient grounds to justify the localised contravention of the FSR standard.

### **3.5.3 Apartment Sizes**

The contravention of the residential yield standards is minor in nature and reflect the result of well-considered demographic and community assessments and local needs in particular for more affordable 2 bedroom dwellings and larger family 3 and 4 bedroom households.

Importantly, since no more dwellings or anticipated adverse impacts will occur than anticipated by THLEP 2019, there is clearly sufficient grounds to justify the contravention of the development yield standards for apartment sizes to ensure apartment sizes are suitable for local needs in accordance with the objectives of the standard.

In particular, the resultant apartment sizes are well in excess of ADG minimum standards and provide over nine bedroom and size typologies to ensure future residents represent a mix of demographic characteristic that reflects the wider community while ensuring sufficient variety suitable for local housing needs.

### 3.5.4 Parking

An assessment of the parking rates undertaken by GTA consultants took into account car ownership, vehicle based mode share and travel mode behaviour influences.

The assessment acknowledges existing high car ownership, requirements for car ownership because of ongoing limitations in accessibility, the need for transition over time, and potential underutilization of visitor parking and misuse by residents.

In addition to the parking assessment, transport advice provided by Cattell Cooper suggests that *“prevailing car ownership rates provide a good basis for determining residential parking requirements. (Brodie and Longworth, 2010). This ensures residents’ vehicles are accommodated on site but avoids over-provision. It also allows for a reduction in vehicle ownership in the longer term and a repurposing of car parking (for example, into storage areas, electric vehicle charging or car share spaces)”*.

The Transport Advice provides greater understanding to the treatment of resident and visitor parking to discourage car use in favour of alternative modes of travel, and supports the GTA recommendations. (Refer Transport Advice in the Appendices)

In particular, the Transport advice provides additional analysis of the nature of visitor parking as meeting destination demand which has a more direct and significant influence on non-car modal choice and travel behaviour in general. It also highlights the need and inevitability for the active management of on-street parking by Council.

The Parking Report compares Norwest to locations with a similar level and nature of accessibility by public transport and notes that these have in place visitor parking rates lower than RMS minimums and comparable to 1 per 10 apartments as proposed.

The Transport Advice concludes, *“expected vehicle ownership provides a reasonable basis from which to determine residents’ parking requirements, meeting residents’ needs and minimising the risk of increased car ownership”*. *“Conversely, restricting visitor parking offers an opportunity to encourage the use of non-car transport options, recognising the change in transport provision.”*

It is noted that literature highlights the importance of applying a range of tools to influence transport choice including the better integration with land uses and the better provision for pedestrian movements over cars with a more supportive public domain for non-car modes of travel. The effect of managing parking supply will be limited without corresponding improvements and these will take time to implement.

Accordingly, the contravention of parking rates is well supported and justified by technical analysis as well as State government planning policy, strategy and guidance.

### 3.6 IS THE REQUEST WELL FOUNDED?

This request under clause 4.6 of THLEP 2019 is considered to be well founded for the following reasons.

- The proposed development remains consistent with the objectives, nature and intent of THLEP 2019 and the concept plan staged development consent in which the subject land is included.
- The development as proposed is based on a well-reasoned concept design and re-massing strategy responding to existing and future planned context of the site to achieve better planning and design outcomes appropriate the site as well as its location and context.
- Strict compliance with the height of building, floor space area, apartment size and parking controls in the circumstance would result in unnecessary planning and design limitations and consequently, a diminished urban outcome.
- The variation to floor space ratio is a result of the net effect of the DA boundary and does not alter the compliance of the overall Concept Plan to the accumulated FSR as well as the cap on the number of dwelling within THLEP.
- The variation to height of buildings is consistent with the Concept Plan Modification which allowed for ADG requirements while mitigating shadowing and visual impacts on adjoining lands in response to its changed context as well as responding to site conditions including for the retention of vegetation and the creation of public access ways and a linear park.
- The variation to apartment sizes comprises are minor in nature while all apartments remain well above the ADG minimums and a variety of types that respond to local needs reflected in the LEP provisions.
- The variation to parking provisions better reflects metropolitan planning policy for accessibility to mass public transport and is well supported by technical analysis to achieve improved sustainability.
- The proposed development is wholly consistent with the underlying objectives of the development standards which would be thwarted by strict compliance.
- The proposed variations do not add significantly to the overall impact to adjoining land uses and activities but rather improve planning outcomes in this regard.
- The non-compliances do not result in any additional adverse environmental impacts on the amenity of the surrounding area in general.

## 4 Conclusion

The proposed exceptions to the development standards contained in The Hills Local Environment Plan 2019 Clause 4.3 Height of Buildings, Clause 4.4 Floor Space Ratio and Clause 7.11 Residential Development Yield on Certain Land will result in a better planning and design outcome as set-out in the justification in Section 3.5

The exceptions will not result in development inconsistent with the locality. The development as designed remains consistent with the underlying intent of the standard and the objectives of the respective zone.

It is concluded from the design strategies and assessments within and referenced in this report, that the proposed contraventions to the development standards as described, do not undermine or frustrate the underlying objectives to those standards. Further, it is considered that to varying degrees, the objectives of the standards may be defeated without the flexibility being employed in this request.

The non-compliances do not give rise to any significant additional adverse environmental impacts but provides for a better urban planning and design outcome as demonstrated by a well-reasoned concept design strategy and appropriate responses to existing and planned future contexts of the site as well as metropolitan planning objectives.

It is therefore considered that strict compliance with the height of building, floor space and residential development yield development standards is unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standards as proposed.

This written request has addressed the matters required to be demonstrated in establishing the above and that the proposed development will be in the public interest because it is consistent the objectives of the standards and the objectives for development within the respective zone.

It is also considered appropriate to provide the required flexibility in applying the development standards to achieve better outcomes for and from development as proposed for The Orchards site by allowing the requested variations in this particular circumstance.

Accordingly, the consent authority should find that it is able to support the requested exception to development standards under clause 4.6 of The Hills LEP 2019.